

DECEMBER 2011

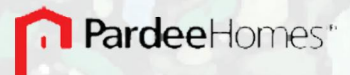
FINAL ENVIRONMENTAL IMPACT REPORT

BUTTERFIELD SPECIFIC PLAN

SCH # 2007091149

**CITY OF
BANNING, CALIFORNIA**

APPLICANT:



PREPARED BY:



Final
Subsequent Environmental Impact Report

SCH No. 2007091149

BUTTERFIELD SPECIFIC PLAN

LEAD AGENCY:

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- A. **Recycled Water Regulations**
- B. **2010 Urban Water Management Plan**

1.0 INTRODUCTION

The Final Environmental Impact Report (Final EIR) for the proposed Butterfield Specific Plan has been prepared in accordance with the California Environmental Quality Act (CEQA) Guidelines and the City of Banning policies for implementing CEQA.

The following is an excerpt from the *CEQA Guidelines* Section 15132 that states:

“The Final EIR shall consist of:

- (a) The Draft EIR or a version of the draft.
- (b) Comments and recommendations received on the Draft EIR either verbatim or in summary.
- (c) A list of persons, organizations, and public agencies commenting on the Draft EIR.
- (d) The responses of the Lead Agency to significant environmental points raised in the review and consultation process.
- (e) Any other information added by the Lead Agency.”

The Final EIR includes all of these required components. Section 3.0 includes the Responses to Comments and a list of the public agencies and members of the public which commented on the Draft EIR. It should be noted that responses to comments also resulted in various editorial clarifications and corrections to the original Draft EIR text. Added or modified text is shown in Section 4.0, Errata, by underlining (example) while deleted text is shown by striking (~~example~~). The additional information, corrections, and clarifications are not considered to substantively affect the conclusions within the Draft EIR.

1.1 BACKGROUND

The City of Banning issued an Expanded Notice of Preparation (NOP) for the currently proposed project to identify the potential environmental impacts of the project. An NOP is a document that is sent by the lead agency to notify public agencies and interested parties that the lead agency plans to prepare an EIR for the project. The purpose of the NOP is to solicit comments from public agencies and interested parties, and to identify issues that should be considered in the EIR.

The Expanded NOP for the proposed project was sent to trustee and responsible agencies, members of the public, other interested parties, and the California Office of Planning and Research, State Clearinghouse on September 28, 2007. This began the 30-day public review period, which ended on October 29, 2007. During the review period, public agencies and

members of the public had the opportunity to respond to the NOP to identify issues of special concern to them and to suggest additional issues to be considered in the EIR.

In addition, the City held public scoping meetings, including two on October 16, 2007 and one on October 22, 2007 to discuss characteristics of the proposed project, its planning status, the nature of its potential environmental effects, and the scope (i.e., the specific issues) of the EIR analysis. The scoping meeting provided further opportunities for public input regarding environmental concerns and issues that should be addressed in the EIR.

The Draft EIR for the proposed project was distributed to trustee and responsible agencies, members of the public, other interested parties, and the California Office of Planning and Research, State Clearinghouse on June 6, 2011. This began the 45-day public review period, which ended on July 20, 2011 according to the State Clearinghouse website. Similar to the Expanded NOP process, the City held three public meetings to discuss the project, answer questions pertaining to the analyses presented in the Draft EIR, and receive public comments on the document. The three public meetings were held on June 7, 2011, June 21, 2001, and July 14, 2011.

Section 4.0 includes any additional or clarifying information resulting from preparation of the Responses to Comments as well as any minor revisions (additions or deletions) to the text of the Draft EIR.

2.0 MASTER RESPONSES TO COMMENTS

The following “Master Responses” are provided to address several of the common questions or concerns raised by commenting parties. These Master Responses supplement, and are incorporated into, the responses to comments provided for individual comments in Section 3.

MASTER RESPONSE #1

ROLE AND RELATIONSHIP OF CITY, APPLICANT AND CONSULTANT TEAM

The City of Banning (“City”) is the Lead Agency under the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines §15050 and 15051, since the City has primary approval authority over the Project (and considering that the Project is a revision to the previously approved Deutsch Specific Plan, for which the City was also Lead Agency). Other agencies with permit or approval authority are referred to as “Responsible Agencies”, as described in CEQA Guidelines §15096 and Draft EIR (DEIR) Section 2.5, *Use of the Draft EIR*. The applicant is Pardee Homes, as the Project proponent and landowner, as reflected in the application submitted to the City in August 2007 and as noted in the proposed Butterfield Specific Plan. The applicant has retained a variety of consultants to assist in preparing various planning, engineering and related technical studies. The applicant retained RBF Consulting (RBF) to prepare the Specific Plan, EIR, and certain engineering, planning and environmental studies as reflected in the Specific Plan and EIR¹.

When a Lead Agency determines that a “Project” requires CEQA compliance, as is the case with the Butterfield Specific Plan, the City has five options for preparing the required CEQA documents, pursuant to CEQA Guidelines §15084(d):

“The lead agency may choose one of the following arrangements or a combination of them for preparing a draft EIR.

- 1) Preparing a draft EIR directly with its own staff.
- 2) Contracting with another entity, public or private, to prepare the draft EIR.
- 3) Accepting a draft prepared by the applicant, a consultant retained by the applicant, or any other person.
- 4) Executing a third party contract or memorandum of understanding with the applicant to govern the preparation of a draft EIR by an independent contractor.
- 5) Using a previously prepared EIR.”

The City of Banning elected to proceed with option 3 above, given the applicant and its consulting team’s extensive knowledge and history of the Project and Project site. CEQA

¹ RBF Consulting is a California-based planning, environmental and engineering firm with a staff of over 600, with 15 offices across the southwest, including Riverside County offices in Palm Desert and Temecula. RBF has a 67-year history in Southern California, and is recognized for its expertise in the master planning, engineering and CEQA compliance for large planned communities (additional qualification information can be found at www.RBF.com).

Guidelines §15084(e) states that “Before using a draft [EIR] prepared by another person, the lead agency shall subject the draft to the agency’s own review and analysis. The draft EIR which is sent out for public review must reflect the independent judgment of the lead agency. The lead agency is responsible for the adequacy and objectivity of the draft EIR.”

The City of Banning has conducted independent review of the Butterfield Specific Plan and Draft EIR, as evidenced by over four years of meetings with City staff to review Project plans, technical reports and CEQA compliance documents. City staff and department heads independently reviewed the administrative draft Specific Plan and administrative draft EIR. To provide an added level of independent review, the City retained an independent third party consulting firm, Hogle-Ireland, a southern California planning firm specializing in contract planning services to local municipalities².

MASTER RESPONSE #2

TRAFFIC AND CIRCULATION

Traffic Impact Analysis Overall Approach and Conclusions

The *Traffic Impact Analysis* (TIA) (Draft EIR Appendix I) was prepared to assess the potential circulation impacts associated with the proposed Project. Year 2042 was identified as the project build-out year based on initial Project uses not generating traffic until at least 2012 and the Project building out over a 30-year period from 2013 to 2042. Traffic analysis was conducted for existing conditions, year 2022, and for year 2032.

Traffic conditions were analyzed pursuant to Riverside County traffic study guidelines, which the City of Banning uses, at 49 intersections and 22 directional (eastbound or westbound) freeway segments in the vicinity of the Project for a.m. and p.m. peak hour under the following conditions:

- Existing (baseline) conditions
- Existing (baseline) plus Project buildout conditions
- Year 2022 without Project conditions
- Year 2022 plus Project conditions
- Year 2032 without Project conditions
- Year 2032 plus Project conditions
- Year 2042 without Project conditions
- Year 2042 plus Project conditions
- General Plan build-out without Project conditions
- General Plan build-out plus Project conditions

² Qualifications can be found at <http://www.hogleireland.com/services/contract-staffing>.

The TIA recommends mitigation measures in the existing plus Project buildout and General Plan build-out plus Project scenarios for intersections shared by the City of Beaumont and the City of Banning (refer to TIA, Table ES-A and ES-B) and exclusively in the City of Banning. With implementation of recommended mitigation measures, all study area intersections would operate at pre-Project conditions or better (with the exception of the General Plan build-out scenario). In comparison, the General Plan build-out without Project scenario would have 43 intersections that would be significantly impacted (i.e., operate at unacceptable LOS). The recommended freeway mitigations under Years 2022, 2032, 2042, and General Plan build-out year are listed in the TIA (TIA, Table G).

Traffic Mitigation, Funding and Feasibility

The TIA lists the funding sources for the recommended improvements for scenarios described above (refer to TIA, Section 10.0). The mitigation improvements are either directly or indirectly funded by the Project; however, the Project is not responsible for fully funding improvements required in the General Plan build-out conditions. Therefore, any significant traffic impacts that may occur with implementation of the proposed Project would not be a result of Project density, but rather implementation and funding of improvements located outside Banning's jurisdiction.

The TIA identifies mitigation improvements for two Level of Service (LOS) Criteria, LOS C and LOS D. The current LOS for Banning in most cases is LOS C with intersections along certain roads identified in the General Plan at LOS D. The County of Riverside (Community Development Areas) and most cities within the County have an adopted standard of LOS D for their intersections and roadway segments including the City of Beaumont. Highland Springs borders both cities and therefore with the differing LOS criteria, varies in width from one General Plan to the next, which translates to the northbound travel lanes requiring greater width than the southbound travel lanes. To achieve acceptable levels of service under each LOS scenario, the TIA determined, that seven of the improvements required to achieve LOS C were not feasible, while improvements required to achieve LOS D were feasible.

Based on information from the TIA, the table below lists each of the improvements within the City of Banning deemed potentially infeasible under LOS C and the basis for each determination.

Should the City determine to conform its traffic LOS standards with the standards of surrounding jurisdictions (i.e., from LOS "C" to LOS "D" or better), the improvements would either not be necessary or involve reduced right-of-way requirements resulting in feasible implementation of City traffic improvements.

Potentially Infeasible Traffic Mitigation Measures	
Mitigation Measures	Potential Infeasibility
<p>Highland Springs/Wilson: Substantial ROW within the Project, as well as approximately 20 ft of ROW for the northbound improvements affecting the hospital area, 20 ft of ROW for southbound improvements, and 12 ft for eastbound improvements. The southbound improvements may result in substantial impact to the hospital parking lot, including the loss of 34 parking spaces along Highland Springs Ave. The second northbound through lane is only required at GP buildout, and could be avoided if the City accepted an LOS D standard at this location, potentially avoiding significant impacts to hospital parking.</p>	<p><i>This improvement may not be feasible due to extensive ROW acquisition and commercial property impacts on Highland Springs 600 ft north and south of Wilson St as well as the location of some of the improvements outside of the jurisdiction of the City of Banning.</i></p>
<p>Highland Springs/6th/Ramsey: this improvement only has significant impacts in the General Plan buildout condition, requiring widening of Highland Springs Avenue as well as intersection improvements, affecting adjacent landscape and parking. Northbound through lane additions would require approximately 24 feet of additional ROW, and may require removal of both commercial buildings located at the southeast intersection quadrant.</p>	<p><i>This improvement may not be feasible due to extensive ROW acquisition and commercial property impacts on Highland Springs 600 ft north and south of Wilson Street as well as the location of some of the improvements outside of the jurisdiction of the City of Banning.</i></p>
<p>C/Apex/Wilson: this improvement would require approximately 12 feet of additional ROW for new eastbound and westbound through lanes, as part of Year 2042 and General Plan buildout conditions. The additional eastbound through lane would be avoided if the City accepted an LOS D threshold. Wilson Street widening, from Highland Springs Avenue to east of the Project, could affect numerous existing uses along Wilson Street, as reflected in improvement recommendations.</p>	<p><i>This improvement may not be feasible due to extensive ROW acquisition and commercial and residential property impacts, including potential substantial changes to access, frontage, parking and possible direct or indirect structure takes.</i></p>
<p>Sunset/Wilson: this is a major City-wide improvement, with most of the major improvements required at General Plan buildout or Year 2042, including 24 to 36 feet of additional ROW at each intersection quadrant, as part of the overall Wilson Street widening. Uses impacted at this location include mobile homes and parking for the mobile home park, residences in the southeast quadrant that “front” onto Wilson, and vacant land along the north side of Wilson Street.</p>	<p><i>This improvement may not be feasible due to extensive ROW acquisition and commercial and residential property impacts, including potential substantial changes to access, frontage, parking and possible direct or indirect structure takes.</i></p>
<p>Sunrise/Wilson: this improvement is required at General Plan buildout, requiring approximately 12 feet of additional ROW for a new eastbound through lane. This may affect existing residences along the south side of Wilson, which front onto Wilson Street.</p>	<p><i>This improvement may not be feasible due to ROW acquisition and residential property impacts, including potential substantial changes to access, frontage, parking and possible direct or indirect structure takes.</i></p>
<p>8th/Ramsey: this is a major City-wide improvement required at General Plan buildout, potentially requiring an additional 12 feet of ROW at three quadrants, resulting in loss of landscaping and parking for commercial buildings, and potentially the loss of the existing commercial structure in the northeast quadrant.</p>	<p><i>Due to potential structural take and substantial parking loss, this improvement may not be feasible.</i></p>
<p>San Geronio/Wilson: this improvement will require approximately 12 to 24 feet of additional ROW, widening Wilson Street in this area by approximately 36 feet. This may require loss of landscaping, and may affect residences and the existing school at this location, including modifications to access and potential affects to existing structures.</p>	<p><i>This improvement may not be feasible due to extensive ROW acquisition and commercial and residential property impacts, including potential substantial changes to access, frontage, parking and possible direct or indirect structure takes.</i></p>

Highland Home Road/I-10 Interchange

As discussed in DEIR Section 4.13, *Traffic and Circulation*, this interchange is currently shown on the City's General Plan Circulation Element, and was originally included as part of the 1993 Deutsch Specific Plan EIR. However, since that time, City staff evaluated this interchange more thoroughly, including a feasibility study conducted by the City in 2008.³ In addition, the Project Applicant evaluated this option during early Project planning stages, and identified feasibility issues including lack of support by Caltrans (the interchange does not meet Caltrans minimum interstate freeway interchange spacing criteria of 1.0 miles, since the interchange spacing is 0.93 miles,⁴ and is not included in any long-range freeway planning studies by the County, Caltrans or SCAG). A new I-10 interchange is unfunded, is outside the control of the City of Banning and the applicant, and even if feasible, would take years to conceptually plan, design, environmentally clear, and construct, and the City could not be assured of the certainty or timeliness of this improvement, and could therefore not rely upon this new interchange to mitigate Project impacts.

The Project's TIA (DEIR Section 4.13 and Appendix I, *Traffic Impact Assessment*) identifies the proposed circulation system and mitigation measures that can reduce Project impacts to less than significant levels. As noted on DEIR page 4.13-39, recommended improvements at Highland Springs/Wilson may not be feasible due to extensive ROW requirements. Although a new interchange at Highland Home Road/I-10 would reduce impacts along Highland Springs Avenue, the new interchange is not considered feasible as noted above.

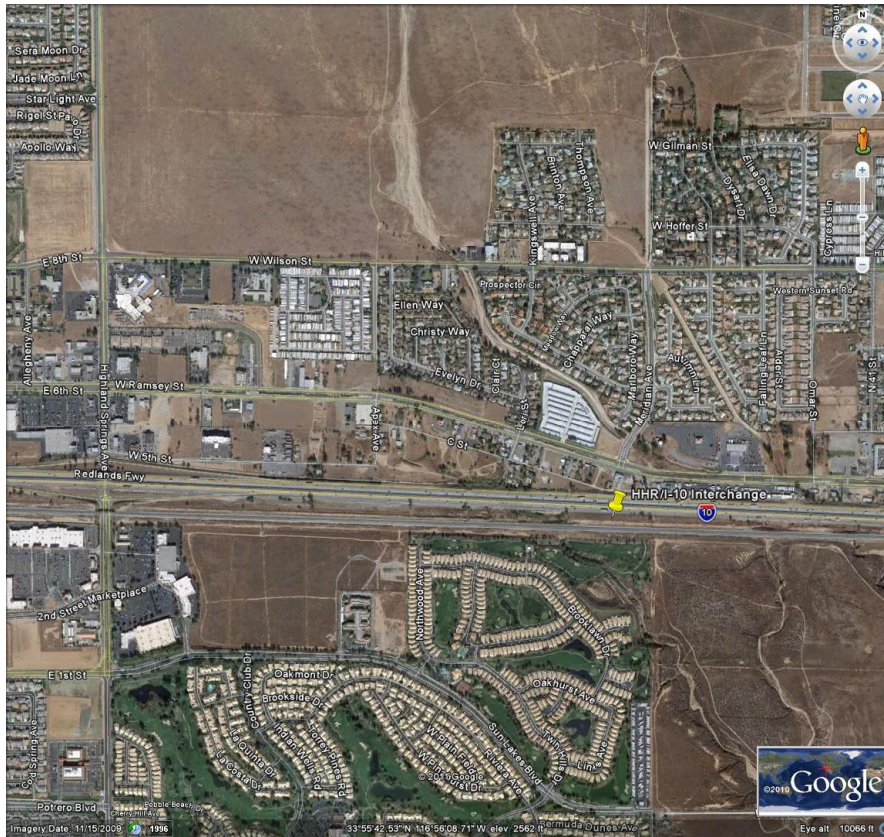
In addition, although a new interchange would likely reduce impacts on Highland Springs Avenue, the new interchange would have significant impacts, including but not limited to:

- increased traffic along Highland Home Road south and north of Wilson Street,
- substantial ROW acquisition and business displacement south of Ramsey,
- impacts to the Sun Lakes development including the existing Sun Lakes Golf Course,
- impacts to the natural Smith Creek drainage and native vegetation south of I-10,
- increased noise impacts to Sun Lakes, and
- significant visual impacts to Sun Lakes, I-10 motorists and beyond

Finally, although not proposed as part of the Butterfield Specific Plan Project, this Project does not preclude future construction of the Highland Home Road/I-10 interchange should it be pursued at a later date, as a separate project, by the City of Banning.

³ Highland Home Road Interchange Feasibility Study, City of Banning, Ca. 2008

⁴ The distance between existing Highland Springs Road/I-10 interchange and the hypothetical location for Highland Home Road/I-10 interchange would be approximately 0.93 miles (Google Earth, 2011). Caltrans design requirements can be found at <http://www.dot.ca.gov/hq/oppd/dib/dib77.htm> (accessed July 7, 2011).



Brookside Avenue/Highland Home Road Extension

The City of Banning General Plan Circulation Element (Page III-71) identifies potential connections of Highland Home Road at Highland Springs Avenue at either Brookside Avenue or Cherry Valley Boulevard. The TIA, as augmented by additional analysis (see below), confirms that these connections are not part of the Project approval and are not needed to provide acceptable levels of service at Project buildout. As such, future environmental review and approval will need to be conducted prior to approving and developing these mapped extensions separate from the proposed Project.

Based on the analysis conducted as part of the General Plan update, either connection is considered acceptable and will not significantly affect traffic flow. Although the County General Plan (Riverside County Integrated Plan) shows Highland Home Road connecting to Cherry Valley Boulevard,⁵ the applicant and City staff elected to show Highland Home Road extension via Brookside Avenue for several reasons, including:

⁵ http://www.tlma.co.riverside.ca.us/genplan/content/ap2/pap.html#TOC1_8 (access July 7, 2011).

- The approved Deutsch Specific Plan in the City of Banning, which precedes the Butterfield Specific Plan, has proposed and shown the Highland Home Road connection to Brookside Avenue since the original Specific Plan approval in the 1980's.
- The connection to Highland Home Road with Brookside Avenue would require a more limited stretch of right-of-way acquisition from existing private owners (Highland Springs Country Club Owners Association). In the area where the roadway abuts the Highland Springs Resort properties, the half-width portion of the roadway could be constructed on Project property.
- The Brookside Avenue connection provides a direct connection to Beaumont High School.
- The Brookside Avenue connection results in similar traffic flow patterns for Butterfield, in terms of overall trip distribution to the north, south, east and west.

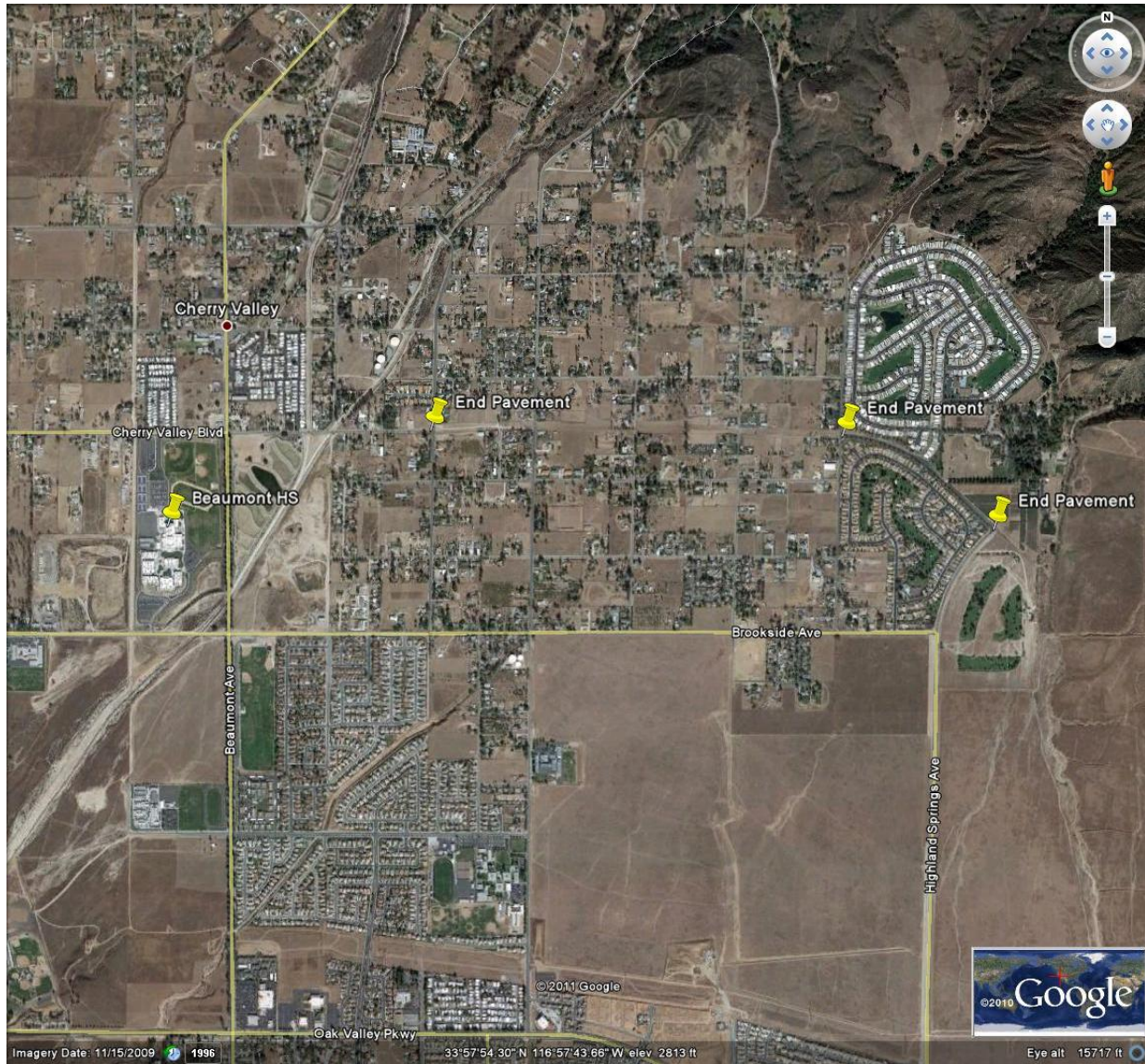
Both Highland Home Road extension options (Brookside Avenue or Cherry Valley Boulevard) are within the unincorporated area of the County of Riverside, and are therefore outside the control of the City of Banning and the Project Applicant. Both options would require completion of currently unimproved sections of road to make the connection between Banning and the west. Neither facility is currently funded by the County,⁶ and therefore cannot be relied upon to mitigate Project impacts. This is a regional circulation improvement and as such would not be constructed by the Project Applicant. However, given that Brookside Avenue is currently an improved two-lane street from Highland Springs Avenue west to the I-10 Freeway corridor, while Cherry Valley Boulevard has several unimproved stretches of road (between Noble Street and Bellflower Avenue, and east of Highland Springs Avenue), Brookside Avenue is viewed as a more feasible option than Cherry Valley Boulevard. For purposes of the proposed Project, either alignment implemented by the County (or no alignment) would accommodate the proposed Project's Land Use Plan. Surrounding residents requested consideration of an alternative connection south of Brookside Avenue, such as future Cougar Way. Although the Applicant owns the right-of-way for a portion of unimproved Cougar Way immediately west of Highland Springs Avenue, there are large unimproved segments west of Beaumont Avenue as well as existing development blocking access to the I-10 Freeway corridor.

In the interim, prior to the County constructing one of the options, the Specific Plan has adequate circulation by the internal road network, north/south access via Highland Springs Road, east/west access via Highland Home Road through the Project site, and connections heading west to Beaumont via Highland Springs Avenue and Brookside Avenue, Oak Valley Parkway or Wilson Street. /8th Street. To understand the potential impacts if neither of these roadways is constructed, the Project Applicant conducted an additional roadway analysis based on the termination of Highland Home Road at the Project boundary. Below are the results of this analysis:

⁶ http://www.rctc.org/downloads/TUMF_Current.pdf (accessed July 7, 2011).

- The General Plan Build out scenario was chosen for analyzing the impacts of removing Highland Home Road connections west and diverting trips to Highland Springs Avenue from Highland Home Road via F Street as the worst-case scenario. The a.m. and p.m. peak hour volumes from the General Plan Buildout scenario for six intersections were adjusted to reflect the diversion of trips from Highland Home road to F Street. The intersections impacted included:
 1. Highland Springs Avenue/Brookside Avenue
 2. Highland Springs Avenue/16th Street/Cougar Way
 3. Highland Springs Avenue/F Street
 4. Highland Home Road/Northern Loop
 5. Highland Home Road/G Street
 6. Highland Home Road/F Street
- The lane configurations from the General Plan Buildout plus project with Mitigations scenario were used for the analysis, as they represent the worst-case scenario. Based on the results all intersections are projected to operate at acceptable LOS (C or better) except for the intersections of Highland Springs Avenue/F Street and Highland Home Road/F Street
- These two intersections will require additional turn lanes to accommodate the increase in traffic flow due to the redistribution of trips resulting from the closure of Highland Home Road. Refer to the table below.
- In summary, the removal of Highland Home Road connection would result in redistribution of traffic via F Street which can be accommodated by providing additional turning lanes at the intersections of Highland Springs Avenue/F Street and Highland Home Road/F Street (which are intersections located within the Project boundary and within the Applicants control).

General Plan Build-out Year Plus Project with Mitigations Intersection Levels of Service													
	Intersection	With Highland Home Road Connection						Without Highland Home Road Connection					
		A.M. Peak Hour			P.M. Peak Hour			A.M. Peak Hour			P.M. Peak Hour		
		V/C	(sec)	LOS	V/C	(sec)	LOS	V/C	(sec)	LOS	V/C	(sec)	LOS
20	Highland Springs Ave./Brookside Ave.	0.49	24.9	C	0.77	30.3	C	0.72	22	C	0.911	30.6	C
21	Highland Springs Ave./16 th St.-Cougar Way	0.30	3.9	A	0.51	12.8	B	0.591	3.7	A	0.8	14.1	B
22	Highland Springs Ave./F St.	0.59	19.8	B	0.63	17.4	B	1.564	>100	F	1.668	>100	F
32	Highland Home Rd./Northern Loop	0.60	29.2	C	0.85	31.5	C	0.478	20.3	C	0.859	32.3	C
33	Highland Home Rd./Beaumont Rd.-G St.	0.69	32.2	C	0.76	31.9	C	0.56	21.3	C	0.756	33.5	C
34	Highland Home Rd./F St.	0.79	24.1	C	0.82	24.6	C	0.96	53.4	D	1.359	>100	F
Without Highland Home Road Connection with Mitigation													
		A.M. Peak Hour			P.M. Peak Hour			A.M. Peak Hour			P.M. Peak Hour		
		V/C	(sec)	LOS	V/C	(sec)	LOS	V/C	(sec)	LOS	V/C	(sec)	LOS
		-	-	-	-	-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-	-	-	-	-
		0.762	25.5	C	0.912	39.2	D	0.762	25.5	C	0.912	28.6	C
		-	-	-	-	-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-	-	-	-	-
		0.664	27	C	0.97	52.3	D	0.664	27	C	0.889	27.7	C
Notes: V/C = Volume/Capacity Ratio LOS = Level of Service TWSC = Two-way Stop Control For TWSC intersections, reported delay is for worst-case approach.													



Traffic Model Assumptions for School Sites

The study area for analyzing the Project related traffic impacts was developed based on the Riverside County traffic study guidelines which states that "In general, the minimum area to be studied shall include any intersection of "Collector" or higher classification street, with "Collector" or higher classification streets, at which the proposed project will add 50 or more peak hour trips, not exceeding a 5-mile radius from the project site." This criterion was applied to identify the study intersections within 5-mile radius of the project site that had 50 or more peak hour project trips.

The project trips were generated using Institute of Transportation Engineering trip generation (8th edition) and were distributed based on the select zone assignment of the Pass Area Model which was used for the City's General Plan update (2006). The distribution of trips within the traffic model is developed based on land uses. In the model, the residential uses are considered as 'productions' while uses such as office (jobs/employment) and retail are considered as 'attractions' and the traffic from a 'production' site (such as the project) is distributed to 'attractions' in the region.

In the City's traffic model there are several zones that include schools which act as attractions and traffic from production sites (such as residential use) is sent to these school sites. Also the trip generation rates from the ITE manual include average trips generated by a use irrespective of their destination. Hence the generation of a.m. peak hour trips includes traffic generated by a residential use that may stop at a local school site prior to reaching its final destination.

This process of generating and distributing project trips is consistent with general practice in the traffic engineering/transportation planning field.

TIA Validation Report

The TIA Validation Report is a timing mechanism to ensure that traffic improvements are completed prior to the new trips resulting in unacceptable LOS on the City's circulation system. The traffic improvements were conservatively determined by analyzing full Project build-out on existing conditions, despite the fact that the Project will be developed over approximately 35 years. All feasible improvements are mandatory and enforceable. During Project build-out, many roadway improvements would not be necessary in the earlier phases. For example, during the Project's mass grading, construction trips would not generate sufficient trips to require any major roadway improvements outside the Project boundary. Due to the length of the build-out period, the City determined that periodic reviews based on the pace of development (if the Project builds out as planned, TIAs would occur approximately every 5 years) were necessary to ensure that required improvements would "keep ahead" of the Project impacts.

MASTER RESPONSE #3

LAND USE

Specific Plan Consistency and Compatibility

The Butterfield Specific Plan Land Use Plan (refer to Exhibit 3.0-3 Land Use Plan) shows the distinction between the various planned land uses. Implementation of the proposed Project could result in the construction and occupancy of up to 5,387 homes, two schools, a golf course and club house, a potential community center, and a retail shopping center. The Butterfield

Specific Plan proposes 36.0 acres (2.3%) for general commercial land use, a small increase from the 25 acres the Deutsch Specific Plan had approved (refer to Exhibit 3.0-3, *Land Use Plan*). The commercial planning areas are strategically located at the perimeter of the Project site and incorporate transition buffering for compatibility with adjacent residential land uses (one planned commercial center on Wilson St. and the second on Highland Springs Ave.). The proposed commercial sites are anticipated to accommodate retail shops and services that would be available to residents of the proposed Project and surrounding areas.

The proposed Project would continue a pattern of development that is already in place to the south, east, and west of the site, providing desirable linkages between existing developments, extend and improve the City's circulation system, and provide additional parks, schools, and other public facilities that would serve both proposed and existing land uses in the area. The Butterfield Specific Plan is proposing to substantially increase the open space to 428.8 acres, compared to the previously approved 268 acres of open space the Deutsch plan designated. The Project would not physically divide an established community since the Project site is current vacant and undeveloped. The proposed revisions are consistent with the overall intent of the previously approved Deutsch Specific Plan and would be generally consistent with other land use designation within the vicinity of the original Specific Plan. The current zoning of the site conforms to the locations of specific plan uses contained in the Deutsch Specific Plan approved in 1993. Implementation of the proposed Project would result in less than significant impacts involving potential conflicts with the Banning General Plan and Development Code.

The Project site does not conflict with any applicable habitat conservation plan or natural community conservation plans. The Project is not located in the Western Riverside County Multiple Species Conservation Plan (MSHCP) area and does not contain critical habitat for any species that the MSHCP requires protection for.

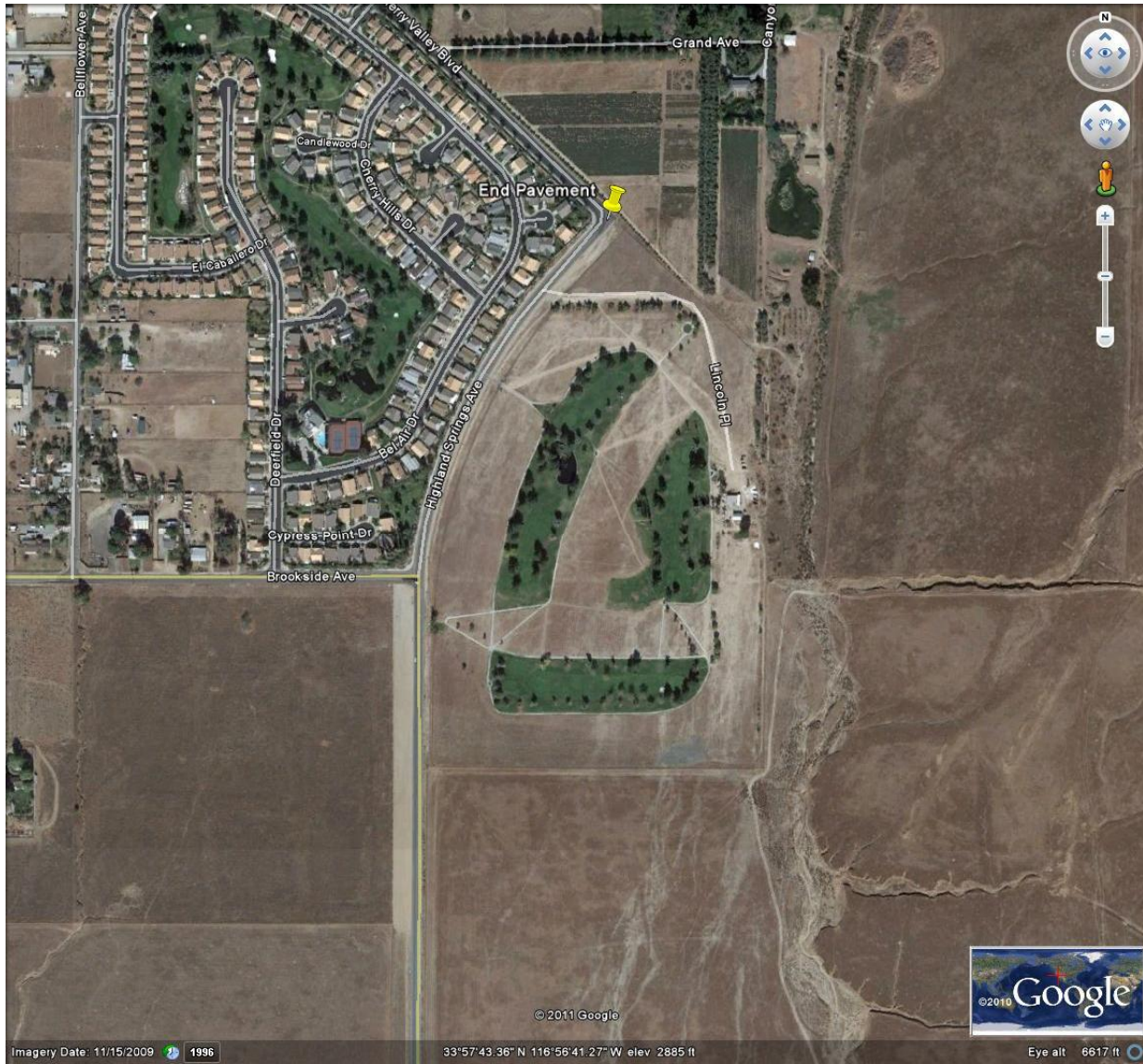
To ensure compatibility with the existing residential development on the north side of Mockingbird Lane, the Project has designated Planning Area 50 (refer to Exhibit 3.0-3, *Land Use Plan*) as Low Density Residential, with an average lot size of 7,500 sq. ft. Furthermore, starting at the back of lots along the existing lots on the north side of Mockingbird Lane, there would be approximately 390 ft. of open space between the rear property lines of lots located on Mockingbird Lane and the southern boundary of Planning Area 50. The previous Deutsch Specific Plan included 351 acres of residential land use in its Planning Area 1 and 31 acres of park in Planning Area 2 (refer to the Butterfield Specific Plan, Exhibit 1.3, *Specific Plan Comparison*). In comparison, within the same area (proposed new PA's 50, 51, 52, 60, 61, 67, 68, 69, 70, 73, 74, and 75) the Butterfield Specific Plan Project proposes a more balanced mix of land uses including 209.2 acres of residential use, 71.8 acres of open space; a 11.3 acre school size, and 4.2 acres for an existing utility.

21-acre Annexation Parcel

Surrounding residents have expressed concerns regarding the identification of the “21-acre Annexation Parcel,” located at the northwest corner of the Specific Plan, within unincorporated Riverside County. This parcel is presently owned by the Highland Springs Country Club Owners Association. DEIR Exhibit 3.0-3, *Land Use Plan*, and elsewhere indicate this parcel as “additional area proposed to be added to the Specific Plan and annexed to the City of Banning.” The Applicant is not proposing to annex this area and it would not be a part of the proposed project in the future without annexation. The intent is to allow for this property to be included in the Butterfield Specific Plan if annexed in the future. If the annexation of the property into the City of Banning is pursued, the property would automatically be part of the Specific Plan and subject to its overall development restrictions. The reason for inclusion of this potential annexation option in the Specific Plan is because the City General Plan has already anticipated the possibility of extending Highland Home Road to Brookside Avenue as shown in the Circulation Element. This extension would remove this parcel from any direct connection to residences in the County and leave a direct contiguous attachment to the Butterfield Specific Plan area. From a future planning and circulation standpoint, tying this area into the Butterfield Specific Plan is a logical planning result. Annexation of this property would require property owner consent, as well as annexation into the City of Banning through the Local Agency Formation Commission (LAFCO). The LAFCO annexation process, if the parcel is acquired, would require separate discretionary review and CEQA compliance by LAFCO. Annexation and acquisition, if sought, would involve extensive property owner consultation, coordination, and negotiation for fair market value. At this time, there is no formal proposal or negotiations in process for annexation or acquisition of this 21-acre parcel.

As with the Brookside Avenue and Cherry Valley Boulevard extension options discussed above, acquisition or annexation of this 21-acre parcel is not part of the proposed Project. Annexation could be pursued in the future if it is viewed as a positive solution to addressing the County road extension issue, and can be accomplished in a manner mutually acceptable to the Highland Springs Country Club Owners Association, County of Riverside, City of Banning and the Applicant.

The Final EIR and Specific Plan will be revised to clarify that the Specific Plan allows for and accommodates this 21-acre parcel potential annexation, but is not proposing the annexation at this time. Accordingly, the proposed zoning and General Plan designations for this parcel as “Butterfield Specific Plan” (as shown in Draft EIR Exhibits 4.10-3 and 4.10-4) will be clarified as possible future pre-zoning to allow for a potential future annexation. The 21-acre property will only be subject to the City’s proposed Zone Change and General Plan Amendment if and when it is annexed into the City. Without annexation into the City of Banning, the land use and zoning on this 21-acre parcel can only be altered by a separate discretionary action by the County of Riverside, requiring a County General Plan Amendment, zone change, and separate CEQA compliance.



MASTER RESPONSE #4

WATER SUPPLY

Water Supply Assessment - Conclusions, Options, Reliability, and Next Steps

Water Supply Assessment Summary

A Water Supply Assessment (WSA) (Draft EIR Appendix J) was prepared to provide an evaluation of the adequacy of the total existing and future water supplies available to serve the proposed amendment of the previously approved 1993 Deutsch Specific Plan (also referred to as the proposed Project) and in satisfaction of the requirements of the California Water Code Section 10910, et seq. (the “WSA Law”). This WSA was prepared for the City of Banning (City), a public water system within the meaning of California Water Code Section 10912(c), for review and approval by the City pursuant to Water Code Section 10910(a).

The WSA discusses the City’s water system, service area, existing service connections, and metered water use, applicable weather patterns for the City and other factors affecting water demands. It then describes the proposed Project, its water supply infrastructure, and projected water demands for the Project. The City’s historical and projected water demands—both gross and net (after conservation)—including the demands of the proposed Project, are quantified and compared to the existing and future water supplies, taking into account the reliability of those supplies for the 35-year study period. The WSA concludes with an assessment of the availability of all water sources to supply Project demands during normal, single dry, and multiple dry years for the 35-year study period, together with all other anticipated demand.

Based on the analysis contained in the WSA, including all appendices, the WSA shows that the City will have sufficient water supplies available to meet the projected water demand associated with the Project, in addition to the City’s existing and planned future uses.

Water Supply Assessment CEQA Requirements

The WSA is consistent with the CEQA Guidelines (Section 15126.6) standard regarding alternatives, which requires that an EIR describe a range of reasonable alternatives to the project which would feasibly attain most of the basic objectives of the project, but would avoid or substantially lessen any of the significant effects of the project.

As stated in the WSA (Section 2.2), CEQA requires some analysis of the environmental impacts of possible alternative future water supplies that may be needed to supplement any uncertainty that may exist. However, an analysis of alternative supplies is not necessary if it is clear that future water supplies will likely be available.

For a WSA to be adequate when based on water supplies that are not yet available to the public water system, these future supplies need not be definitely assured through signed, enforceable agreements and already built or approved treatment and delivery infrastructure. Rather, it is expected that land use and water supply planning will occur through roughly contemporaneous processes for those future supplies.

A WSA provides sufficient certainty if it demonstrates a reasonable likelihood that any necessary agreements, financing and regulatory approvals will be obtained in the future.

Future Written Verification

At the time a future Final Map or Parcel Map is submitted, in accordance with Senate Bill 221, a “written verification” of “sufficient water supplies” will be required and shall be based on firm indications that water will be available, as evidenced by written contracts, approved financing programs and reasonably anticipated regulatory approvals, to serve the proposed new demands. In addition, these written verification will be required to demonstrate appropriate phasing of water supply delivery improvements.

Onsite Options for Recharge of Beaumont Basin, Delivery of Imported Water and Generation and Use of Recycled Water

According to the requirements of State law, a standard of the WSA is that it must show the supply of water is likely to be able to serve the project. The City’s projected water supplies available to serve the Project’s projected demands, in addition to the City’s existing and planned future uses, include imported water and recycled water, in addition to the City’s several groundwater supplies.

Imported water, predominantly SWP water, is an existing source of supply for the City today. The City purchases this supply from the SGPWA (Pass Agency), takes delivery of the supply at the BCVWD’s Noble Creek Recharge facility, percolates the water into the Beaumont Basin and stores the water in the City’s Beaumont Basin Stored Water Account for later withdrawal via City wells overlying the Beaumont Basin to serve City demands. SWP water is likely to continue to be available in the future, including for groundwater recharge and storage for later extraction, as described in Section 6.3 of the WSA prepared for the Project.

As an alternative to, or in addition to, the City’s existing method of taking delivery of the imported water that it purchases from the Pass Agency, the City (or the Pass Agency) may elect to construct a direct connection between the SWP pipeline and the City. The City may further elect to terminate that connection at the Project site as described in the Specific Plan and the Draft EIR – also referred to as the SWP Pipeline Extension project. This option would allow the City to use the proposed Project recharge facilities within the Specific Plan area for the purpose

of taking delivery of its SWP water supply and percolating that supply into the Beaumont Basin for storage.

Recycled water is likely to occur by 2015 as a result of the City's planned Phase I Upgrade of its main WWTP. As an alternative to, or in addition to, the Phase I Upgrade, the City may elect to locate a recycled water facility on the Project site. This option of locating a satellite wastewater treatment and water recycling facility is described in the Project Specific Plan and analyzed in the Draft EIR. Should another site be chosen by the City, the appropriate level of environmental analysis would occur at that time to meet the requirements of CEQA.

The WSA concludes that the City's projected supply of water, including imported water purchased from the Pass Agency and recycled water to be generated by the City's Phase I Upgrade, are sufficient to meet the projected water demands associated with the Project, in addition to the City's existing and planned future uses. The SWP Pipeline Extension Project and the satellite WWTP are optional alternative methods for the delivery of these projected supplies and are not required to serve the Project. Accordingly, an analysis of these alternative methods is not necessary, because the City's projected imported and recycled water supplies will likely be available in the quantities projected in the WSA. However, because both optional projects have the potential to result in physical impacts on the Project site, they are described and evaluated in the EIR. Each of these would be separate City projects (not a part of the proposed Project) and require subsequent approval.

With regard to onsite use of imported water and recycled water, four options were analyzed by the EIR. Each of the options is dependent on future decisions by the City on how it determines to build out its water and wastewater systems. The options considered and analyzed in the EIR are described below:

Option A: Under Option A, the Project would manage stormwater, as required by the City. The North Basin (PA 71) would be used to detain stormwater. A portion of the stormwater detained may result in groundwater recharge to the Beaumont Basin. The WSA does not include this potential source in the City's projected supply available to serve the Project, together with all other City demands, because the amount of stormwater that may recharge, and therefore be available to the City in the future, is uncertain. Imported water would not be delivered to the site or recharged onsite because the City would not construct the SWP pipeline extension to Banning. Rather, the City would continue to take delivery of all imported water supplies at the BCVWD Noble Recharge Facility, as it currently does. Onsite recycled water generation would not occur. The City would upgrade its existing Main WWTP, which will include the generation of 1.5 mgd of recycled water. The City may deliver 1.5 mgd of recycled water for use by non-potable demands anywhere within its service area. Recycled water use onsite may occur with Option A, if made available to the Project by the City. The Project includes the necessary recycled water distribution system infrastructure to permit receipt and use of recycled water on and within the Project site. These facilities are described in the Specific Plan and analyzed in

the Draft EIR. The Project Applicant is required to build infrastructure onsite to accommodate the use of recycled water for non-potable purposes if it is made available (as defined in Banning Municipal Code 17.32.070 et seq.). The City may elect to serve other developments first, including the existing Sun Lakes development.

Option B: Option B would be similar to Option A for both stormwater and imported SWP water. However, Option B would include recycled water generation onsite. Instead of, or in addition to, the construction of a recycled water facility at the Main WWTP (the Phase I Upgrade project), as described above, the City would construct a satellite treatment facility at the Project site, thus creating onsite recycled water generation. The option of a satellite treatment facility on the Project site is described in the Project Specific Plan and analyzed in the draft EIR. Additionally, the Project's proposed North Basin (PA 71) storage facility could be used for stormwater and, if permitted, recycled water storage.

Option C: Option C is similar to Options A and B in that stormwater would be managed onsite and recycled water use could follow Options A or B. However, instead of, or in addition to the City's use of the offsite BCVWD recharge facility for delivery of imported water, the City may build the SWP pipeline extension to Banning and the Project and deliver raw SWP water to the Project site (North Basin/PA 71), and, if permitted, recharge raw SWP water into Beaumont Basin onsite.

Option D: Option D is similar to options A, B, and C in that stormwater would be managed onsite. However, imported water would be brought to the site via the SWP pipeline extension option, and recycled water generation would occur onsite. If permitted, North Basin/PA 71 would be used for the storage of stormwater, raw SWP water, and/or recycled water retention.

MASTER RESPONSE #5

AIR QUALITY AND CLIMATE CHANGE

GHG Methodology, Analysis and Mitigation

The Butterfield Specific Plan EIR evaluates GHG emissions and climate change consistent with generally accepted professional practice, consistent with CEQA, SCAQMD protocols and City of Banning CEQA compliance procedures. CEQA Guidelines §15604.4 gives the lead agency discretion as to how to assess GHG impacts and mitigation, allowing for use of a qualitative analysis, performance standards, and/or a quantitative analysis based on an acceptable emissions model. The City of Banning elected to evaluate the Project's GHG impacts using the URBEMIS computer model, which is a widely-accepted model for estimating air quality and GHG emissions as well as comparing the project's consistency with the existing plans, policies and regulations adopted to reduce greenhouse gas emissions. In addition, and consistent with CARB's recommendation, the EIR supplemented URBEMIS with a variety of models, including

EMFAC2007 for vehicle emissions, local stationary emissions data from the Banning Electric Utility, EPA CO₂ equivalent calculator, and the new CAPCOA protocols for GHG mitigation effectiveness calculations. Given above, and considering the new release of CalEEMod only a few months ago (the Butterfield Specific Plan NOP was released September 2007), the EIR's GHG methodology is considered reasonable and appropriate for the Project. It should also be noted, that the South Coast Air Quality Management District defers the use of URBEMIS for air quality and greenhouse gas emissions in place of CalEEMod to Lead Agencies and recognizes that additional analysis will have to be performed with other models to obtain the results desired⁷. As indicated above, several programs were used to conduct the analysis provided in the Draft EIR.

GHG Significance Thresholds

As noted in the DEIR Section 4.5.3, the DEIR utilizes the new CEQA Guidelines Appendix G greenhouse gas emission significance criteria:

- "a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment; and/or*
- b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases."*

There are no specific quantitative GHG emission thresholds that have been established by the State of California, nor are any such specific GHG emission thresholds adopted by the City of Banning, County of Riverside, or SCAQMD applicable to the proposed Project. The County has a draft General Plan Air Quality Element, but that has yet to be adopted, and does not propose a specific threshold (the May 2011 draft contemplates a point system for GHG significance screening). SCAQMD staff have a GHG Working Group, but have yet to adopt formal GHG significance thresholds for residential or commercial projects (SCAQMD adopted interim thresholds on December 2008 through Board Agenda Item 31, but these only apply to industrial projects where SCAQMD is the CEQA Lead Agency).⁸ In the absence of specific quantitative GHG significance thresholds, the DEIR quantifies GHG emissions (Table 4.5-2), identifies reasonable and feasible mitigation measures (Table 4.5-3 and Mitigation Measure Nos. GHG-1, GHG-2 and GHG-3), and concludes that the Project may have a significant climate change impact (discussed at length on pages 4.5-40 through 4.5-43).

GHG Mitigation

The DEIR identifies reasonable and feasible mitigation based on review of the Attorney General recommendations (Table 4.5-3) and CAPCOA guidance (September 2010 report on "Quantifying Greenhouse Gas Mitigation Measures"). The Project includes a number of inherent Project Design Features that reduce GHG emissions, as described on pages 4.5-26 and 4.5-27. In addition,

⁷ <http://www.aqmd.gov/caleemod/faq.htm> (accessed November 10, 2011)

⁸ <http://www.aqmd.gov/ceqa/handbook/GHG/GHG.html> (accessed July 8, 2011).

existing regulatory programs administered by the City of Banning, SCAQMD, State of California (such as the Green Building Code), CARB and EPA will further reduce future Project and cumulative GHG emissions. Project GHG emissions are further reduced through EIR mitigation measures, including a variety of measures aimed to reduce energy consumption and motor vehicle emissions, as well as indirect emissions associated with water supply and solid waste. Additional measures were considered by the applicant and City but rejected, including:

- Constructing a solar farm on the northern slopes of the project site. This would result in significant visual impacts, would only meet a small portion of the Project's energy demand, and is being addressed more effectively through the Banning Electric Department's renewable energy portfolio commitments.
- Requiring solar panels on all residential and commercial structures. This would substantially increase the cost of single family homes in a very challenging real estate market, is not required by any local or State building code, and is more effectively addressed through the City of Banning Electric Department's renewable energy portfolio commitments and the State's ongoing building code revision process to achieve improved energy efficiency. Furthermore, the applicant's "Living Smart Program" includes optional solar panels on all homes, and "solar ready" rooftops (see Mitigation Measure GHG-1 and GHG-2).

MASTER RESPONSE #6

PROJECT DENSITY AND FEASIBILITY

Some parties submitted comments regarding the nature, viability or market feasibility and timing for the Project.

Project Density

The Butterfield Specific Plan proposes residential, potential golf course, parks, open space, school sites, and commercial uses that are similar to those proposed by the previously adopted Deutsch Specific Plan; refer to Exhibit 3.0-3 Land Use Plan. The total acreage proposed within the Specific Plan is 1,543 acres. A maximum of 5,387 homes could be developed with regards to the Butterfield Specific Plan.

The Project proposes a total of 937.4 acres (60.8%) of the Specific Plan area for residential development in Planning Areas which vary in density from 3du/ac to 18du/ac. The residential planning areas propose a mix of conventional single-family detached homes on lots anticipated to range from a minimum size of 2,000 square feet for medium-density residential to a minimum average of 10,000 square feet (SF) for some low-density residential areas. In addition, multifamily housing is proposed within Residential Planning Areas or the clustering of housing is permitted. The average overall gross residential density of the Project in the residential

planning areas, if built out to 5,387 dwelling units, would be 5.7 dwelling units per acre (du/ac). Overall Project density would be 3.5 du/ac. Residential neighborhoods of varying densities are located throughout the proposed Project.

Feasibility

The Butterfield Specific Plan will be developed in five primary phases over an estimated 30-year period, assuming an average construction of approximately 180 homes per year, as an average (refer to Butterfield Specific Plan Section 1.0, *Executive Summary*). Associated infrastructure would be constructed incrementally to match the needs of development as it occurs. Mass grading of the Project site would take place in approximately four main phases, combining Phase 1 and 2 in the first mass grading phase. The development sequence is flexible and open to change over time in order to adequately respond to various factors, including cyclical nature of the housing market and other variations in demand. The proposed Butterfield Specific Plan has updated the previously approved Deutsch Specific Plan in order to best accommodate the current Banning community and its citizens by allowing for flexibility for various elements of the development process.

MASTER RESPONSE #7

IMPACTS ON CITY PUBLIC SAFETY SERVICES AND FACILITIES

Fire Services and Facilities

The Fire Department has indicated that an additional fire station may be required within the Butterfield development to ensure adequate services and appropriate response times to new and current residences in the area. Accordingly, a 1.6-acre fire station site is proposed in the southern portion of PA 60, which is otherwise designated for low-density residential development. With respect to being flexible, the zoning exists throughout the Project to allow for a different location depending on the needs of the Fire Department at the time. Funding for the construction of this fire station would come from the over \$7 million in fire facilities impact fees that will be generated by the Project as it develops and/or through funding generated by tax revenues. In order to ensure that adequate fire services are available to all portions of the Project site with response times that correspond to City standards, Mitigation Measure PSU-1 is included. Mitigation Measure PSU-1 provides for needed flexibility in determining appropriate time for additional fire services. It will also allow for the Fire Chief to make the decision for the timing, potential need for development, and location of a new fire station within the Project, and/or the provision of additional fire response units or services.

To reduce the Project's impact on fire services and to increase precautionary safety, the Butterfield Specific Plan incorporated a variety of design and land use elements including the irrigation of slopes and fuel modification zones, the provision of adequate water supply and

pressure to meet fire code requirements for fire flow, provision of interior sprinkler systems as required by the 2010 CRC and CBC, and the development of a coherent street system with multiple points of access, with streets sized to accommodate emergency vehicles.

Police Services and Facilities

The development of 5,387 housing units within the Butterfield Specific Plan would result in a population increase of roughly 14,168 persons. Based on the Banning Police Department's adopted officer-to-resident ratio goal, stated in the General Plan, the Project could generate a demand for as many as 28 additional sworn officers at full build out (approximately 30 years). In 2010, the Police Department opened a new 30,000-square-foot facility, which is anticipated to remain adequate for the provision of police services to the Project for much of its development period.

To finance any new facilities, or the expansion of existing facilities, the City assesses a Police Facilities Fee on all new development. Payment of this fee, which is adjustable over time as the City determines its facilities needs, insures that each new development pays its "fair share" of the cost of providing the police facilities needed to serve a growing population. Based on the current fee structure, the Project would be contributing over \$4 million in City police fees through Project build out. In addition, the Project will result in indirect contributions to the City's General Fund through sales and property taxes and thus provide financial support for expanded police operations.

School Facilities

For detailed discussion regarding school facility impacts, please refer to Comment Letter 5 responses.

MASTER RESPONSE #8

ALTERNATIVES

The Draft EIR analyzed a range of alternatives, including:

- No Project/ Existing Specific Plan Alternative
- Reduced Density – 20% Reduction Alternative
- Active Adult Community Alternative
- No Golf Course Alternative
- No Development Alternative (*Rejected from Further Consideration*)
- Alternative Site Alternative (*Rejected from Further Consideration*)

Based on this analysis, it was determined that the Reduced Density Alternative was the Environmentally Superior Alternative under CEQA, however with implementation of this

alternative, significant and unavoidable impacts associated with light and glare, construction and operational air quality, Air Quality Management Plan (AQMP) consistency, traffic and cumulative impacts associated with light and glare, operational air quality, climate change, mobile source noise, and traffic would occur.

No Project/ Existing Specific Plan Alternative

The No Project / Deutsch Existing Specific Plan Alternative would result in less open space than if the proposed Project was implemented. The proposed Project would essentially create superior habitat within areas of the Project site; providing 253.9 acres for the golf course, 67 acres of park space, and 108.4 acres of open space, which includes drainage and recreation area open space. The Deutsch Specific Plan alternative would provide a reduced amount of open space and does not include the same degree of native landscaping proposed in the Butterfield Specific Plan. This alternative is not feasible since the applicant owns the land, has a right to develop, and no formal offers have been made for purchase of the site. Therefore, implementation of this alternative would result in greater impacts to biological resources as compared to the Project, due to comparatively decreased provisions for on-site open space.

Reduced Density associated with no development of the Northern Properties above Highland Home Road

Highland Springs Resort commented that Project impacts could be reduced or eliminated if Planning Areas north of Highland Home Road were not developed but instead were sold to the Resort. The northern properties within the Specific Plan area contain approximately 10% of the residential units proposed for development. As analyzed under the Reduced Density Alternative within the Draft EIR, a reduction of 20% of the development proposed would still result in some significant unavoidable impacts that cannot be mitigated. Since the proposed Project accounts for approximately 20% of the entire General Plan buildout condition, it is important to realize that a reduction in density will only contribute to a fraction of the amount of development anticipated over the life of the General Plan. If the northernmost properties above Highland Home Road were to remain undeveloped the amount of development within the remaining portions of the Project would still result in impacts similar to those analyzed for the proposed Project. Based on this result, reducing development in this part of the Specific Plan would not be a viable alternative that would reduce significant unavoidable impacts above what was already analyzed in Section 6.0, Alternatives of the Draft EIR.

MASTER RESPONSE #9

AESTHETICS

Visual Impact to Adjacent Areas, and Building Height/View Corridors

The dominant scenic vista associated with the site is of the peaks and prominent ridgelines of the San Bernardino Mountains, although the prominence of the foothills increases as site elevation increases and moves to the foreground and, in the northern portion of the site, blocks much of the San Bernardino Mountain backdrop. In its undeveloped state, the site provides panoramic views of the San Bernardino Mountains and its foothills to the north and northeast from Wilson Street and from Highland Springs Avenue. Scenic vistas of Mt. San Jacinto to the southeast are also available from Highland Springs Avenue and from the higher on-site elevations. However, the site itself does not possess distinctive scenic resources such as geologic formations, historic structures or significant stands of trees, its grading and development would not result in a direct substantial adverse impact to scenic resources.

North of the improved section of Highland Home Road, the Project site is vacant and characterized by gradually increasing elevations melding grassland into foothill terrain. Non-native grasslands characterize the area with the exception of the highest elevations, which exhibit mixed chaparral vegetation. Those portions of the foothills visible from offsite are grass covered and highly eroded with a clearly demarked line of mixed chaparral at the highest elevations.

The site has been redesigned from the currently approved Deutsch Specific Plan, which has been in effect since 1993, whereby the current approved Specific Plan allowed for grading of the entire site, while the proposed Specific Plan preserves the northern steeper slopes as open space and provides for a more extensive open space network along with the Smith Creek drainage corridor. There are multiple Visual Resource Mitigation Measures incorporated in the Butterfield Specific Plan to ensure the conservation and management of visual impacts and open space areas to provide recreational opportunities and protect important resources in the future. For example, the development will incorporate landscape designs and materials that complement the surrounding native desert environment. Mass graded areas will be re-vegetated at the completion of the mass grading process, pursuant to the City's Municipal Code and the Specific Plan. In addition, the Butterfield Specific Plan contains grading standards and landscape guidelines that both incorporate and exceed the City's Code design standards by providing detailed plans and standards for landscape plant palettes, architectural guidelines, streetscape enhancements, park treatments, perimeter and interior fencing, etc. Also, proposed new utility lines shall be under grounded to the greatest extent possible. The Project's golf course and open space will provide a view corridor to preserve vistas of the San Bernardino Mountain ridgelines and foothills to the north and east and vistas of the San Jacinto Mountains to the south. Open space and parks throughout the Project will provide scenic views as well. Architectural lighting and landscape accents will be aesthetically pleasing and non obtrusive.

The higher elevations of the Project site are briefly and intermittently visible to passing traffic traveling east on the I-10 as part of the general mid-distance background, but the site is not visible from west-bound lanes, where the entire area is blocked by berms and vegetation. Although the County RCIP Circulation Element and Caltrans identify the Pass area I-10 corridor as “eligible” for State scenic highway status, the City’s General Plan EIR notes that visual sensitivity along the I-10 corridor as it traverses the City of Banning is very low, with the exception of distant views of the surrounding mountains. The Project site is not located within a designated scenic highway corridor and its development is not governed by an adopted Corridor Protection Plan.

The Pass Area Plan of the County of Riverside General Plan Circulation Element identifies I-10 between State Route 38 to State Route 62 as an “eligible” State scenic highway, consistent with Caltrans’ designation cited above. The overall intent of the County RCIP is to “conserve significant scenic resources along designated scenic highways for future generations and to manage development along scenic highways and corridors so as not to detract from the area’s scenic quality.” However, as noted above, a Corridor Protection Plan for the I-10 in the vicinity of the Project site has not been adopted by either the County of Riverside or the City of Banning.

MASTER RESPONSE #10

BIOLOGICAL RESOURCES

Concerns have been raised regarding the compensatory mitigation for Project impacts on biological resources. The California Department of Fish and Game (CDFG) has suggested that compensatory mitigation should be greater than that recommended in the Draft EIR. This response outlines the impacts analyzed in the Draft EIR and summarizes the substantial evidence supporting the mitigation provided. The City acknowledges that other responsible agencies may require compensatory mitigation under their respective review authority beyond what is required by CEQA.

The Project site comprises approximately 1,543 acres. The Project, as proposed, has the potential to permanently disturb 1.17 acres of U.S. Army Corps of Engineers (USACE) jurisdiction, of which 0.01 acre consists of jurisdictional wetlands, and the potential to temporarily disturb 8.65 acres of USACE jurisdiction, none of which consist of jurisdictional wetlands.

The Project, as proposed, also has the potential to permanently disturb 1.57 acres of Colorado River Basin Water Quality Control Board (RWQCB) jurisdiction, of which 0.01 acre consists of jurisdictional wetlands, and the potential to temporarily disturb 8.65 acres of RWQCB jurisdiction, none of which consist of jurisdictional wetlands.

The Project, as proposed, also has the potential to permanently disturb 2.47 acres of CDFG jurisdiction, of which 0.41 acre consists of vegetated riparian habitat, and the potential to temporarily disturb 9.22 acres of CDFG jurisdiction, of which 0.02 acre consists of vegetated riparian habitat.

As mitigation to compensate for the permanent disturbance of USACE, RWQCB, and CDFG jurisdiction on site, the Applicant has proposed to establish, rehabilitate, and enhance, at a minimum, 2.47 acres of USACE, CDFG, and RWQCB jurisdictional waters within Smith Creek.

Under existing conditions, Smith Creek is generally an unvegetated, disturbed creek within the limits of the Project site. This is the result of past ranching and agricultural use within the watershed. Although the Project proposes a few grade control structures within Smith Creek, a majority of the proposed creek will be natural bottom with natural sides and past ranching and agricultural uses will be eliminated. This proposed mitigation will return functions and values to the creek that have been lost as a result of past ranching and agricultural operations and allow the creek to continue functioning as wildlife habitat and as a means of flood control.

Finally, the applicant is proposing to restore all temporary impacts to USACE, CDFG, and RWQCB jurisdiction on site. This will result in the rehabilitation of 8.65 acres of USACE and RWQCB jurisdiction, and 9.22 acres of CDFG jurisdiction.

The Applicant is proposing the compensatory mitigation package described above, at a minimum, in compliance with Section 15370 of the California Environmental Quality Act (CEQA).

Section 15370 of CEQA considers mitigation as the following:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (f) Compensating for the impact by replacing or providing substitute resources or environments.

Based upon this CEQA definition, the Applicant has already proposed to conduct mitigation/restoration activities pursuant to sub-parts (c) and (e) of Section 15370, which complies with CEQA. The applicant is not required to mitigate potential streambed impacts to the satisfaction of the CDFG; rather, the applicant is required to provide compensatory mitigation, which complies with CEQA and, at a minimum, would reduce impacts to a less than

significant level. The proposed mitigation within the Project DEIR does propose to reduce potential significant impacts to biological resources to a less than significant level, which complies with CEQA. Therefore, the mitigation proposed should be sufficient for CEQA purposes.

This mitigation is also being proposed to satisfy the USACE compensatory requirements under Section 404 of the Clean Water Act (CWA), the CDFG's guidelines pursuant to Sections 1600-1616 of the Fish and Game Code, and RWQCB's requirements as part of Section 401 of the CWA and Section 13260 of the California Water Code (CWC); however, the Applicant recognizes that its is premature for the regulatory agencies to impose compensatory mitigation requirements under Section 404 of the CWA, Section 1602 of the Fish and Game Code, Section 401 of the CWA, or Section 13260 of the CWC until such a time as the Applicant submits regulatory permit applications to each respective State and federal agency, and each agency has had an opportunity to evaluate each application under their respective regulatory permitting guidelines.

The Applicant's submittal of regulatory permitting applications to each agency is not driven by CEQA, but is driven by the existing housing market. Once the housing market has improved and the Applicant is prepared to submit regulatory permitting applications to each respective agency, such an application will be prepared and submitted in a timely manner. The Applicant recognizes that the regulatory agencies may require additional compensatory mitigation as part of each agency's permitting process; however, to make such a determination at this time is premature.

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3.0 RESPONSES TO COMMENTS

This section includes the comments received on the Draft EIR. Each comment letter is followed by the corresponding response(s). A response consistent with the requirements of Section 15088 of the State CEQA Guidelines is provided for each written and verbal comment raising significant environmental issues, as received by the City during the Draft EIR public review period. Section 2.0, Master Responses, above, provides topical responses to some of the more common questions and issues raised in the comment letters.

The following tables list all persons, organizations, and public agencies which provided comments or recommendation to the City of Banning regarding the Draft EIR.

OPR Transmittal Letters		
Comment Letter	Name	Page No.
1	Governor's Office of Planning and Research (Part #1)	3.1-1
2	Governor's Office of Planning and Research (Part #2)	3.-2-1

Agency Comment Letters		
Comment Letter	Name	Page No.
3	Federal Emergency Management Agency	3.3-1
4	City of Beaumont (Planning Department)	3.4-1
5	Beaumont Unified School District & Banning Unified School District (submitted by Bowie, Arneson, Wiles & Giannone)	3.5-1
6	California Department of Conservation	3.6-1
7	California Department of Fish and Game	3.7-1
8	California Department of Toxic Substances Control (Part #1)	3.8-1
9	California Department of Toxic Substances Control (Part #2)	3.9-1
10	California Department of Transportation (District 8)	3.10-1
11	Native American Heritage Commission	3.11-1
12	Riverside County Flood Control & Water Conservation District	3.12-1
13	Riverside County Transportation & Land Management Agency (Transportation Department)	3.13-1
14	South Coast Air Quality Management District	3.14-1

Group/Organization Comment Letters		
Comment Letter	Name	Page No.
15	Banning Healthcare & Cherry Valley Healthcare (submitted by Cynthia Dersh Schein, Attorney at Law)	3.15-1
16	Cherry Valley Acres & Neighbors & Cherry Valley Environmental Planning Group (Part 1) (submitted by Patsy Reeley)	3.16-1
17	Cherry Valley Acres & Neighbors & Cherry Valley Environmental Planning Group (Part 2) (submitted by Patsy Reeley & Betty Beckman)	3.17-1
18	Cherry Valley Acres & Neighbors & Cherry Valley Environmental Planning Group (Part 3) (submitted by Luwana Ryan)	3.18-1
19	Highland Springs Country Club Owners' Association (submitted by Guralnick & Gilliland, LLP)	3.19-1
20	Highland Springs Resort (submitted by Chatten-Brown & Carstens)	3.20-1
21	Morongongo Band of Mission Indians	3.21-1
22	Southern California Edison	3.22-1
23	Southern California Gas Company	3.23-1

Public Comment Letters		
Comment Letter	Name	Page No.
24	Edward C. Ball	3.24-1
25	Robert Brezinske	3.25-1
26	Mary A. Daniel	3.26-1
27	Frances Flanders	3.27-1
28	Barbara Hanna	3.28-1
29	Majorie Hoffman	3.29-1
30	Penny Ann Rangel	3.30-1
31	Janelle Singleton	3.31-1

Oral/Public Comments		
Comment Letter	Name	Page No.
32	Oral Comments & Questions -	3.32-1

OPR Transmittal Letter (Part 1)
No. 1



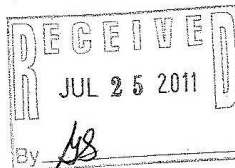
Edmund G. Brown Jr.
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Ken Alex
Director

July 21, 2011



Zai Abu Baker
City of Banning
99 E. Ramsey Street
Banning, CA 92220-0998

Subject: Butterfield Specific Plan
SCH#: 2007091149

Dear Zai Abu Baker:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on July 20, 2011, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1.a

**Document Details Report
State Clearinghouse Data Base**

SCH# 2007091149
Project Title Butterfield Specific Plan
Lead Agency Banning, City of

Type EIR Draft EIR
Description Note: Reference SCH# 1990020698

The project proposes 5,387 dwelling unities (936.4 acres of residential), a golf course and open space (253.9 acres), parks (66.5 acres) and other open space (108.4 acres, two school sites (23.0 acres), and existing utility substation facility (4.2 acres), a potential fire station site (1.6 acres), a potential 1.5-2.0 MGD satellite wastewater treatment plant (3 acres), commercial/office sites (36.0 acres) and backbone roadways (113.6 acres). The project also includes the construction of major onsite and offsite infrastructure, including, but not limited to: various offsite conveyance pipelines (water, wastewater and recycled water), a multi-purpose recharge/storage/detention basin, and drainage improvements to Smith Creek immediately upstream and downstream of the project site.

Lead Agency Contact

Name Zai Abu Baker
Agency City of Banning
Phone (951) 922-3125
email
Address 99 E. Ramsey Street
City Banning
Fax
State CA **Zip** 92220-0998

Project Location

County Riverside
City Banning
Region
Lat / Long 33° 56' 10" N / 116° 56' 32" W
Cross Streets Highland Springs Avenue & Wilson Street
Parcel No. 406-030-028; 406-040-016; 4
Township 2S,3S **Range** 1W,1E **Section** 25,... **Base** SBB&M

Proximity to:

Highways I-10
Airports
Railways UPRR
Waterways Montgomery Creek, Smith Creek, and Potrero Creek
Schools Sundance Elem.,Calvary Christian,Beaumont Unified,Banning Unifie
Land Use Specific Plan

Project Issues Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Drainage/Absorption; Geologic/Seismic; Noise; Population/Housing Balance; Public Services; Toxic/Hazardous; Traffic/Circulation; Water Quality; Water Supply; Growth Inducing; Landuse; Cumulative Effects; Aesthetic/Visual; Flood Plain/Flooding; Forest Land/Fire Hazard; Minerals; Recreation/Parks; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Vegetation; Wetland/Riparian

Reviewing Agencies Resources Agency; Department of Fish and Game; Region 6; Department of Parks and Recreation; Department of Water Resources; Office of Emergency Management Agency, California; Resources, Recycling and Recovery; California Highway Patrol; Caltrans, District 8; Department of Housing and Community Development; Regional Water Quality Control Board, Region 8; Department of Toxic Substances Control; Native American Heritage Commission

Note: Blanks in data fields result from insufficient information provided by lead agency.

Document Details Report
State Clearinghouse Data Base

Date Received 06/06/2011 *Start of Review* 06/06/2011 *End of Review* 07/20/2011

Note: Blanks in data fields result from insufficient information provided by lead agency.

Governor's Office of Planning and Research (Part 1)

Response No. 1

- 1.a This letter is from the Governor's Office of Planning and Research, State Clearinghouse and Planning Unit. It confirms the Project's compliance with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act (CEQA). It also confirms that OPR has transmitted the Draft EIR to the appropriate State agencies. This comment is noted by the City.

OPR Transmittal Letter (Part 2)
No. 2



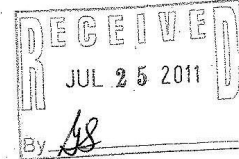
Edmund G. Brown Jr.
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Ken Alex
Director

July 22, 2011



Zai Abu Baker
City of Banning
99 E. Ramsey Street
Banning, CA 92220-0998

Subject: Butterfield Specific Plan
SCH#: 2007091149

Dear Zai Abu Baker:

The enclosed comment (s) on your Draft EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on July 20, 2011. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2007091149) when contacting this office.

2.a

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

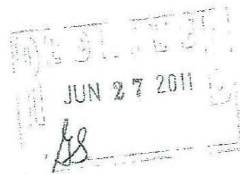
Governor's Office of Planning and Research (Part 2)

Response No. 2

- 2.a This second State Clearinghouse letter states that additional comments were received after the end of the CEQA review period. While it states that the California Environmental Quality Act (CEQA) does not require the City to respond to late comments, it does encourage the City to incorporate these additional comments into the Final EIR and to consider them prior to taking final action on the proposed Project. These additional comments are addressed in responses to Comment Letter Nos. 5 (Department of Fish and Game) and 6 (Department of Conservation).

While the State Clearinghouse has labeled the Department of Conservation comment as "late", this commenting agency forwarded its comments directly to the City and the letter was received prior to the close of the CEQA review period. Therefore, it is not considered a late comment as defined by CEQA Guidelines.

Agency Comment Letter
No. 3



U.S. Department of Homeland Security
FEMA Region IX
1111 Broadway, Suite 1200
Oakland, CA. 94607-4052



June 21, 2011

Zai Abu Bakar, Director
Community Development Department
City of Banning
99 E. Ramsey Street
Banning, California 92220

Dear Mr. Bakar:

This is in response to your request for comments regarding the Draft Butterfield Specific Plan Environmental Impact Report (EIR) in the City of Banning, California.

Please review the current effective countywide Flood Insurance Rate Maps (FIRMs) for the County of Riverside (Community Number 060245) and City of Banning (Community Number 060245), Maps revised August 28, 2008. Please note that the City of Banning, Riverside County, California is a participant in the National Flood Insurance Program (NFIP). The minimum, basic NFIP floodplain management building requirements are described in Vol. 44 Code of Federal Regulations (44 CFR), Sections 59 through 65.

A summary of these NFIP floodplain management building requirements are as follows:

- All buildings constructed within a riverine floodplain, (i.e., Flood Zones A, AO, AH, AE, and A1 through A30 as delineated on the FIRM), must be elevated so that the lowest floor is at or above the Base Flood Elevation level in accordance with the effective Flood Insurance Rate Map.
- If the area of construction is located within a Regulatory Floodway as delineated on the FIRM, any *development* must not increase base flood elevation levels. **The term *development* means any man-made change to improved or unimproved real estate, including but not limited to buildings, other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of equipment or materials.** A hydrologic and hydraulic analysis must be performed *prior* to the start of development, and must demonstrate that the development would not cause any rise in base flood levels. No rise is permitted within regulatory floodways.

3.a

www.fema.gov


Zai Abu Bakar, Director
Page 2
June 21, 2011

- Upon completion of any development that changes existing Special Flood Hazard Areas, the NFIP directs all participating communities to submit the appropriate hydrologic and hydraulic data to FEMA for a FIRM revision. In accordance with 44 CFR, Section 65.3, as soon as practicable, but not later than six months after such data becomes available, a community shall notify FEMA of the changes by submitting technical data for a flood map revision. To obtain copies of FEMA's Flood Map Revision Application Packages, please refer to the FEMA website at <http://www.fema.gov/business/nfip/forms.shtm>.

Please Note:

Many NFIP participating communities have adopted floodplain management building requirements which are more restrictive than the minimum federal standards described in 44 CFR. Please contact the local community's floodplain manager for more information on local floodplain management building requirements. The City of Banning floodplain manager can be reached by calling Andy Takata, City Manager, at (951) 922-3104. The Riverside County floodplain manager can be reached by calling Michael Lara, Director, Building and Safety Division, at (951) 955-2514.

If you have any questions or concerns, please do not hesitate to call Frank Mansell of the Mitigation staff at (510) 627-7191.

Sincerely,

Gregor Blackburn, CFM, Branch Chief
Floodplain Management and Insurance Branch

cc:
Andy Takata, City Manager, City of Banning
Michael Lara, Director, Building and Safety Division, Riverside County
Garret Tam Sing/Salomon Miranda, State of California, Department of Water Resources,
Southern Region Office
Frank Mansell, Floodplanner, DHS/FEMA Region IX
Alessandro Amaglio, Environmental Officer, DHS/FEMA Region IX

www.fema.gov

3.a
Cont.

Gregor Blackburn, CFM, Branch Chief
Federal Emergency Management Agency (FEMA)
Floodplain Management and Insurance Branch

Response No. 3

- 3.a FEMA Flood Insurance Rate Maps (FIRMs) dated August 28, 2008 were used in the preparation of the Draft EIR. These were the latest maps available for review at the time of Draft EIR preparation.

The Project Applicant will be required to adhere to all National Flood Insurance Program building requirements, as applicable, should the Project be implemented.

As identified on page 4.9-34 of the Draft EIR, as a condition of approval and as part of the Tentative Tract Map process, the Project Applicant will be required to request a Conditional Letter of Map Revision (CLOMR) from FEMA, to revise the FEMA flood plain maps within the Project area. These Tentative Tract Maps will be submitted subsequent to Project approval as identified on page 3.0-53 of Section 3.0, *Project Description*. The request for a CLOMR would be supported by detailed flood hazard analyses prepared by a qualified Registered Professional Engineer in accordance with Part 65 of the NFIP regulations and the FEMA MT-2 application forms package. Once the Project has been completed (constructed), a revision to the FEMA Flood Insurance Rate Map (FIRM) to reflect the "As-built" condition would be requested.

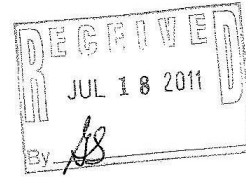
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Agency Comment Letter
No. 4



City of Beaumont

550 E. 6th Street
Beaumont, CA 92223
(951) 769-8520
FAX (951) 769-8526
Email: cityhall@ci.beaumont.ca.us
www.ci.beaumont.ca.us



July 13, 2011

City of Banning
Community Development Department
Attn: Zai Abu Bakar,
Community Development Director
99 E. Ramsey Street
Banning, CA 92220

Re: Comments - Butterfield Specific Plan – Draft Environmental Impact Report (DEIR)

Dear Zai Abu Bakar:

The City of Beaumont has reviewed the Butterfield Specific Plan – Draft Environmental Impact Report (DEIR), and enclosed are comments and questions related to this review. Thank you for the opportunity to comment on this environmental assessment. If you have any further questions regarding the above mention item, please feel free to contact us here at the Planning Department at (951) 769-8518.

} 4.a

Sincerely,

City of Beaumont Planning Department

CITY OF BEAUMONT
COMMENTS ON BUTTERFIELD SPECIFIC PLAN DRAFT EIR

WATER QUALITY, WASTEWATER TREATMENT, HYDROLOGY

These comments are described below:

4.9.1

- It is described that hard water is caused by the total dissolved solids (TDS). This statement is incorrect; hard water is caused by Cations such as mainly Calcium and Magnesium
- There is a statement made that presence of nitrates in certain wells within the Beaumont Management Zone (BMZ) are of potential concern. No factual or backup information was provided to substantiate these statements. All ground waters have some nitrates from natural and other sources; however, if the ground water is below the maximum contaminant levels established by the CDPH, there should be no concern.

} 4.b
}
} 4.c

Table 4.9-3 contains partial water quality of two wells. The location of these wells needs to be identified. Some water quality information such as p H (7.5) nitrate of 7.54 seems high. Are these production wells or agricultural wells?

} 4.d

4.9.23- It is proposed that ground water recharge be done; however, no discussion is provided as to how that will be accomplished or who will conduct this.

- There is some discussion on ground water recharge with recycled water. Groundwater recharge with recycled water would require special permits from various regulatory agencies. This needs to be recognized. There are very strict standards for recycled water recharge into local ground water basins. Impacts from these proposed ground water recharge with recycled water need to be discussed in great detail along with mitigation measures.

} 4.e

4.12.9

- It is described in the draft EIR that recycled water will be used. There are, however, no specifics provided as to the capacity of existing facilities, degree and type of treatment trains utilized and the recycled water quality. A discussion needs to be contained in the draft EIR relative to the California Department of Health Services criteria for various recycled water uses.

} 4.f

- If there are various options for wastewater treatment by different agencies, the EIR needs to contain some level of discussion on these options and environmental impacts from the various scenarios need to be discussed in sufficient detail. } 4.g

In Section 14, it is stated that maximization of ground water resources, storm water runoff capture, reclaimed water etc; but no details are included. } 4.h

It is assumed that Smith Creek is to be used to receive storm water and nuisance water from the project. No discussion on the type of proposed improvements to Smith Creek was provided. If the Creek is to be channelized, impacts to biological resources and riparian habitats need to be included in the EIR document. } 4.i

If nuisance water is proposed to be discharged to Smith Creek, discussion on potential quality of the nuisance water needs to be provided. Typically nuisance water contains fertilizers, pesticides, petroleum hydrocarbons and various other pollutants which will adversely impact waters of the State. Any discharge of such waters may not be allowed by regulatory agencies. } 4.j

TRAFFIC SECTION COMMENTS

The organization of the traffic section of the Draft EIR is very confusing, and the logical progression from existing conditions to impacts to mitigation is difficult to follow. Various elements are presented in illogical sequences, leaving the reader to skip back and forth to attempt to understand the relevant information. It is strongly recommended that the traffic section be comprehensively redrafted and provided to the City of Beaumont for review prior to any action on the DEIR or Final EIR. } 4.k

Specific comments follow below:

- The list of intersections analyzed (on page 4.13-5 should include the freeway related intersections as well. The lack of listing of these in this location makes the subsequent text confusing. } 4.l

- Table 4.13-3 (page 4.13-7) provides for a confusing introduction on existing conditions, as it is located in the section discussing existing conditions, but also contains the plus project scenarios which more correctly belong in the impact analysis section. Many pages further, in the impact section, the reader is then redirected to this table, which is very inconvenient and confusing. } 4.m

- In order to provide a complete picture, the traffic section should also provide ADT volumes for all segments, for all project and no project scenarios. Only peak hour volumes are provided. } 4.n
- The traffic section of the DEIR is insufficiently detailed to allow a full understanding of the project, impacts and mitigation without concurrently reviewing the actual traffic study. While some level of summarization is understandable, the DEIR should be self-explanatory and sufficiently detailed so as not to inconvenience the reader. } 4.o
- Another example of illogical sequence is Table 4.13-21, which provides LOS after mitigation, yet the discussion on mitigation is located in the pages following this table. } 4.p
- In the paragraph entitled "City of Beaumont Improvements" (page 4.13-23) reference is made to TUMF fees. Please be advised that Beaumont has its own fee program and does not participate in the TUMF program. } 4.q
- In mitigation measure TRF-1 (page 4.13-25) it is stated that improvements which are deemed to be infeasible due to right of way requirements are excluded. Those should be clearly identified and discussed and individually and cumulatively evaluated for significance as they are not to be implemented. From an organizational perspective, the table listing in the improvements is two pages removed from this the mitigation discussion, rather than immediately following. More confusing and troubling is the fact that there is no discussion or statement of impacts related to Mitigation Measures TRF-1 and TRF-2. } 4.r
- On Page 4.13-26, an analysis of impacts begins starting with Impact 4.13-1, yet this is preceded by the discussion of two mitigation measures. As with much of this section, this is completely illogical and confusing. Again, in this part of the section there is discussion of impacts which are dismissed as insignificant or requiring no mitigation, yet there is no discussion as a basis for measures TRF-1 and TRF-2. } 4.s

**City of Beaumont
Planning Department**

Response No. 4

4.a The City of Beaumont Planning Department confirms that it has reviewed the Draft EIR and has enclosed comments related to its review. Responses to this comment letter are incorporated below.

4.b With reference to the Draft EIR 4.9.1, the comment states that hard water is the result of Cations such as calcium (Ca^{2+}) and magnesium (Mg^{2+}), and not total dissolved solids (TDS). Both the City of Beaumont's definition of hard water and the definition contained in the Draft EIR Section 4.9.2.1 are technically correct. Hardness in water is the result of high concentration of multivalent cations (positively charged metal complexes), generally caused by ions that have leached into a water supply within an aquifer.

High TDS concentrations can also cause hard water. TDS consist of salts and compounds which dissociate in water to form ions. Some common salts which make up TDS consist of calcium (Ca^{2+}) and magnesium (Mg^{2+}). Water is generally considered hard when it has a relatively high concentration of these calcium (Ca^{2+}) and magnesium (Mg^{2+}) ions.^{1,2}

4.c With reference to Draft EIR 4.9.1, the comment requests background sources for information regarding the Draft EIR statement that there exists the presence of nitrates in certain wells within the Beaumont Management Zone (BMZ) (refer to page 4.9-8 of the Draft EIR). The section of the Draft EIR, "Groundwater Water Quality", to which the comment is referring has been revised to reflect updated background data contained in the City of Banning 2010 Urban Water Management Plan ("2010 UWMP") and the Wildermuth Environmental, Inc., *Total Dissolved Solids and Nitrate-Nitrogen Projections for the Beaumont Management Zone* report (referenced in the WSA, Draft EIR Appendix J) concerning water quality. Refer to the Errata of this Final EIR, for the proposed changes to this section.

In response to the comment's statement, the Draft EIR statement that there exists the presence of nitrates in certain wells has been removed (refer to Section 4.0, Errata). According to the 2010 UWMP, nitrate concentrations are presently below the maximum concentration level (MCL) or action levels.³ In addition, Appendix C, "Select Historical

¹ Montana State University Extension Water Quality Program, http://waterquality.montana.edu/docs/homeowners/tds_fact_sheet.pdf, accessed July 26, 2011.

² U.S. Environmental Protection Agency, "Secondary Drinking Water Regulations: Guidance for Nuisance Chemicals", Table 1, updated July 7, 2011, <http://water.epa.gov/drink/contaminants/secondarystandards.cfm>, accessed on July 26, 2011.

³ 2010 UWMP, Section 5.9.

Water Quality Data” of the *Maximum Perennial Yield Estimates* report (refer to Draft EIR Appendix J, Sub-appendix D) includes a summary of selected water quality parameters, including nitrates. This report also confirms that nitrate concentrations are currently under the MCL or action levels.⁴

- 4.d The comment states that Table 4.9-3 of the Draft EIR contains partial water quality data for two wells. The City of Beaumont requests that the location of these wells be identified and asks whether these wells are agricultural wells or production wells. The following table shows the latitude and longitude of the wells listed in Draft EIR Table 4.9-3, as well as their general locations.

Well ID Number	Latitude ¹	Longitude	General Location
2S/1W28A 1	33°58'01.25"	116°58'40.34 "	southerly of Cherry Valley Blvd. & Beaumont Ave., & northerly of Brookside Ave.
3S/1W03K 2	33°56'19.25"	116°58'08.75 "	southerly of 12 th St., westerly of Michigan Ave., & northerly of 11 th St.
3S/1E17C1	33°55'03.91"	116°54'18.14 "	southerly of Westward Ave., westerly of 22 nd St., & easterly of Sunset Ave. (just south of the Woodland Ave.’s southerly terminus)
3S/1E18D1	33°55'03.68"	116°55'44.13 "	southeasterly corner of Westward Ave. & Highland Home Rd.
Source: USGS, National Water Information System, http://wdr.water.usgs.gov/nwisgmap/index.html?state=CA , accessed July 26, 2011.			
¹ All coordinates are shown in North American Datum 1983 (NAD83)			

While not specifically labeled in Figure 6 of the 2010 UWMP (refer to Draft EIR Appendix J, Sub-appendix A), these wells are shown as “other wells” in this Figure. These wells are USGS monitoring wells.

Updated water quality data collected from the City of Banning water resource area is presented in the *Maximum Perennial Yield Estimates* report (refer to Draft EIR Appendix J, Sub-appendix D). This appendix provides a broader set of groundwater quality data. As such, Draft EIR Table 4.9-3 has been removed from the Draft EIR text, and the reader is referred to the well data provided in the *Maximum Perennial Yield Estimates* report appendix which was provided with the Draft EIR Appendices (refer to Section 4.0, Errata). The well sources in this appendix include USGS monitoring wells and production wells. As shown in these tables, elevated levels of nitrate above the 7.5 mg/L shown in Draft EIR Table 4.9-3 have been sampled within various wells (e.g., City of Banning Well R-1 and USGS Monitoring Well 3S/1E-11F4).

⁴ City of Banning, *Maximum Perennial Yield Estimates for the Banning and Cabazon Storage Units, and Available Water Supply from the Beaumont Basin*, prepared March 29, 2011, pg. 25.

- 4.e The comment states that Draft EIR 4.9.23 proposes that ground water recharge be done and asks for a further information as to how groundwater recharge will be accomplished and who will conduct the recharge. (As there is no Draft EIR 4.9.23, we assume the comment refers to the discussion of Local Basin Recharge at Draft EIR page 4.9-6 or the discussion of Butterfield Groundwater Recharge Program at Draft EIR page 4.9-25.) The comment also states that with respect to groundwater recharge with recycled water, the Draft EIR should include a discussion of the need for special permits required for any such use, as well as an impact discussion.

For additional information regarding recharge for the Project, refer to Master Response Number 4.

Presently, the City of Banning artificially recharges the Beaumont Basin and Cabazon Basin, as described in detail in the WSA (Draft EIR Appendix J) at Sections 6.1.3.1., 6.1.5.5. and 6.1.6.4. In the Beaumont Basin, the City spreads imported water purchased from the Pass Agency at the BCVWD's Noble Creek Recharge Facility. (WSA Section 6.1.5.5.) In the Cabazon Basin, the City recharges treated wastewater from the City's Wastewater Treatment Plant into the basin. (WSA Section 6.1.6.4.) The City plans to continue these recharge operations in the future.

Potential On-Site Recharge of Imported Water:

As a possible future alternative to, or in addition to, the City's current use of BCVWD's Noble Creek Recharge Facility, the City may elect to construct a pipeline connecting the termination of the SWP pipeline at the Pass Agency's spreading grounds with the Project Site (WSA Section 6.3.5.2.) and use of the North Basin Reservoir (WSA Section 4.3.1.) and Project recharge basins (WSA Section 4.3.4.) to recharge the Beaumont Basin with imported water purchased from the Pass Agency (DEIR, p. 4.9-25).

Potential On-Site Recharge of Recycled Water:

Refer to Section 3.6.2.5 of the Draft EIR, specifically "Recycled Water Distribution". The Project may receive recycled water treated to Title 22 tertiary standards from the City's expanded Wastewater Treatment Plant (WWTP) and Phase I Upgrade. The City has already adopted an Initial Study/Mitigation Negative Declaration for the Wastewater Treatment Plant Expansion and Phase I Recycled Water System with a Mitigation Monitoring and Reporting Program on May 27, 2008. Thus, no additional environmental review regarding the Phase I Upgrade is required.

As a possible alternative or supplement to the City's Phase I Upgrade Project, the City may elect to construct a "satellite" WWTP on the Project site. Environmental review of the Project-specific facilities — i.e., the optional onsite satellite WWTP and the extended

recycled water pipeline — is undertaken in the Project's Draft EIR. If ultimately developed by the City of Banning, construction of the portion of the extended recycled water pipeline not covered by the IS/MND referenced above would include street encroachments for the pipeline located within existing City rights-of-way. If funded or constructed by the Applicant on behalf of the City, the Project Applicant would be entitled to credit consideration towards the payment of Citywide Facilities fees, Domestic Water Fees and in the event a fee schedule is adopted, recycled water fees.

The City of Banning's WWTP currently has the capacity to treat 3.6 mgd of wastewater to secondary standards; however, an expansion of the facility (i.e., Phase I Upgrade) to include 1.5 mgd of capacity to treat wastewater to Title 22 tertiary standards is in progress (refer to Draft EIR, pg. 3.0-32). Title 22 of the California Code of Regulations sets water quality standards and treatment reliability criteria for recycled water, including Title 22 regulatory requirements for use of recycled water to protect the beneficial uses of recycled water for land applications, such as irrigation of fields, golf courses, or public access lands. Use of the WWTP as a recycled water source by the City would require completion of the planned improvement of the City's WWTP to both expand treatment capacity and to upgrade the plant to provide Title 22 tertiary treatment of wastewater.

As of the date of this writing, these plant improvements have been included as part of the City's Capital Improvement Program (CIP) and, as mentioned above, a Mitigated Negative Declaration has been completed for the upgrade; however, construction has not started.

If the optional onsite satellite treatment plant is implemented, the plant is proposed to be able to treat up to approximately 1.5 to 2.0 million gallons per day (mgd) of wastewater to Title 22 tertiary standards. Recycled water would be pumped through an onsite recycled water distribution system to the golf course irrigation lake located north of PA 38 or to the North Basin in PA 71, where it would be stored for irrigation. If permitted, the City may also elect to store recycled water generated by the satellite treatment plant in the North Basin Reservoir or for potential groundwater recharge in the Beaumont Basin.

The EIR states that the use of recycled water, regardless of the option that is chosen, would be required to comply with California Department of Public Health (CDPH) (formerly CDHS) Title 22 Regulations. The Draft EIR in Section 3.6.2.5 also confirms that if recycled water is used as recharge, it would have to be blended with another water source, such as SWP water, to achieve an acceptable level of water quality for recharge. To deliver SWP water to the Project site, the City would be required to obtain approvals from the Department of Water Resources (DWR), San Gorgonio Pass Water Agency (SGPWA), and/or San Bernardino Municipal Water District (SBMWD). Below is a

description of Recycled Water policy and regulations that would apply to the Project if recycled water were generated, used, and recharged within the Project site:

Water Recycling Policy and Regulations

In California, any entity that recycles or has proposed to recycle water and/or that uses or has proposed to use recycled water must file a report with its RWQCB. The RWQCBs implement the provisions of the California Code of Regulations (CCR) Title 22, Division 4, Chapter 3 by issuing Water Recycling Requirements (WRRs) to the producer of recycled water, the user of recycled water, or both. WRRs are issued for a variety of uses, including, but not limited to, groundwater recharge (i.e. indirect potable reuse), landscape irrigation (i.e. direct use), and other non-potable uses. The RWQCB consults with the CDPH when issuing WRRs. These regulations are provided in Appendix X of the Final EIR.

State Water Resources Control Board Resolution 2009-0011 – Adoption of a Policy for Water Quality Control for Recycled Water

In 2009, the SWRCB adopted Resolution No. 2009-0011 – Adoption of a Policy for Water Quality Control for Recycled Water. The purpose of the Recycled Water Policy (Policy) is to increase the use of recycled water from municipal wastewater sources that meets the definition in Water Code Section 13050(n) in a manner that implements state and federal water quality laws. When used in compliance with the Policy, Title 22, and all applicable state and federal water quality laws, the SWRCB finds that recycled water is safe for approved uses and strongly supports recycled water as a safe alternative to potable water for approved uses. The SWRCB sees increasing the acceptance and promoting the use of recycled water as a means to achieving sustainable local water supplies while reducing greenhouse gas emissions. The Policy is intended to encourage the beneficial use of, rather than the disposal of, recycled water.

Whitewater Regional Water Quality Control Plan (Basin Plan)

Under California Water Code Section 13240 et seq., each RWQCB must formulate and adopt a water quality control plan (Basin Plan) for all areas within their respective regions. Each Basin Plan must include:

- Beneficial uses, which are to be protected;
- Water quality objectives, which protect those uses; and
- An implementation plan to achieve those objectives.

Beneficial uses are the uses to which surface water and groundwater are being or may be put, including water contact recreation; municipal, agricultural, and

industrial supply; and the preservation of fish and other aquatic wildlife.

Water Code Section 13050 defines water quality objectives as “the limits or levels of water quality constituents or characteristics which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area.” At a minimum, an RWQCB must consider the following factors in establishing water quality objectives:

- (a) Past, present and probable future beneficial uses of water.
- (b) Environmental characteristics of the hydrographic unit under consideration, including the quality of the water available thereto.
- (c) Water quality conditions that could reasonably be achieved through coordinated control of all factors which affect water quality in the area.
- (d) Economic considerations.
- (e) The need for developing housing within the region.
- (f) The need to develop and use recycled water. (Section 13241)

In addition, the existing quality of water for which the objectives are being established must be considered. Both federal and state anti-degradation policies require that existing high quality waters be protected unless lowering that quality:

- Is necessary to accommodate important economic or social development.
- Is consistent with the maximum benefit to the people of the state.
- Will not unreasonably affect actual or potential beneficial uses.

The implementation plan required in each Basin Plan includes the control of waste discharges by the RWQCB through waste discharge requirements and/or the prescription of waste discharge prohibitions. Implementation plans must also include recommendations for actions that are not under the RWQCB’s statutory authority but can be undertaken by other public or private entities. Actions may include, but are not limited to, the construction and operation of desalters (well fields designed to intercept poor quality groundwater) and groundwater recharge programs.

The Water Code states that Basin Plans must be periodically reviewed and revised. The Federal Clean Water Act (CWA) specifies that water quality standards (beneficial uses and water quality objectives) must be reviewed at least once every three years. Basin Plan revisions may include changes to beneficial uses, water quality objectives, and implementation plans. However, state and federal policies and regulations place stringent limits on the RWQCB’s discretion in making these changes:

- Beneficial Uses. For surface water, the CWA (Section 101 [a][2]) establishes

the national “fishable/swimmable” goal, which states that, wherever attainable, water quality that “provides for recreation in and on the water” must be achieved. Where the RWQCB does not designate “fishable/swimmable” uses, a use attainability analysis must be performed to demonstrate that these uses are not attainable based on physical, chemical, biological, or economic factors (40 CFR 131.10[j]). These waters must be reviewed at least once every three years to determine whether conditions have changed such that “fishable/swimmable” uses should be designated. For surface waters, existing beneficial uses (as of 1975) may not be removed but must be maintained and protected (40CFR 131.10 [j][2]). The Water Code prohibits the removal of beneficial uses solely on economic grounds (Section 13241).

- Water Quality Objectives. The reduction of water quality (establishment of less stringent water quality objectives) requires a demonstration that the change is necessary to accommodate important economic or social development and is consistent with the maximum benefit to the people of the state and that actual and potential beneficial uses will not be unreasonably affected. If less stringent water quality objectives are proposed on the basis that prior technical errors or insufficient information led to the development of inappropriate water quality objectives, there must be a finding that the new objectives are theoretical rather than an actual reduction of water quality. Regardless, the level of water quality necessary to protect existing beneficial uses must be maintained.
- Implementation Plans. Changes to implementation plans are appropriate and necessary as conditions in a region change and as the understanding of water quality problems and issues improves. However, the intent of an implementation plan, to meet water quality objectives, must remain unchanged.

Regulations for Indirect Potable Reuse

Regulations for indirect potable reuse are specified in CCR Title 22, Division 4, Chapter 3, Article 5.1 – Groundwater Recharge. Using these regulations, the RWQCBs evaluate proposed recharge projects for compliance with applicable laws, regulations, and orders prior to issuing WRRs. Specifically, the RWQCBs need to ensure that proposed projects comply with the Basin Plan and meet the *Draft Groundwater Recharge Reuse Regulations* set by the CDPH. These regulations are provided in Appendix A of the Final EIR.

Regulations for Direct Use

Regulations for direct use are specified in CCR Title 22, Division 4, Chapter 3,

Article 3 – Uses of Recycled Water. Regulations for sites receiving recycled water for direct use are specified in CCR Title 22, Division 4, Chapter 3, Article 4 – Use Area Requirements. Using these regulations, the RWQCBs evaluate proposed direct use projects for compliance prior to issuing WRRs. These regulations are provided in Appendix A of the Final EIR.

Regardless of the option that is chosen, the use of recycled water on the Project site will require the approval and permits from the Regional Water Quality Control Board (RWQCB), Santa Ana Region (Region 8) and CDPH, because it overlies the Beaumont Management Zone. A complete discussion of the required permits/approvals for the City’s use of recycled water on the Project site are listed in the WSA, Section 6.4.2.2.2.

To use recycled water generated by the Phase I Upgrade, the City must file a Report of Waste Discharge Requirements (WDR) with the Colorado River RWQCB (Region 7) and Santa Ana RWQCB (Region 8). WDRs are issued by RWQCB in conjunction with water recycling requirements. The Project Applicant will also be required to obtain a Master Recycling Permit if recycled water is used for irrigation. Additional permits/approvals for the Phase I Upgrade are listed in the WSA, Section 6.4.2.2.1.2.

Refer to Section 6.4.2.2.1.2 and 6.4.2.2.2 of the WSA (Draft EIR Appendix J) for a more in-depth discussion of the existing and required environmental review for the proposed future recycled water use, as well as the required permitting needed.

- 4.f The comment requests the specifics regarding the capacity of existing facilities, degree and type of treatment trains that will be utilized, and the recycled water quality. In addition, the comment states that the Draft EIR needs to include a discussion of CDHS criteria for various recycled water use.

Response 4.e, above, discusses the capacity of existing and proposed facilities, as well as the treatment and requirements for water quality standards. Also, Response 4.e describes the CDPH (formerly CDHS) criteria (Title 22) for recycled water uses.

- 4.g The comment states that if there are various options for wastewater treatment by different agencies, the EIR needs to contain some level of discussion on these options and environmental impacts from the various scenarios need to be discussed. As stated above, the options for wastewater treatment (upgrade of the City’s existing WWTP (“Phase I Upgrade”) or construction of a satellite WWTP on the Project site) are described in full detail in Section 3.0, *Project Description*, of the Draft EIR (refer specifically to Section 3.6.2.5, “Infrastructure”). Both options would be owned and operated by the City of Banning. The City has already adopted an Initial Study/Mitigation Negative Declaration for the Phase I Upgrade; thus, no additional environmental review regarding the Phase I Upgrade is required. Environmental

review of the Project-specific facilities — i.e., the optional onsite satellite plant and the proposed recycled water pipeline — is undertaken in the Project’s Draft EIR.

- 4.h The comment states that no details are given in Section 14 regarding the maximization of groundwater resources, stormwater runoff capture, reclaimed water, etc. The Draft EIR does not contain a “Section 14”; therefore, it is assumed that the comment is referring to Draft EIR Section 4.14, *Water Supply*.

The City of Beaumont is referred to page 7 of this Section 4.14. In this section, it states that the City has the right to store up to 80,000 acre-feet of water in the Beaumont Basin for later use. The City is authorized to bank new yield (e.g., stormwater runoff, reclaimed water, and imported water) in the aquifer. New yield means “proven increases in quantities greater than the historical level of contribution from certain recharge sources”, which is defined in the Beaumont Basin Watermaster Rules and Regulations, Rule 4.2(a), (see Sections 6.1.5.8.4 and 6.1.5.9.4 of the WSA, Draft EIR Appendix J).

How this new yield is captured is described in Draft EIR Section 3.0, *Project Description* (refer to Section 3.6.2.5, specifically under “Drainage Facilities”, pg. 3.0-25, “Recycled Water Distribution”, pg. 3.0-28, “Groundwater Recharge”, pg. 3.0-29 and “Wastewater (Sewer) System”, pg. 3.0-29). In addition, the WSA provides full details regarding these sources, including how they would be utilized and by whom. The WSA also contains estimations of the quantified contributions of these sources (refer to Draft EIR Appendix J, Section 6.1, “Groundwater”, Section 6.3, “Imported Water”, and Section 6.4, “Recycled Water”, as well as Section 6.7, “Summary of Existing and Future Water Supplies” for a summary of these sections).

- 4.i The comment states that no discussion of proposed improvements to Smith Creek is provided. In addition, the comment states that the Draft EIR should include a discussion related to biological resources and riparian habitat.

A discussion of the proposed improvements to Smith Creek as it relates to stormwater and nuisance flow capture is provided in Section 3.6.2.5, “Infrastructure” (refer specifically to the discussion under sub-heading “Drainage Facilities” starting on pg. 3.0-25) and illustrated in Exhibit 3.0-7, *Master Drainage Plan*, and Exhibit 3.0-8, *Proposed Water Quality/Infrastructure Areas Map*. These proposed drainage facilities within the proposed golf course and along the Smith Creek drainage alignment would not be “channelized” such as in concrete lined channels, but instead, as described in the Butterfield Specific Plan, Section 3.4.2, “Master Drainage System”, the realigned Smith Creek and its tributaries located in the central open space (potential golf course) of the Project will be vegetated earthen-type channels, with culverts only occurring at the major road crossings. Drop structures located at different points to reduce water flow

velocities, will be constructed to fit within the restored natural conditions. The restoration and revegetation of the channels will be with appropriate native vegetation. The Project incorporates water quality features that would maintain water quality within the Smith Creek and Pershing Channel drainages as illustrated in Exhibit 3.0-7 and 3.0-8. Biological impacts related to the construction of the proposed drainage and water quality facilities and proposed mitigation measures are discussed throughout Section 4.4, *Biological Resources*, of the Draft EIR. This section (specifically Impact 4.4-2) also identifies those regulatory agreements/permits which would be required for implementation of these facilities (i.e., formal consultation with the County of Riverside for MSHCP consistency, the U.S. Army Corps of Engineers (USACE), RWQCB, California Department of Fish and Game (CDFG), and the Western Riverside County Regional Conservation Authority (RCA) and compliance with any permit/agreement conditions and mitigation). Mitigation Measure BIO-3 identifies the temporary and permanent acreage impacts associated with the Smith Creek improvements, which will be fully mitigated as a result of the Project. Please also refer to the responses provided in Comment Letter No. 7 from the California Department of Fish and Game, which addresses biological impacts in detail.

- 4.j The comment states that a discussion on potential quality of the nuisance water needs to be provided. In addition, the comment also states that discharge of nuisance flows may not be allowed by regulatory agencies.

As discussion in Response 4.i, Section 4.4 of the Draft EIR identifies those regulatory agreements/permits which would be required for implementation of the facilities within Smith Creek. In addition, Impact Statement 4.9-1, specifically under "Operational Interim Phase – On-Site" (pg. 4.9-29 to 4.9-30), discusses typical non-point source pollutants associated with the proposed uses, including those identified in this comment. As stated in the Draft EIR, the City and/or Riverside County Flood Control and Water Conservation District (RCFCWCD) will condition the Tentative Tract Maps for the Project to submit for review and approval a WQMP that incorporated site design Best Management Practices (BMPs) such as minimizing impervious areas, maximizing permeability, minimizing directly connected, impervious areas, creating reduced or "zero discharge " areas, and conserving natural areas to the extent feasible. In addition, the WQMP is required to: (1) incorporate applicable source control BMPs and provide a detailed description of their implementation; (2) incorporate treatment control BMPs and provide information regarding design considerations; (3) describe the long-term operation and maintenance requirements for BMPs; and (4) describe the mechanism for funding the long-term operation and maintenance of these BMPs. WQMPs will have to be approved by the City prior to issuance of Grading Permits for their respective Tentative Tract Map and will be required to conform to the Riverside County Whitewater River Region Stormwater Quality Best Management Practice Design

Handbook (June 2009). The resultant WQMP will be required to maintain or improve the current water quality conditions onsite and downstream of the proposed Project.

- 4.k The comment indicates that the organization of the Traffic Section of the EIR is confusing and difficult to follow and requests that the section be re-drafted. The traffic analysis prepared for the Project is complex and involved numerous traffic scenarios over several time horizons throughout portions of Banning, Beaumont, and Riverside County. As indicated in the EIR, the section is meant to document the conditions of existing roadways and transportation systems in the project area, estimate trip generation and distribution characteristics of the Project, identify potentially significant traffic impacts, and recommend mitigation measures to reduce significance of such impacts. As written, the section achieves all of these goals in the format used. All of the information within this section is based on the *Traffic Impact Analysis* (TIA) (Draft EIR Appendix I) prepared by LSA Associates, which was provided to the City of Beaumont during the 45-day public review period. The full TIA was included with the City's copy of the Draft EIR on a CD, was available for review on the City's website, as well as at the City's Planning Department and City library. City staff, the Project Applicant and the consultant team were and are available to assist the City in understanding the TIA. Although not required by CEQA, the City held additional public meetings during the 45-day review period to seek public comment and clarify questions regarding the Draft EIR – these were held on June 7, June 21, and July 14 (the July 14 meeting was specifically held to focus on the TIA and traffic issues).

Although the format of the section may not have been prepared in a manner agreeable to City of Beaumont staff, City of Banning staff felt the format was acceptable and achieved the purpose of the document. At this time, there is no need to re-format the section as all of the information is considered accurate and relevant.

- 4.l The comment is requesting that the list on page 4.13-5 of the Draft EIR include freeway related intersections. The list on page 4.13-5 is not intended to convey the study area intersections. Study area intersections are illustrated on Exhibit 4.13-3, which include the Freeway Intersections in question. The list of intersections is provided here to clarify which of the Study area intersections is being analyzed at LOS C and LOS D due to different LOS standards for the Cities of Banning/ Beaumont and County of Riverside. In addition, the Freeway Intersections use 45 seconds as the acceptable LOS standard, which is not consistent with the methodology used for the LOS C and D intersections listed on this page.
- 4.m The comment indicates that Table 4.13-3 is confusing since it introduces Project impact-related information in the existing conditions section of the document. The referenced table was taken from the *Traffic Impact Analysis*, which identifies the existing conditions of the proposed Project intersections as well as the Project's impact to each intersection.

Due to the complex nature of the proposed Project and the traffic analysis, it did not seem prudent to incorporate an additional table, since the table used provided the required information for both the existing condition and proposed condition. The information is complete and understandable, meeting the informational requirements of CEQA.

- 4.n The comment suggests providing Average Daily Trip (ADT) volumes for all segments. It is not clear if this request refers to roadway segments, freeway segments, or both. The reason ADT volumes were not provided for roadway segments is that the Riverside County Traffic Impact Analysis Preparation Guide (which is used by the City of Banning) states that "the Transportation Department may require that analysis of Average Daily Traffic (ADT) be conducted in certain cases, such as when intersection analyses are not the controlling factor or for general planning purposes." The TIA included an analysis of traffic impacts at intersections (which are the controlling factor for this Project) during the peak hours. The freeway segments were analyzed in the a.m. and p.m. peak hours which is consistent with CalTrans' "Guide for the Preparation of Traffic Impact Study" which states that "In general, the TIS should include a morning (a.m.) and an evening (p.m.) peak hour analyses." Additionally, the ADT for roadway segments was analyzed in the adopted City of Banning General Plan Circulation Element and the Deutsch Specific Plan (which generates more traffic than the proposed Project). The EIR does include a discussion of Project-related and cumulative road widenings, which are consistent with the City's General Plan Circulation Element (refer to Draft EIR, pgs. 4.13-38 to 4.13-54). For all the above reasons the ADT volumes for individual roadway and freeway segments were not included in the traffic section of the Draft EIR.
- 4.o The comment indicates that the Traffic Section of the Draft EIR is insufficiently detailed to allow a full understanding of the Project. The *Traffic Impact Analysis* fully analyzes the proposed Project traffic impacts in relation to 49 study intersections and 11 Freeway Segments to support the 62,263 daily trips generated by the residential and non-residential uses proposed. The scope of this analysis is extensive, since it involves analysis of facilities within three different jurisdictions (Banning, Beaumont, and Riverside County), as well as Caltrans facilities. The volume of analysis conducted required a significant amount of summarization to ensure readability for the general public and decision makers, which was provided. In addition, the entire *Traffic Impact Analysis* document was provided along with the Draft EIR document during the 45-day public review period to allow readers an opportunity to review the underlying technical data and analysis if desired and to bring up questions at any one of the three public meetings held after the release of the Draft EIR.
- 4.p The comment indicates that the Table located on page 4.13-21 is illogically placed, as it provides Existing Plus Project Mitigation Intersection Levels of Service before the

discussion of project mitigation on the next page. The discussion on Page 4.13-20 indicates that there were originally 25 intersections that exceed LOS thresholds, prior to mitigation. However those 25 intersections can be mitigated to an acceptable LOS as depicted in Table 4.13-8 (on page 4.13-21). The actual descriptions of mitigation for each of these intersections are provided on the following pages after this discussion.

- 4.q The comment indicates that the City of Beaumont does not participate in the TUMF program. The discussion provided in this section was not intended to imply that Beaumont currently participates in TUMF. It is understood that Beaumont has not participated in TUMF since 2009. Instead it was intended to indicate that the Project Applicant will be paying TUMF fees, which address regional traffic impacts, as well as paying their fair share of applicable Beaumont fees relative to their separate projects in the City of Beaumont, such as the Sundance project.
- 4.r The comment requests that the improvements deemed infeasible due to right-of-way requirements should be clearly identified and discussed and evaluated for significance. Section 4.13.5 of the Traffic section identifies the Proposed Intersection Improvements – Funding Programs/ Sources for the Project. As part of this discussion, the section indicates what improvements are funded by which funding sources. Subsequent to this discussion, Section 4.13-6 Potential Impacts Due to Traffic Mitigation discusses the anticipated impacts associated with the proposed Project improvements, including those that may be potentially significant and/or have feasibility concerns. In order to add clarity to the discussion, a list of each of the project improvements deemed infeasible has been added to Master Response #2, which discusses the Traffic and Circulation related issues and concerns identified in the comments received. In addition, a cumulative impact analysis is provided in Section 4.13.7, Cumulative Impacts, which identifies the various improvements that were determined to be potentially infeasible. These improvements are identified with bold/italic text in the list starting on page 4.13-53.
- 4.s The comment indicates that the organization of the analysis section starting on page 4.13-26 is illogical and confusing as it is preceded by mitigation measures TRF-1 and TRF-2. The Traffic section of the EIR was written to provide a complete overview of the project impact analysis (including a list of the mitigation measures) prior to the discussion of any of the required CEQA checklist questions. It was determined that this approach would provide the reader with a more comprehensive understanding of the traffic impacts by summarizing the TIA and major TIA conclusions upfront and then responding to individual CEQA significance questions. For this reason the text within the impact discussion questions is shortened to account for the overall impact discussion provided on pages 4.13-15 through 4.13-26.

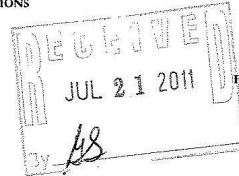
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Agency Comment Letter
No. 5

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2055.B-2

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July 21, 2011

Zai Abu Bakar
Community Development Director
City of Banning
99 E. Ramsay Street
Banning, CA 92220

**Re: Draft Environmental Impact Report
for the Butterfield Specific Plan**

Dear Ms. Bakar:

Bowie, Arneson, Wiles & Giannone is providing the following initial comments, on behalf of both the Beaumont Unified School District ("Beaumont USD") and the Banning Unified School District ("Banning USD") (collectively, the "School Districts"), regarding the Draft Environmental Impact Report for the Butterfield Specific Plan ("DEIR"). Development within the area described in the Butterfield Specific Plan dated May 25, 2011 ("Specific Plan") will result in a need for the School Districts to provide additional interim and permanent school facilities, as well as central administration and support facilities, to serve students in Kindergarten through Grade 12 ("Grades K-12"). The focus of the comments set forth herein is the subsequent adverse impacts, both direct and indirect, on the school facilities of the School Districts as are anticipated to arise from development within the Specific Plan ("Project").

Summary Conclusion

The DEIR seeks to conclude that all subsequent adverse impacts arising from the Project on the School Districts' school facilities will be fully mitigated by statutory school fees payable pursuant to Education Code Section 17620 *et seq.* and Government Code Section 65995 *et seq.* ("Statutory School Fees"), in combination with proceeds of general obligation bonds ("GO Bonds") issued by the School Districts. As discussed herein, the School Districts assert that the DEIR does not fully or adequately analyze either the direct or indirect impacts that will arise from development of the Project, including, among others, indirect school-related impacts of the Project on the community. The School Districts acknowledge that, subject to the continued

5.a

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BOWIE, ARNESON, WILES & GIANNONE

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Community Development Director
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ability of the City to require reservation of the herein requested school sites, the Leroy F. Greene School Facilities Act of 1998 (commonly referred to as "SB 50") limits the ability of the City of Banning ("City") to condition the Project with respect to timely and adequate funding to address direct impacts on school facilities. However, the DEIR should fully analyze all impacts, both direct and indirect, in order to appropriately inform the City and the public as to all subsequent adverse impacts of the Project. As held in the California Court of Appeal's recent decision in *Chawanakee Unified School District vs. County of Madera* (2011) 196 Cal. App. 4th 1016, as related to school facilities, an environmental impact report must analyze indirect impacts, but the DEIR for the Project does not. Many of such adverse impacts could be mitigated through a mutually acceptable "Mitigation Agreement" between the School Districts and Pardee Homes, the developer of the Project ("Developer") that, among other things, implements a financing plan that will ensure availability of school facilities as and when needed to serve students generated by the Project.

} 5.a
cont.

Discussion

Generation of Project Students

The DEIR does not reflect the most current rates at which students are generated by new development ("Student Generation Rates" or "SGRs") occurring within Beaumont USD. The SGRs were taken from a March 2010 study, although Beaumont USD calculated updated SGRs at least three months prior to the date of the Specific Plan. Table 1, below, sets forth the SGRs, for students in Kindergarten through 5th grades ("Grades K-5"), students in 6th through 8th grades ("Grades 6-8"), and students in 9th through 12th grades ("Grades 9-12"), as used in the DEIR and as updated for purposes of Beaumont USD's School Facilities Needs Analysis dated February 17, 2011 ("Beaumont 2011 SFNA").

} 5.b

TABLE 1 BEAUMONT USD STUDENT GENERATION RATES			
	<i>Grades K-5</i>	<i>Grades 6-8</i>	<i>Grades 9-12</i>
<i>DEIR</i>	0.2762	0.1327	0.1716
Beaumont 2011 SFNA	0.2883	0.1261	0.1483

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The numbers of additional Beaumont USD students anticipated to be generated by development of the Project are set forth in Table 2, below, and were calculated by applying the the SGRs set forth in Table 1 to the anticipated 4,997 dwelling units to be constructed in the portion of the Project within Beaumont USD. While there normally is some variation in SGRs from year to year, and the differences between the SGRs used in the DEIR and the current SGRs for Beaumont USD are not extreme, the differences in this case are significant nonetheless. For example, the DEIR estimates that the Project will generate 1,380 students in Grades K-5. However, based on the SGRs set forth in the Beaumont 2011 SFNA, the Project will generate an estimated 1,441 students in Grades K-5, requiring in excess of two additional classrooms to accommodate the 61 students in Grades K-5 that the Project will generate in addition to those estimated in the DEIR.

TABLE 2 NUMBER OF BEAUMONT USD STUDENTS TO BE GENERATED			
	<i>Grades K-5</i>	<i>Grades 6-8</i>	<i>Grades 9-12</i>
<i>DEIR</i>	1,380	663	858
Beaumont 2011 SFNA	1,441	630	741

5.b
Cont.

The DEIR does not adequately analyze the impacts on Beaumont USD's ability to adequately serve students generated by the Project. The DEIR indicates that existing Beaumont USD schools presently have capacity available to serve additional students, including Beaumont High School after completion of an expansion project. Thus, the DEIR implies that, as the portion of the Project within Beaumont USD generates additional students, capacity will be available in the existing Beaumont USD schools to assist in housing those students. That is a faulty, speculative assumption, as the existing Beaumont USD schools presently are nearly filled to capacity, and Beaumont USD anticipates admitting additional students from other areas within Beaumont USD to its existing schools, prior to when the Project will start generating students. In addition, a single school site for students in Grades K-5 generated by the portion of the Project within Beaumont USD, as proposed in the DEIR, would not be sufficient to serve 1,380 students in Grades K-5, let alone 1,441 students at those grade levels.

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Zai Abu Bakar
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The DEIR also does not reflect the most current SGRs for Banning USD. Table 3, below, sets forth the SGRs as used in the DEIR and as updated for purposes of Banning USD's School Facilities Needs Analysis dated April 18, 2011 ("Banning 2011 SFNA"). The SGRs specified in the DEIR for Banning USD were taken from a facilities master plan prepared in 2005, although Banning USD has on numerous occasions since then calculated updated SGRs. Note also that the SGRs specified in the DEIR for lower grades were broken into categories for students in Kindergarten through 6th grade ("Grades K-6") and students in 7th and 8th grades ("Grades 7-8"), while the SGRs calculated in the Banning 2011 SFNA specify SGRs for Grades K-5 and Grades 6-8.

TABLE 3 BANNING USD STUDENT GENERATION RATES					
	Grades K-5	Grades K-6	Grades 6-8	Grades 7-8	Grades 9-12
DEIR		0.308		0.098	0.183
Banning 2011 SFNA	0.2515		0.1395		0.1473

The numbers of additional Banning USD students anticipated to be generated by development of the Project are set forth in Table 4, below, and were calculated by applying the the SGRs set forth in Table 3 to the anticipated 390 dwelling units to be constructed in the portion of the Project within Banning USD. Based on current SGRs, the portion of the Project within Banning USD is projected to generate 19 fewer students overall (about 2/3 of a classroom) than anticipated in the DEIR.

TABLE 4 NUMBER OF BANNING USD STUDENTS TO BE GENERATED						
	Grades K-5	Grades K-6	Grades 6-8	Grades 7-8	Grades 9-12	Total
DEIR		120		39	71	230
Banning 2011 SFNA	98		55		58	211

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However, as in the case of Beaumont USD, the DEIR indicates that existing Banning USD schools presently have capacity available to serve additional students and, thus, implies that, as the portion of the Project within Banning USD generates additional students, capacity will be available in the existing Banning USD schools to assist in housing those students. Again, because Banning USD anticipates admitting additional students from other areas within Banning USD to its existing schools, it is faulty and speculative to assume (except perhaps, as described in the financial impact portion of this letter, in the case of middle school capacity over the next five years) that such capacity will be available when the Project starts generating students. Thus, the DEIR does not adequately analyze the impacts on Banning USD's ability to adequately serve students generated by the Project.

5.d

Financial Impact of Needed School Facilities

The DEIR does not analyze the financial impact of the Project in regard to school facilities needed to house the students anticipated to be generated by development of the Project. Instead, the DEIR indicates that payment of Statutory School Fees is deemed by SB 50 to constitute full mitigation of such impacts and, in addition, that voters in both of the School Districts have passed measures for GO Bonds to fund school facilities. While it is true that, with respect to timely and adequate funding of school facilities, SB 50 limits the ability of the City to impose mitigation in addition to Statutory School Fees, it is a disservice to the City, the School Districts and the public to conclude that analysis of such issues is not necessary. The estimated financial impacts related to housing students who will be generated by the Project are far in excess of Statutory School Fees, and it is speculative to assume that any proceeds of GO Bonds to be issued by the School Districts and allocated for purposes of providing school facilities for the Project will be sufficient for such purposes. In addition, Statutory School Fees are paid on an individual per-dwelling-unit basis as building permits are requested, creating the very real possibility that the School Districts will not have accumulated sufficient Statutory School Fees to provide school facilities as and when those are needed to house students generated by the Project. The lack of school facilities as and when needed will result in significant adverse impacts, both direct and indirect, on the school facilities of the School Districts and the community generally.

5.e

A shortfall exists at each grade level between the cost of school facilities needed to house students generated by new development within Beaumont USD and the total combined funding that presently would be provided by the State of California ("State") pursuant to the "School Facilities Program" or "SFP" and by the Developer in the form of Statutory School Fees.

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Table 5, below, sets forth on a per-student basis (1) the cost of school facilities needed to serve students generated by new development within Beaumont USD, (2) the funding presently provided by the State for construction of new school facilities (including construction, site development and site acquisition funding), (3) the presumed funding for Beaumont USD's local matching funds requirement that would be provided by current Statutory School Fees, and (4) the shortfall between the costs of school facilities and the combined State and local matching funds available to Beaumont USD. The estimates of facilities costs and State funding amounts are based on information set forth in the Beaumont 2011 SFNA. Based on the intent underlying SB 50 that "Level 2" Statutory School Fees provide the funds needed to satisfy the 50% local matching funds requirement, the Statutory School Fees are presumed for purposes of this letter to equal the State funds available to Beaumont USD for construction of new school facilities.

TABLE 5			
PER-STUDENT SHORTFALL IN BEAUMONT USD FUNDING FOR SCHOOL FACILITIES			
	<i>Grades K-5</i>	<i>Grades 6-8</i>	<i>Grades 9-12</i>
COST OF FACILITIES	\$28,542	\$39,341	\$52,943
STATE FUNDING	\$12,301	\$14,144	\$17,300
LOCAL MATCH FUNDING	\$12,301	\$14,144	\$17,300
SHORTFALL	\$3,940	\$11,053	\$18,343

5.e
cont.

A total shortfall of over \$26 million will exist between the cost of school facilities needed to house students generated by the portion of the Project within Beaumont USD and the funds that presumably will be provided by the State and the Developer. Table 6, below, sets forth the per-student shortfall amounts multiplied by the number of students anticipated to be generated by the portion of the Project within Beaumont USD, thereby calculating that such projected total shortfall will be in excess of \$26.2 million.

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TABLE 6 TOTAL SHORTFALL IN BEAUMONT USD FUNDING FOR SCHOOL FACILITIES				
	Grades K-5	Grades 6-8	Grades 9-12	TOTAL SHORTFALL
PER-STUDENT SHORTFALL	\$3,940	\$11,053	\$18,343	
PROJECTED NUMBER OF STUDENTS	1,441	630	741	
SHORTFALL	\$5,677,540	\$6,963,390	\$13,592,163	\$26,233,093

A shortfall also exists at each grade level between the cost of school facilities needed to house students generated by new development within Banning USD and the total combined funding that presently would be provided by the State pursuant to the SFP and by the Developer in the form of Statutory School Fees. Table 7, below, sets forth on a per-student basis (1) the cost of school facilities needed to serve students generated by new development within Banning USD, (2) the funding presently provided by the State for construction of new school facilities (including construction, site development and site acquisition funding), (3) the presumed funding for Banning USD's local matching funds requirement that would be provided by current Statutory School Fees, and (4) the shortfall between the costs of school facilities and the combined State and local matching funds available to Banning USD. The estimates of facilities costs and State funding amounts are based on information set forth in the Banning 2011 SFNA. As in the case of Beaumont USD, the Statutory School Fees are presumed for purposes of this letter to equal the State funds available to Banning USD for construction of new school facilities. Note that, although Banning USD anticipates a need to construct at least one middle school due to growth in student numbers projected to occur after the next five-year period, Banning USD presently has sufficient middle school capacity to accommodate students in Grades 6-8 projected to be generated in the next five years. Therefore, the Banning 2011 SFNA did not calculate facilities costs for students at the middle school level.

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TABLE 7 PER-STUDENT SHORTFALL IN BANNING USD FUNDING FOR SCHOOL FACILITIES		
	<i>Grades K-5</i>	<i>Grades 9-12</i>
COST OF FACILITIES	\$28,552	\$51,940
STATE FUNDING	\$12,152	\$16,187
LOCAL MATCH FUNDING	\$12,152	\$16,187
SHORTFALL	\$4,248	\$19,566

Not including any shortfall attributable to students in Grades 6-8, a shortfall of over \$1.5 million will exist between the cost of school facilities needed to house students generated by the portion of the Project within Banning USD (i.e., 156 students in Grades K-5 and Grades 9-12) and the funds that presumably will be provided by the developer of the Project and the State. Table 8, below, sets forth the per-student shortfall amounts multiplied by the number of students anticipated to be generated by the portion of the Project within Banning USD, thereby calculating such total shortfall of over \$1.5 million.

TABLE 8 TOTAL SHORTFALL IN BANNING USD FUNDING FOR SCHOOL FACILITIES			
	<i>Grades K-5</i>	<i>Grades 9-12</i>	TOTAL SHORTFALL
PER-STUDENT SHORTFALL	\$4,248	\$19,566	
PROJECTED NUMBER OF STUDENTS	98	58	
SHORTFALL	\$416,304	\$1,134,828	\$1,551,132

Note that the total shortfall of over \$1.5 million in funding for impacts on Banning USD school facilities arising from the Project is attributable to only 156 students and does not account for the shortfall in funding from the 39 students in Grades 6-8 projected to be generated by the portion of the Project within the Banning USD.

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We should also note that, while the foregoing shortfall amounts for both Beaumont USD and Banning USD are significant, the actual cost of serving students generated by the Project is likely to be higher because the estimated cost of school facilities used in the foregoing calculations does not include costs of interim and central administration facilities that will be necessary to serve such students. These additional costs are estimated to currently range up to \$3,000 per student. The actual costs of school facilities also may increase due to escalation of labor and materials costs between now and when it is necessary to construct school facilities necessary to accommodate students generated by the Project. As noted below in regard to receipt of State funding, increases in funding amounts, whether State funding or Statutory School Fees, do not necessarily keep pace with increases in school construction costs.

Receipt of State Funding is Not Assured

Since regulations implementing SB 50 took effect, the State has allocated funding for school facilities through the SFP, which is administered by the State Allocation Board and the Office of Public School Construction. For non-financial hardship school districts, the SFP ostensibly provides funding for 50% of the cost to construct new school facilities, although it is widely accepted that State funding actually constitutes between 30% and 40% of the actual cost to construct new school facilities. Moreover, even assuming that school districts not qualifying for financial hardship assistance will continue to provide local matching funds, the State presently does not have sufficient funding to satisfy all of the school facilities needs in this State. The availability of such funds is dependent on approval by voters in the State of GO Bonds, and with the current condition of the economy and State budget, the future approval of State GO Bonds is not assured. Despite provisions in SB 50 authorizing the levy of "Level 3" Statutory School Fees when State funds are insufficient, the State, for various reasons, has not taken the action that would allow school districts to levy Level 3 Statutory School Fees. Thus, receipt of State funding by the School Districts is not assured, in such event, the shortfalls estimated in the prior section of this letter would be even greater.

School District GO Bond Proceeds May Not be Available

The remaining GO Bonds authorized by the voters residing in the School Districts, but not yet issued by the School Districts, as set forth in the ballot measure and other applicable documents, may be used for a variety of purposes in connection with the School District's existing schools and future school facilities needs. This broad authorization reflects the district-wide needs that the School Districts are attempting to address, for the benefit of all

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residents within the School Districts' respective boundaries. However, by mentioning the authorization for GO Bonds without putting them into context, the DEIR implies that such funding will be available to assist in funding school facilities needed for the Project. While that may be the case, it also may be that the School Districts will determine that the proceeds of the GO Bonds should be used to take care of other priority needs. Thus, it is faulty and speculative to imply that the School Districts will have proceeds of GO Bonds available at some unknown future date to assist in funding school facilities needed for the Project.

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A School Facilities Financing Plan is Needed

Regardless of any limitation set forth in SB 50, a financing plan for the schools necessary to serve the Project is necessary to avoid significant adverse environmental impacts will result from inadequate planning and financing of school facilities for the Project. Without adequate funding for schools, the construction of school facilities likely will be delayed past the point those are needed to accommodate students generated by the Project, resulting in overcrowding of other schools within Beaumont USD and Banning USD, adversely impacting housing of students from other areas of the School Districts, causing potential traffic, air quality, and other indirect adverse environmental impacts, including those arising from construction of school facilities at existing schools needed to accommodate, on an interim basis, students generated by the Project.

} 5.f

A comprehensive financing plan should include a Mitigation Agreement between the developer of the Project and each of the School Districts, and possibly the City as well, to establish either advance funding of school facilities or some basis for financing needed school facilities, such as funding by Mello-Roos Community Facilities Districts formed for the Project. The Mitigation Agreements should provide for conveyance to the School Districts of the necessary school sites on the basis of payment to the Developer at such time as the State provides site acquisition funding, as well as parameters for selection of school sites that will satisfy the student safety and other policies of the School Districts. The school sites identified in the DEIR do not satisfy such requirements, so the School Districts request that the City require that the Developer reserve satisfactory school sites for acquisition by the School Districts as provided in the Mitigation Agreements. If implemented, such Mitigation Agreements would permit the School Districts to appropriately plan for and pay for school facilities needed to adequately serve students generated by the Project, while assisting in limiting adverse impacts on their existing school facilities and the community.

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Conclusion

The School Districts believe that the DEIR and Specific Plan do not adequately address the need for school facilities to serve the Project or the adverse environmental impacts, both direct and indirect, that will arise from a lack of appropriate planning, siting and funding for such school facilities. The school sites indicated in the DEIR are not acceptable. The School Districts have a common goal of siting schools in the safest location, minimizing walking and bicycle distances, and maximizing safe routes and accessibility to parks for joint use with cities and counties. The School Districts further believe that agreements with the Developer of the Project that provide for funding and/or financing of the Project are necessary to avoid significant adverse environmental impacts that otherwise will result from the Project.

The School Districts encourage the Developer to contact them as soon as possible to begin discussions as to mitigation measures that will best serve the School Districts and the Developer to ensure a successfully planned community. Please do not hesitate to contact the School Districts or the undersigned if you have any questions or comments regarding the foregoing.

} 5.g

Sincerely,

BOWIE, ARNESON, WILES & GIANNONE

By 
Brian W. Smith

BWS:ad

cc: Dr. Barry Kayrell
Alice Grundman
Dr. Lynne Kennedy
Dr. Christine Wallace

BAW&G/BWS/159700

**Beaumont Unified School District and
Banning Unified School District**
(submitted by Bowie, Arneson, Wiles, and Giannone)

Response No. 5

- 5.a The comment states that the proposed Project will result in a need for the School Districts to provide additional interim facilities.

Pursuant to a meeting between representatives of Pardee Homes (Project Applicant) and staff representatives of the Beaumont Unified School District (USD) held on August 10, 2011, the District staff indicated that one school site within Beaumont USD's boundary would not be enough to serve the entire proposed Project. Beaumont USD expressed that, in their opinion, the school impact fees would not be sufficient to accommodate the additional students generated by the Project.

Based on the comment letter's generation factors, the proposed Project would generate 1,441 students for Grades K-5 within Beaumont USD. Because the typical elementary school facility within Beaumont USD accommodates approximately 600-750 students,¹ the proposed Project with its single proposed elementary school site in the Beaumont USD portion of the Project (Planning Area 20) would not be able to accommodate the estimated elementary-aged students within the Project site.

The Butterfield Specific Plan Development Standards do not preclude additional school sites from being developed within the Project site. According to State law, school districts are not bound by local city and county zoning regulations and, thus, both the Beaumont USD and Banning USD would be able to develop additional school sites within most of the remaining Planning Areas, if feasible from an acquisitions and school siting perspective. Also, the provisions in the Specific Plan, Section 6.0, *Administration and Implementation*, would allow for the school sites specifically designated in Butterfield Specific Plan (Planning Areas 20 and 68) to be increased in size to accommodate a larger enrollment, such as a K-8 school. This option was discussed with the Beaumont USD.²

Additional recently constructed and planned and approved Beaumont USD school sites are located immediately to the west in the Sundance Specific Plan project area in the City of Beaumont. Two recently constructed elementary school sites are located in Planning Areas 12 and 15 of the Sundance Specific Plan, while two proposed sites are reserved and located within Planning Areas 13 (elementary) and 41 (junior high). Planning Area 13 consists of graded, vacant land with existing utility improvements. Planning Area 41

¹ Based on information provided by the Beaumont USD during a meeting between the District and Pardee Homes (Project Applicant) on August 10, 2011.

² Ibid.

is located currently on unimproved vacant land, but will be graded and have full access and utilities as the Sundance project further develops. According to the 2010/11 School Facilities Needs Assessment, the Beaumont Unified School District anticipates the need for at least one elementary, middle, and high school over the next twenty years due to anticipated growth within the District. At present time, the District has the capacity to house approximately 5,657 elementary students, 1,190 middle school students, and 3,433 high school students. Over the next five years the District is anticipating that current facilities would meet demand, with 61 excess elementary school seats and 67 excess high school seats, as indicated in the Beaumont Unified School District, 2011 School Facilities Needs Assessment (SFNA) dated February 17, 2011. As proposed, the Butterfield Specific Plan designates one specific elementary school site, which in conjunction with the two proposed school sites previously reserved within the adjacent Sundance Specific Plan, provide capacity for an additional 1,800 elementary school students and 1,200 middle school students. As previously noted above, additional school sites can be provided within the Butterfield Specific Plan area if determined they are needed.

While this letter bases its student generation estimates on the maximum allowable residential dwelling unit yield in the Butterfield Specific Plan, it is very likely that the actual number of units may be substantially less. The Specific Plan also allows for a considerable quantity of units to be developed as active adult units (approximately 1,700 units). Active adult units (typically with ownership and residency age restricted at 55 years or older) would generate substantially less students. Based on the availability of school sites, the payment of school fees, the conservative assumptions on student generation rates and the long-range Project buildout the Beaumont USD would have sufficient flexibility to plan for and accommodate the additional students generated by the proposed Project depending on ultimate development of the Project.

The comment also asserts that the Draft EIR does not fully or adequately analyze either the direct or indirect impacts that will arise from development of the Project, including indirect school-related impacts on the community. This comment concludes that many of the adverse impacts could be mitigated through a mutually acceptable "Mitigation Agreement" between the School Districts and the Project Applicant that implements a financing plan to ensure availability of school facilities as and when needed to serve students generated by the Project. Senate Bill 50, which amended Government Code Section 65995(a), prohibits local agencies from imposing school impact mitigation fees, dedications, or other requirements in excess of those provided in the statute in connection with any legislative or adjudicative act. Consistent with prior statutes, school districts are limited to imposing only the school impact fees authorized by statute.³ In addition, the legislation also amended Government Code Section 65996(b) to prohibit local agencies from using the inadequacy of school facilities as a basis for denying or conditioning approvals of any 'legislative' or 'adjudicative' act involving the

³ Educ. Code Section 17620. See *Warmington Old Town Assoc. v. Tustin Unified School Dist.*, 101 Cal. App. 4th 840 (2002).

planning, use, or development of real property.⁴ In addition, as identified in Government Code Section 65995(h), payment of fees is deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property.

The letter references the recent decision in *Chawanakee Unified School District v. County of Madera*, 196 Cal. App. 4th 1016 for the proposition that “as related to school facilities, an environmental impact report must analyze indirect impacts...” In the Chawanakee decision, the Court held that Government Code Section 65996(a) “obviates the need for an EIR to contain a description and analysis of a project’s impacts on school facilities” (p. 1027). The court did find, however, that indirect impacts of the particular project at issue could be (1) traffic generation from the new students from the project traveling to existing schools and (2) if it is reasonably foreseeable that the new project will cause overcrowding at existing schools, the construction impacts (dust and noise) from the construction of additional classrooms at existing schools. The proposed Project’s traffic analysis model incorporates project generated student trip to existing schools. The effects of these new vehicle trips have been analyzed and appropriate mitigation has been recommended to reduce those effects to acceptable service levels (*refer to Traffic Impact Analysis*, prepared by LSA and Associates, Draft EIR Appendix I and Master Response #2, “Traffic Model Assumptions for School Sites”). As previously noted, the proposed Project can accommodate the new school facilities needed to serve students generated by the Project. Moreover, existing and planned school facilities in Beaumont and Banning have sufficient remaining capacity to allow for a smooth transition from existing schools to the newly constructed schools over the buildout of the Project. As noted in Section 4.0, *Errata*, of this document, there is currently existing and planned combined excess capacity in Beaumont and Banning school districts (*refer Section 4.0, Errata*, and Tables 4.12-2 and 4.12-7 of the Draft EIR). Accordingly, the draft EIR has analyzed all potential indirect impacts of the proposed Project consistent with the court decision and no further analysis or mitigation is required beyond the payment of school fees. Therefore, there is no legal basis for requiring a Mitigation Agreement or for a financial impact analysis.

- 5.b The comment offers updated Student Generation Rates (SGRs) for the Beaumont USD and Banning USD and resultant totals for anticipated students. The City of Banning acknowledges the updated SGRs and resultant totals. Refer to Section 4.0, *Errata* of this document and below for revised Table 4.12-7 from the Draft EIR. The comment also states that the Project will result in the student equivalent of two additional classrooms for the 61 additional students in Grades K-5 for the Beaumont USD based on the updated SGRs in addition to those estimated in the Draft EIR. The revised Table below, however, also now shows that the overall total student generation for Beaumont USD is estimated to be 89 students less than anticipated in the Draft EIR. It is acknowledged

⁴ Curtin, Daniel J., Jr. and Talbert, Cecily T. *Curtin's California Land Use and Planning Law*. 2003 (23rd Edition). pgs. 299-300.

that there is a potential increase in K-5 student generation by 61 students (approximately two classrooms), while potential district-wide impacts are estimated to be less than originally identified in the Draft EIR. In the case of Banning USD, district-wide generation would decrease by 18 students, while 6th through 8th Grade student generation increases by 17 students.

The comment also states that the single school site for students in Grades K-5 generated by the portion of the Project within Beaumont USD would not be sufficient to serve the 1,441 students in Grades K-5. For a response to this need for additional facilities, refer to Response 5.a, above as well as Section 4.12 of the Draft EIR for a discussion of anticipated impacts associated with the need for additional school facilities.

**Table 4.12-7 (Revised) from Draft EIR
Students Generated by the Proposed Project**

Grade Level	Student Generation Rate	Total Student Generation (Lower Maximum)
Banning Unified School District – 390 residential units^{a,b}		
Kindergarten – 6 th Grade	0.308 0.2515	120 98
7 th -8 th Grade	0.098 0.1395	38 55
9 th – 12 th Grade	0.183 0.1473	71 58
Total Banning USD		229 211
Beaumont Unified School District – 4,997 residential units^{c,d}		
Kindergarten – 5 th Grade	0.2762 0.2883	1,380 1,441
6 th – 8 th Grade	0.1327 0.1261	663 630
9 th – 12 th Grade	0.1716 0.1483	858 741
Total Beaumont USD		2,901 2,812
TOTAL STUDENT GENERATION		3,130 3,023
a. Student Generation Rates are based on the Banning Unified School District Master Plan (2005) <u>School Facilities Needs Analysis (SFNA), dated April 18, 2011.</u> b. Student Generation Rates are taken from the Beaumont Unified School District Residential Development School Fee Justification Study, March 2010, pp 8 (Student Generation Factors per Residential Unit) <u>2011 School Facilities Needs Analysis (SFNA), dated February 17, 2011.</u>		

5.c The comment offers updated Student Generation Rates (SGRs) and resultant totals for anticipated students for Banning USD. Refer to Section 4.0, *Errata* of this document and revised Table 4.12-7, above. This Table shows that the overall total student generation for Banning USD is estimated to be 18 students less than anticipated in the Draft EIR.

5.d The comment states that it is speculative to assume that capacity will be available when the Project starts generating students.

Because the proposed Project provides a school site within the Banning USD area, if the Banning USD wants the site, with potential capacity not only to accommodate the estimated Banning USD student generation from the Project, but also excess capacity to accommodate students from outside the Project area elsewhere in the Banning USD, the City does not agree with the statement that capacity needs to be made available within existing Banning USD schools for the additional students (98 students, Grades K-5) generated by the proposed Project. Rather, these students could be accommodated onsite, and the proposed site could be developed with excess capacity to accommodate offsite students.

Additionally, the comment states that Banning USD anticipated admitting additional students from other areas within Banning USD to its existing schools and concludes that, as such, it cannot guarantee that it will have capacity to accept students from the Butterfield Project site. While the City recognizes that additional growth would occur, creating an increased need for school facilities, future growth within the City would be required to adhere to school development impacts fees, similar to the proposed Project. This would allow Banning USD to acquire, develop, and maintain future school facilities. Banning USD's ability to support its student population growth would be further supported by provision of the onsite school site.

5.e Refer to Response 5.a, above.

5.f The planning areas identified for school sites within the Project were sited using both State and local school district criteria and drafts of the locations were provided to District personnel prior to distribution of the Draft Specific Plan document. In addition, the Specific Plan has included land use regulations and standards that allow school site development within most of the Planning Areas of the Specific Plan. For additional discussion, please refer to Response 5.a, above.

5.g The comment states that the Draft EIR does not adequately address the need for school facilities to serve the Project or the adverse environmental impacts that will arise from a lack of appropriate planning, siting, and funding. The need for school facilities to serve the Project is discussed above under Response 5.a (Beaumont USD) and 5.d (Banning USD).

In terms of planning and siting of future facilities, the Project Applicant has selected the proposed school sites based on criteria and communication from the School Districts, as well as State school siting criteria (as noted in the Draft EIR). First, the Project Applicant discussed site selection with previous District staff (2006), which found the locations to be acceptable. Second, the southerly school site located in the Beaumont USD (PA 20) was selected with the previous Beaumont USD staff so as to avoid the fault zones in the

northerly half of the Project site, the high-voltage power lines in the middle portion of the site, and the high-pressure gas line in the southerly portion of the site. The northerly school site located in the Banning USD (PA 68) was also selected to avoid the fault zone in the northerly portion of the site and the high-voltage power lines. Third, the southerly school site is located on the main collector loop through the southerly part of the Project site for both maximum vehicular and non-vehicular access. The northerly school site is located on Highland Home Road for the same reason. Fourth, the southerly site would have at least two street frontages, but most likely would have three (refer to Specific Plan, Exhibit 1.4, *Illustrative Land Use Map*). Houses fronting on these streets would be kept to a minimum. The northerly site would have at least two street frontages, as well, and would keep houses fronting these streets to a minimum.

Refer to Response 5.a, above.

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Agency Comment Letter
No. 6

JUL 21 2011 11:02:43 AM DEPARTMENT OF CONSERVATION FAX NO. 916 327 3100

NATURAL RESOURCES AGENCY

EDMUND G. BROWN, JR., GOVERNOR



DEPARTMENT OF CONSERVATION

Managing California's Working Lands

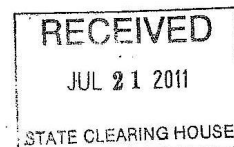
DIVISION OF LAND RESOURCE PROTECTION

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July 21, 2011

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VIA FACSIMILE (951) 922-3125

Ms. Zai Abu Bakar, Community Development Director
Community Development Department
99 E. Ramsey Street
Banning, CA 92220

Subject: DEIR for the Butterfield Specific Plan - SCH# 2007091149

Dear Ms. Abu Bakar:

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the DEIR for the Butterfield Specific Plan. The Division monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act and other agricultural land conservation programs. We offer the following comments and recommendations with respect to the proposed project's potential impacts on agricultural land and resources.

Project Description:

The majority of the Butterfield Specific Plan project is located within the City of Banning in Riverside County. Approximately 1,522 acres of the proposed Butterfield Project is within the municipal boundaries of the City of Banning and approximately 21 acres are located within unincorporated Riverside County and the City of Beaumont's Sphere of Influence.

The project itself is located on approximately 1,543 acres in the western portion of the City of Banning. It proposes a maximum of 5,387 dwelling units (936.4 acres of residential), a golf course and open space (270.7 acres), parks (49.7 acres) and other open space (114 acres), two elementary school sites (22 acres), and a potential fire station (1.5 acres of residential area). The project also includes the construction of major onsite and offsite infrastructure. It requires processing of a General Plan Amendment and a Zone Change in support of a Specific Plan Amendment (replacing the Deutsch Property Specific Plan). The applicant also intends to submit a Development Agreement and Tentative Tract Maps for City review and approval, concurrent with the Specific Plan.

While the project site is currently vacant and undeveloped, the site is General Plan-designated for a mix of commercial, high-density residential, medium-density residential, low-density residential, very low-density residential and parkland land uses with a Specific Plan Overlay.

The site has historically been used for intermittent dry and irrigated farming and livestock grazing. The EIR prepared for the Deutsch Specific Plan indicates irrigation ceased in

The Department of Conservation's mission is to balance today's needs with tomorrow's challenges and foster intelligent, sustainable, and efficient use of California's energy, land, and mineral resources.

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approximately 1981, while cultivation ceased completely around 1988. Since acquiring the property, the site has been allowed to have small scale, occasional cattle grazing under a private lease agreement with a local rancher, which is expected to continue during the Project entitlement and CEQA review process. Limited small scale grazing activities on portions of the site not yet developed may continue while the Specific Plan site is incrementally developed.

Division Comments:

Per the 2008, Riverside County FMMP map, the project site is designated Farmland of Local Importance. As described above and in the DEIR, the project was used for agriculture in the past and still is to this day. When evaluating environmental impacts under CEQA, the question arises of whether the project will involve changes in the existing environment, which could result in conversion of farmland to a non-agricultural use. When determining the agricultural value of the land, it is important to recognize that the value of a property may have been reduced over the years due to inactivity, but it does not mean that there is no longer any agricultural value. The inability to farm the land for agriculture, rather than the choice not to do so, is what could constitute a reduced agricultural value.

On page 4.2-9 of the DEIR, it states,

"While the proposed project will convert land designated as Farmland of Local Importance to a non-agricultural use, the site has not supported agricultural uses, apart from occasional livestock grazing since 1988 and, although property adjacent to the east of the Project site is zoned for Ranch Agricultural (Hillside), there is currently no agricultural activity on any adjacent or nearby property with the possible exception of occasional cattle grazing... Temporary agricultural use contributes very little to the regional agricultural economy and the development of the Project would not directly or indirectly catalyze the conversion of additional farmland to urban uses..."

Urbanization removes valuable agricultural soils from production on a permanent basis. Residential development is the dominant land use removing farmland, although other urban land uses are also resulting in permanent agricultural loss. While each individual agricultural parcel lost may or may not be significant, the cumulative loss of farmland does have a negative impact on a County's agricultural base.

Project Impacts on Agricultural Land

Based on the continued agricultural use of the site and the fact that it is a conversion of 1,522 acres into urban uses, the Division believes that the determination of a Less than Significant Impact bestowed upon the project in the DEIR is questionable. The project site does have agricultural value. Given the size of the project impact and previous and current agricultural uses of the land, the Division strongly recommends that the County utilize the LESA model to make sure the determination of a Less than Significant Impact adequately applies to the project area and that no mitigation is required. The results should be posted in the FEIR.

6.a

6.b

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Under California Code of Regulations Section 15064.7, impacts on agricultural resources may also be both quantified and qualified by use of established thresholds of significance. As such, the Division has developed a California version of the USDA Land Evaluation and Site Assessment (LESA) Model. The California LESA model is a semi-quantitative rating system for establishing the environmental significance of project-specific impacts on farmland. The model may also be used to rate the relative value of alternative project sites. The LESA Model is available on the Division's website at:

6.b
cont.

http://www.consrv.ca.gov/DLRP/qh_les.htm

If a Significant Impact is determined, then the Division has the following suggestions:

Mitigation Measures

Although direct conversion of agricultural land is often an unavoidable impact under California Environmental Quality Act (CEQA) analysis, mitigation measures must be considered. The adoption of a Statement of Overriding Consideration does not absolve an agency of the requirement to implement feasible mitigation that lessens a project's impacts. In some cases, the argument is made that mitigation cannot reduce impacts to below the level of significance because agricultural land will still be converted by the project, and, therefore, mitigation is not required. However, reduction to a level below significance is not a criterion for mitigation. Rather, the criterion is feasible mitigation that lessens a project's impacts. Pursuant to CEQA Guideline §15370, mitigation includes measures that "avoid, minimize, rectify, reduce or eliminate, or compensate" for the impact.

All measures allegedly feasible should be included in the DEIR. Each measure should be discussed, as well as the reasoning for selection or rejection. A measure brought to the attention of the Lead Agency should not be left out unless it is infeasible based on its elements.

The loss of agricultural land represents a permanent reduction in the State's agricultural land resources. As such, the Department recommends the use of permanent agricultural conservation easements on land of at least equal quality and size as partial compensation for the direct loss of agricultural land. Conservation easements will protect a portion of those remaining land resources and lessen project impacts in accordance with CEQA Guideline §15370. The Department highlights this measure because of its acceptance and use by lead agencies as an appropriate mitigation measure under CEQA and because it follows an established rationale similar to that of wildlife habitat mitigation.

Mitigation via agricultural conservation easements can be implemented by at least two alternative approaches: the outright purchase of easements or the donation of mitigation fees to a local, regional, or statewide organization or agency whose purpose includes the acquisition and stewardship of agricultural conservation easements. The conversion of agricultural land should be deemed an impact of at least regional significance. Hence, the search for replacement lands should not be limited strictly to lands within the project's surrounding area.

6.c

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One source that has proven helpful for regional and statewide agricultural mitigation banks is the California Council of Land Trusts, which can be found at:

<http://www.calandtrusts.org>

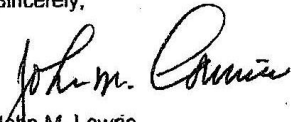
The California Council of Land Trusts deals with all types of mitigation banks. It is suggested that the County contact them to get an understanding of the fees associated with mitigation banking and the options available.

Another source is the Division's California Farmland Conservancy Program (CFCP), which has participated in bringing about conservation easements throughout the State of California involving Land Trust Alliance, the California Council of Land Trusts, and the American Farmland Trust. The establishment of an easement in the County may be potentially feasible. If the County were interested in easement mitigation as a part of a mitigation program, through one of these or many other land trusts operating in California, the Department would be glad to help answer any questions.

Of course, the use of conservation easements is only one form of mitigation that should be considered. Any other feasible mitigation measures should also be considered.

Thank you for giving us the opportunity to comment on the DEIR for the Butterfield Specific Plan. Please provide this Department with the date of any hearings for this particular action, and any staff reports pertaining to it. If you have questions regarding our comments, or require technical assistance or information on agricultural land conservation, please contact Meri Meraz, Environmental Planner, at 801 K Street, MS 18-01, Sacramento, California 95814, or by phone at (916) 445-9411.

Sincerely,


John M. Lowrie
Program Manager
Williamson Act Program

cc: State Clearinghouse

6.c
cont.

John M. Lowrie, Program Manager
California Department of Conservation

Response No. 6

- 6.a The EIR indicates that the Specific Plan area is not of significant agricultural value. As noted the property has not supported any non-grazing agriculture for 23 years, since 1988. Intermittent grazing had occurred on that site since then. Lack of agricultural value is a result of the existing soils types, lack of current irrigation systems, cost of potable water for irrigation, and presence of urban and residential uses surrounding the site. The EIR also notes that the site's prior Williamson Act contracts have all lapsed. The City's General Plan EIR has addressed the cumulative loss of agricultural land, as has the County's General Plan EIR. Both of these EIRs are incorporated by reference into the Butterfield Specific Plan EIR (see Section 2.6 of the Draft EIR). The previously certified Deutsch Specific Plan Final EIR found agricultural land loss to be a significant cumulative impact. The County's General Plan EIR found the impact to be less than significant, due to the land use and agricultural policies built into the General Plan, including agricultural preservation. The Project is consistent with the City and County General Plans, and represents a reduced physical impact compared to the Deutsch Specific Plan.
- 6.b Refer to Response 6a above. As noted in the EIR, the majority of the site is identified as "Farmland of Local Importance," according to the California Department of Conservation Farmland Mapping and Monitoring Data (2008)¹. Farmland of Local Importance is defined as, "Land that meets all the characteristics of Prime and Statewide, with the exception of irrigation. Farmlands not covered by the above categories but are of significant economic importance to the County. They have a history of good production for locally adapted crops. The soils are grouped in types that are suited for truck crops (such as tomatoes, strawberries, cucumbers, potatoes, celery, squash, romaine lettuce, and cauliflower) and soils suited for orchard crops (avocados and citrus)."² As the property has not been actively farmed for over 23 years, it is not of significant economic importance to the County (refer to the Draft EIR, Section 4.2).

There is no irrigation system onsite, and the Project's Water Supply Assessment indicates substantial capital investment needed to obtain water for the site. Without a cost effective irrigation system to grow more desirable (and more valuable) row crops, the value of the land is reduced to that of grazing land, reflected in the site's limited prior use for grazing. Given the proximity of residential uses on the southern, western,

¹ California Department of Conservation, *Map of Western Riverside County Important Farmland 2008, Sheet 1 of 3*, [ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2008/riv08_west.pdf](http://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2008/riv08_west.pdf).

² A Guide to the Farmland and Mapping and Monitoring Program, Appendix C; California Department of Conservation Farmland and Mapping and Monitoring Program.

northwestern and southeastern boundaries, and the site's designation for urban development with a currently approved specific plan, the site is unlikely to offer agricultural or long-term cattle grazing opportunities. Therefore, the ability to operate a viable long-term agricultural use on the site is reduced and the agricultural value of the land is considered less than significant. The site currently has an approved Specific Plan in place, which allows a similar amount of development as proposed in the Butterfield Specific Plan. Since this development has been approved since 1993, it was determined that a formal LESA model analysis was not necessary.

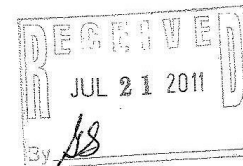
- 6.c Mitigation is not required for impacts that are less than significant. As noted above, the proposed Project would not have a significant impact on agricultural resources so no mitigation is required.

Agency Comment Letter
No. 7



California Natural Resources Agency
DEPARTMENT OF FISH AND GAME
<http://www.dfg.ca.gov>
Inland Deserts Region
3602 Inland Empire Blvd., Suite C-200
Ontario, CA 91764
(909) 484-0167

EDMUND G. BROWN, JR., Governor
JOHN MCCAMMAN, Director



July 19, 2011

Mr. Zai Abu Bakar
City of Banning
99 E. Ramsey Street
Banning, CA 92220

Subject: Draft Environmental Impact Report for the Butterfield Specific Plan
City of Banning, Riverside County – SCH #2007091149

Dear Mr. Abu Bakar:

The Department of Fish and Game (Department) appreciates this opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Butterfield Specific Plan Project. The Department is responding as a Trustee Agency for fish and wildlife resources [Fish and Game Code sections 711.7 and 1802 and the California Environmental Quality Act Guidelines (CEQA) section 15386] and as a Responsible Agency regarding any discretionary actions (CEQA Guidelines section 15381), such as a Lake and Streambed Alteration Agreement (Section 1600 et seq.).

The Department is also responsible for ensuring appropriate conservation of fish and wildlife resources including rare, threatened, and endangered plant and animal species, pursuant to the California Endangered Species Act, and administers the Natural Community Conservation Plan Program (NCCP). On June 22, 2004, the Department issued a Natural Community Conservation Plan Approval and Take Authorization for the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) per Section 2800, et seq., of the California Fish and Game Code.

The proposed project site is located north of the Interstate 10 (I-10) Freeway, north of Wilson Street, east of Highland Springs Road, west of Highland Home Road, Banning Bench to the east, City of Beaumont and existing residential to the east and south, in the City of Banning, County of Riverside, State of California.

This project was originally approved in 1993 as the Deutsch Specific Plan consisting of 5,400 residential units, 25 acres of commercial development, 24 acres for school sites, a fire station, 75 acres of parks and a 193-acre golf course. The current proposed project will cover approximately 1,543 acres consisting of: 937.2 acres for residential (3 du/ac to 18 du/ac), 36 acres of general commercial, 428.8 acres of open space (pubic golf course, parks, natural landscape, basin/lake), 23 acres for two elementary schools and a community center, 113.6 acres of roads, and 4.2 acres for an existing utility substation.

7.a

Conserving California's Wildlife Since 1870

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Construction will be in five phases over a 30-year period: Phase I would include the mass-grading of the entire golf course open space area, the North Basin, those Planning Areas (PA) in the southwestern corner of the Specific Plan, and the realignment of Smith Creek, Phase II would include development of the PA's located in the southern corner of the project site, Phase III would include the remaining PA's between Brookside Ave/Highland Home Road and F Street in the northwestern corner of the Specific Plan, Phase IV would include PA's 50, 51, 52, 67 and 68, and Phase V would include PA's 60 and 61.

Lake and Streambed Alteration Agreement

The proposed project is located within the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP) and is subject to Section 6.1.2, Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools. Please be aware that a Lake and Streambed Alteration Agreement Notification is required by the Department because the site contains jurisdictional waters. Additionally, the Department's criteria for determining the presence of jurisdictional waters are more comprehensive than the MSHCP criteria in Section 6.1.2. Any mitigation measures required by the resource protection policies of the MSHCP should be included in the CEQA document.

The Department recommends submitting a notification early on, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain a Streambed Alteration Agreement notification package, please go to this site, <http://www.dfg.ca.gov/habcon/1600/forms.html>.

A jurisdictional delineation was conducted in 2005 and 2006 and these delineations were reviewed in 2010. These delineations do not include any changes to the drainages that might have occurred following the winter storms of 2010 and 2011. According to the jurisdictional delineation, the site contains 17 jurisdictional features totaling 11.53 acres of stream, including 0.35 acres of vegetated habitat. The site has 33,890 linear feet of stream. Smith Creek, the primary stream, roughly bisects the project site. Smith Creek enters the site at the northwest corner flowing south east and exiting into the Smith Creek channel. Flows continue downstream to San Gorgonio Wash which flows into the Whitewater River and ultimately the Salton Sea. The project also would involve impacts to the Pershing Channel. According to the Jurisdictional Delineation, the site contains 2.47 acres of permanent impacts (including 0.41 acres of vegetated riparian habitat) and 9.22 acres of temporary impacts (including 0.02 acres of vegetated riparian habitat. The project also involves a 30.4-acre multi-use basin where Smith Creek enters the site. The DEIR states that the basin would be designed to provide water storage for irrigation and other needs.

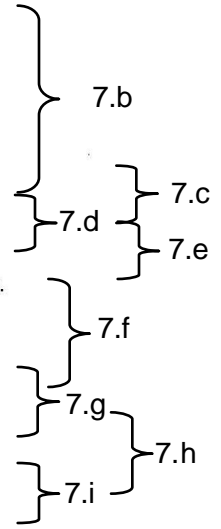
The DEIR also states that Smith Creek would be realigned from its current course to an alignment within the golf course footprint. The realignment involves the proposed basin, drop structures and velocity reducers. Section 6.1.2 of the MSHCP specifies that impacts to the functions and values of riverine, riparian, and vernal pool areas be avoided to the maximum extent possible. In this project the entire Smith Creek stream course would be eliminated and a stream channel constructed through the golf course. Therefore, the existing function and value of Smith Creek will be eliminated.

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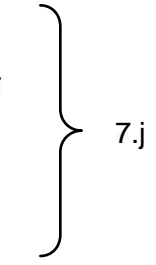
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Department Concerns Regarding Jurisdictional Waters

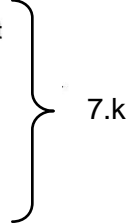
The Department has the following concerns regarding its ability to issue a 1600 Agreement based upon the analysis provided in this DEIR. These concerns must be addressed in the Final Environmental Impact Report or subsequent CEQA document. First, because the stream would be permanently altered, the permanent impacts should consist of the total amount of jurisdictional waters acreage on the site, mitigated at a minimum 3:1 ratio. Temporary impacts would consist of the amount of time from removal of the current alignment to the conclusion of the proposed new alignment. Second, no mitigation is provided in this DEIR for the loss of jurisdictional waters. Third, the project proposes to remove the function and value of the existing alignment of Smith Creek. Fourth, detention basins for flood control cannot be used for irrigation, water conservation or other purposes. State waters must be allowed to flow through the site to maintain the downstream hydrology. Fifth, golf courses typically utilize small lakes. The presence of lakes would alter the biology of the existing stream and could provide breeding grounds for invasive species such as bullfrogs, African clawed frogs and crayfish. There is no plan for exotic control. Sixth, the Department does not have the plans for a realigned Smith Creek and cannot analyze any potential impacts created by the realignment. Seventh, the Department has concerns about the water quality impacts caused by the use of fertilizers and pesticides on a future golf course, as well as urban runoff from the proposed development. Eighth, an assessment needs to be made of the impact of the 2010-2011 storms on Smith Creek.



The DEIR does not fully identify potential impacts to lakes, streams, and associated resources and does not provide adequate avoidance, mitigation, monitoring, funding sources, a habitat management plan and reporting commitments, and therefore additional CEQA documentation will be required prior to execution (signing) of the Agreement. In order to avoid delays or repetition of the CEQA process, potential impacts to a stream or lake, as well as avoidance and mitigation measures need to be discussed within this CEQA document. Permit negotiations conducted after and outside of the CEQA process are not CEQA-compliant because they deprive the public and agencies of their right to know what project impacts are and how they are being mitigated (CEQA Section 15002) in violation of CEQA Section 15002.

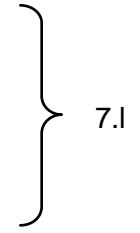


The Department opposes the elimination of stream channels and their associated habitats. The Department recommends avoiding the stream and riparian habitat to the greatest extent possible. Any unavoidable impacts need to be compensated with the creation and/or restoration of in-kind habitat either on-site or off-site at a minimum 3:1 replacement-to-impact ratio, depending on the impacts and proposed mitigation. Additional mitigation requirements through the Department's Streambed Alteration Agreement process may be required depending on the quality of habitat impacted, proposed mitigation, project design, and other factors.



The following information will be required for the processing of a Streambed Alteration Agreement and the Department recommends incorporating this information to avoid subsequent CEQA documentation and project delays:

- 1) Delineation of lakes, streams, and associated habitat that will be temporarily and/or permanently impacted by the proposed project (include an estimate of impact to each habitat type);



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- 2) Discussion of avoidance measures to reduce project impacts; and,
- 3) Discussion of potential mitigation measures required to reduce the project impacts to a level of insignificance.

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cont.

Please refer to section 15370 of the CEQA guidelines for the definition of mitigation. If the project does not include the criteria listed above, the Department believes that it cannot fulfill its obligations as a Trustee and Responsible Agency for fish and wildlife resources. Permit negotiations conducted after and outside of the CEQA process are not CEQA-compliant because they deprive the public and agencies of their right to know what project impacts are and how they are being mitigated (CEQA Section 15002) in violation of CEQA Section 15002. Also, because mitigation to offset the impacts was not identified in the CEQA document, the Department does not believe that the Lead Agency can make the determination that impacts to jurisdictional drainages and/or riparian habitat are “less than significant” without knowing what the specific impacts and mitigation measures are that will reduce those impacts. The Department recommends submitting a notification early on, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources.

} 7.m

Cumulative Impacts

This project was originally proposed in 1983 and the project description has not substantially changed since that time. The cumulative impact analysis should take into consideration the development that has taken place in the City of Banning since 1983 and 1993 and how this project contributes to cumulative impacts.

The proposed project would result in the permanent loss of 1,200 acres of grassland. The loss of grassland should be discussed in the context of the MSHCP, along with its impact on identified raptors, small mammals and other predators.

CEQA allows that residential units pursuant to an approved specific plan need not undergo further environmental review. Because the project is scheduled to be implemented over 30 years, subsequent phases should be analyzed in terms of changed conditions and circumstances.

} 7.n

In conclusion, the Department believes the DEIR is inadequate in describing project related impacts, and identifying appropriate mitigation for purposes of CEQA. We recommend that the DEIR be revised to address the Department’s concerns and included in the FEIR. We appreciate the opportunity to comment on the referenced DEIR. If you should have any questions pertaining to these comments, please contact Robin Maloney-Rames at (909) 980-3818.

} 7.o

Sincerely,

Jeff Brandt
Senior Environmental Scientist

for -

**Jeff Brandt, Senior Environmental Scientist
California Department of Fish and Game (CDFG)
Inland Deserts Region**

Response No. 7

- 7.a The comment states that a Lake and Streambed Alteration Agreement Notification is required by the Department due to impacts on jurisdictional waters and any mitigation measures required by the MSHCP should be included in the CEQA document. The comment recommends that the Applicant submit a Section 1602 Streambed Alteration Notification Package (1602 Notification) early on, since modification to the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources. It should be noted that the Project Applicant had a Draft 1602 Streambed Alteration Agreement (1600-2006-0061-R6 [Revision 1]) dated September 11, 2006. This agreement was not fully executed due to changes in market conditions and to allow the Project Applicant greater flexibility in the future. Temporary and permanent impacts to CDFG jurisdiction are outlined in Draft EIR Section, 4.4 Biological Resources, pages 4.4-25 through 4.4-27, as well as Table 4.4-4 and 4.4-5, of the Project Draft EIR. The analysis within this section is based on the Biological Technical Studies and Jurisdictional Delineation provided in Draft EIR Appendix C. Based on these documents, the Draft EIR identifies permanent impacts to CDFG jurisdiction totaling 2.47 acres, of which 0.41 acres consists of vegetated riparian habitat. Of this total, permanent impacts to 2.24 acres of CDFG jurisdiction, of which 0.33 acres consists of vegetated riparian habitat would occur on site and permanent impacts to 0.23 acres of CDFG jurisdiction, of which 0.08 acres consist of vegetated riparian habitat, would occur off site. Temporary impacts on site total 9.22 acres, of which 0.02 acres consists of vegetated riparian habitat. The Project Applicant will submit a 1602 Notification to the CDFG once prepared to do so. Also, refer to Master Response #10 for a detailed discussion regarding compensatory mitigation.

The Draft EIR includes biological resource mitigation consistent with the MSHCP (refer to Mitigation Measures BIO-1 through BIO-5). The Applicant will initiate the regulatory permitting process and submit regulatory permit applications at the appropriate time in subsequent project implementation stages, prior to grading as noted in the EIR.

The comment also states that the jurisdictional delineation conducted in 2005 and 2006, which was reviewed in 2010, does not include any changes to the drainages that might have occurred following the winter storms of 2010 and 2011.

As noted on Page 2 of the Jurisdictional Delineation Report, prepared by GLA (Draft EIR Appendix C), CDFG jurisdiction within the Project site was re-examined on June 30 and July 1, 2010 to re-define and update the limits of CDFG jurisdiction and to document how those limits of jurisdiction had changed (if at all) since the original jurisdictional delineation was conducted in spring 2005. The jurisdictional delineation was conducted in conformance with CDFG-accepted methods as described in Sections 1600-1616 of the State of California Fish and Game Code. These methods are also described on Page 13, Section II-C of the delineation report. The delineation also conformed to Section 89.1 of the Fish and Game Code, which provides a definition of a "Water of the State." This section notes that a "Water of the State" has the same meaning as a "Water of the State" identified in Section 13050(e) of the California Water Code (CWC), which defines a "Water of the State" as any surface water or groundwater, including saline waters, within the boundaries of the state.

A jurisdictional delineation is conducted within a "snapshot of time." There is no requirement in the Fish and Game Code to conduct a jurisdictional delineation following an abnormal storm event, such as the storm events which occurred during the 2010/2011 winter storm season; however, GLA did conduct a jurisdictional delineation of the Project site after the 2009/2010 winter storm season, which was also considered an abnormally high storm season. The results of GLA's field review after the 2009/2010 storm season are contained in Draft EIR Appendix C. Since the jurisdictional delineation was conducted following CDFG-accepted methodologies contained in Sections 1600-1616 of the Fish and Game Code, as well as reviewing the Project site pursuant to the definition for a "Water of the State" contained in Section 89.1 of the Fish and Game Code and Section 13050(e) of the CWC, there would be no additional need or requirement to review the Project based upon the 2010/2011 winter storm season. If the CDFG has any questions regarding the limits of its jurisdiction, this will be outlined during the 1602 Notification process.

The comment also states that the realignment of Smith Creek would eliminate the existing function and value of Smith Creek, as the Project would replace existing Smith Creek with a realigned and reconstructed Smith Creek.

Under existing conditions, within the limits of the Project site, Smith Creek is generally an unvegetated, disturbed creek. This is the result of past ranching and agricultural use within the watershed. Although a few grade control structures are proposed within Smith Creek, a majority of the proposed realigned creek would be natural bottom with natural sides that provide habitat and increase hydrologic function of the stream course. In addition, as a result of the project, previous ranching and agricultural activities would cease, removing additional opportunities for further degradation of the stream. The realigned creek would, in general, be in a similar location as compared to the existing stream channel and would not eliminate the functions and values of the stream. Once

realigned, Smith Creek will regain (if not increase) its function and value through the restoration of 9.22 acres of streambed (including vegetated riparian habitat) on site and the creation of at least 2.47 acres of CDFG vegetated riparian habitat (mixed southern willow scrub and alluvial fan sage scrub habitat) within the creek system. Additionally, groundwater recharge functions will be returned to the creek system, which are currently lacking; therefore, the realignment of Smith Creek will be an improvement as compared to existing conditions on site. This re-alignment is proposed to ensure that the creek and all of the added amenities are optimally located to achieve the Project Objectives and accommodate the improvements necessary to construct the Project through buildout.

- 7.b The comment expresses concerns regarding the Department's ability to issue a 1600 Agreement based on the analysis provided in the Draft EIR. The comment states that, because the stream would be permanently altered, the permanent impacts should consist of the total amount of jurisdictional waters acreage on the site, mitigated at a minimum 3:1 ratio. The comment states that temporary impacts to the jurisdictional waters would consist of the amount of time from removal of the current alignment to the conclusion of the proposed new alignment.

Mitigation Measure BIO-3 requires the Applicant to provide compensatory mitigation for the permanent disturbance to 2.47 acres of CDFG jurisdiction, of which 0.41 acres consists of vegetated riparian habitat, which would consist of the establishment, enhancement, and/or restoration of at least 2.47 acres of CDFG jurisdiction, within, or adjacent to, Smith Creek. Mitigation would include the establishment, enhancement, and/or restoration of mixed southern willow scrub and alluvial fan sage scrub habitat, similar to the existing habitat on site. With the establishment, enhancement, and/or restoration of at least 2.47 acres of CDFG jurisdiction (including vegetated riparian habitat), there would be a no net loss of CDFG jurisdiction; therefore, there will be no net loss of acreage or habitat value as defined in the Fish and Game Code. The Applicant has also proposed to restore all 9.22 acres of temporary impacts to CDFG jurisdiction and 8.65 acres of USACE and Regional Board jurisdiction onsite. These requirements have been added to Mitigation Measure BIO-3 for clarification and are included in the Section 4.0, Errata of the Final EIR. Compliance with this mitigation measure will allow for the proposed establishment, enhancement, and/or restoration of at least 2.47 acres of permanently impacted CDFG jurisdiction as well as 9.22 acres of temporarily impacted jurisdiction (including vegetated riparian habitat) would reduce potential impacts to waterways to a less than significant level in compliance with CEQA. Also, refer to Master Response #10 for a detailed discussion regarding compensatory mitigation.

Section 15370 of the CEQA Guidelines considers mitigation as the following:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.*

- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.*
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.*
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.*
- (e) Compensating for the impact by replacing or providing substitute resources or environments.*

Based upon this CEQA definition, the Applicant has already proposed to conduct mitigation/restoration activities pursuant to sub-parts (c) and (e) of Section 15370, which complies with CEQA. The CDFG will have a separate opportunity to impose mitigation requirements upon the Applicant during the 1602 Streambed Alteration Notification process. This process is a separate, 90-day process (at a minimum), which will commence once a 1602 Streambed Alteration Notification package is submitted by the Applicant to the CDFG. If the CDFG imposes additional mitigation requirements upon the Applicant as part of the 1602 Streambed Alteration Agreement program, it should occur in that arena. Refer to Response 7.a regarding previous submittal of a 1602 Streambed Alteration Agreement Application for the Project site.

- 7.c The comment states that the Draft EIR does not provide mitigation for the loss of jurisdictional waters. Mitigation measures BIO-3 identifies the requirement of the Applicant to provide compensatory mitigation of the CDFG, USACE, and RWQCB jurisdictional areas impacted by the proposed project. As proposed the Project would result in potential permanent impacts of 2.47 acres of CDFG jurisdiction that will be mitigated onsite at a minimum 1:1 ratio. In addition, temporary impacts of approximately 9.22 acres will be mitigated as part of the Smith Creek restoration/realignment proposed as part of the project. For additional information, please refer to Response 7b above and Master Response #10.
- 7.d The comment states that the Project proposes to remove the function and value of the existing alignment of Smith Creek. Refer to Response 7a above and Master Response #10.
- 7.e The comment states that the detention basins for flood control proposed in the Project cannot be used for irrigation, water conservation or other purposes, and that State waters must be allowed to flow through the site to maintain downstream hydrology.

State waters would be allowed to flow through the site to maintain downstream hydrology. The Draft EIR (pg. 4.9-24) states that the North Basin would be designed to detain, not retain, upstream flows and would only reduce the peak volume of flows that will be conveyed through the Wilson Street culvert.

The North Basin will contain three subparts, a desilting basin to desilt upstream flows, a weir which helps to contain any accumulated materials, and a connected larger part of the basin which receives stormwater overflow from the desilting basin. Refer to Specific Plan Exhibit 3.7B, PA71 North Basin Schematic Section, for an indication of approximate water storage volumes, allotted for separate uses (i.e., irrigation/recharge and flood control) proposed within the basin.

Additionally, as described in the Draft EIR (page 4.4-19 and pages 3.0-25 to 3.0-29), the Project represents a substantial improvement in overall site hydrology from a biological resources perspective. Current site flows are limited to sporadic storm events, which is why Smith Creek is an ephemeral creek consisting mostly of sandy wash. The proposed flood control system is intended to satisfy City and County requirements to ensure that downstream storm flows are consistent with current conditions. In addition to allowing continued peak flows to traverse through the site, the Project will create year-round creek flows due to irrigation and runoff, which will be incorporated into the reconstructed Smith Creek to create new habitat, increasing the quantity, quality and diversity of habitat and wildlife, which is similar to the existing riparian habitat both upstream and downstream of the Project site. Finally, current peak flows carry urban runoff and associated chemicals to sensitive downstream habitats. The Project incorporates a variety of water quality mitigation features to not only minimize Project-related water quality impacts to Smith Creek, but to also reduce incoming urban runoff from upstream areas.

The WSA (Draft EIR Appendix J) identifies those permits that would be necessary in the event the North Basin is used for SWP imported water or recycled water storage and/or irrigation (refer to WSA Sections 6.3.5.2, and 6.4.2.2.1.2, respectively).

- 7.f The comment states that the presence of lakes typically utilized for golf courses would alter the biology of the existing stream and could provide breeding grounds for invasive species such as bullfrogs, American clawed frogs and crayfish. The comment states that there is no plan for control of exotic species.

If small lakes are created that hold water year round, measures to control the possibility of exotic species breeding within these lakes would include, but not be limited to, draining the lakes yearly when bullfrogs breed during the period of May to July (intermediate hydro-period), monitoring for exotic species, and common eradication practices. As conditions of approval on the Final Tract Maps for the Project, any lakes within the Golf Course planning areas will require draining during the breeding season (May through July) to reduce the potential for breeding. In addition, periodic monitoring and eradication efforts will be required within these portions of the site as

well as upstream and downstream areas within the Smith Creek Drainage within the Specific Plan.

- 7.g The comment states that the Department cannot analyze any potential impacts created by the realignment of Smith Creek, because no plans have been provided for the realignment.

Plans for the golf course open space drainage system are provided in the Specific Plan, Section 3.4.2. Refer to Specific Plan Exhibit 3.7A, *Master Drainage Plan*. Also, refer to Exhibit 3.7C, *Conceptual Golf Course Drainage Plan*, for a more detailed depiction of the proposed concept, including potential water quality feature locations and groundwater recharge areas (discussed in Specific Plan, Section 3.5). Detailed grading plans were previously provided to CDFG as part of the previous Section 1602 Streambed Alteration Agreement process, which resulted in the issuance of a draft agreement, but not a fully executed agreement.¹ The current concept is a refinement of the concept previously reviewed by the CDFG, and detailed grading plans and draft tentative tract maps were made available for review at the City of Banning (the EIR and biological resource impact analysis utilized these draft tract maps and grading plans, as reflected in the base maps for EIR exhibits, and as shown in the underling “Project” document – the Draft Butterfield Specific Plan, all of which are available for review at the City and on the City’s website).

- 7.h The comment states that the Department has concerns about the water quality impacts caused by the use of fertilizers and pesticides on a future golf course, as well as the urban runoff from the proposed development.

As stated in Section 4.9 (pg. 4.9-30), pursuant to the WQMP Guidelines for the Whitewater River Watershed area, the City of Banning will condition the proposed Project, and the individual components of the Specific Plan Project (i.e., proposed subdivision maps) to submit for review and approval a WQMP that incorporates applicable source control BMPs and provides a detailed description of their implementation and incorporates treatment control BMPs and provides information regarding design considerations for managing water flows after construction is completed and facilities and structures are operational. The Master Drainage Plan and Land Development Plan for the Butterfield Specific Plan Project includes site design BMPs (refer to Exhibit 3.0-8 *Proposed Water Quality/ Infiltration Areas Map*).

Also refer to Response 7e above.

¹ The CDFG issued a draft Streambed Alteration Agreement for the Project, but not a fully executed 1602 Streambed Alteration Agreement due to the withdrawal of the application package resulting from the slumping economy.

- 7.i The comment states that an assessment needs to be made of the impact of the 2010-2011 storms on Smith Creek. Refer to Response 7.a above.
- 7.j The comment states that the Draft EIR does not fully identify potential impacts to lakes, streams, and associated resources, and that the Draft EIR does not provide adequate avoidance, mitigation, monitoring, funding sources, a habitat management plan and reporting commitments, and therefore additional CEQA documentation will be required prior to execution of the 1600 Agreement. The comment states that, in order to avoid delays or repetition of the CEQA process, potential impacts to a stream or lake, as well as avoidance and mitigation measures, need to be discussed in this CEQA document, so that the issues are fully disclosed to the public and agencies, pursuant to CEQA Guidelines, Section 15002.

The Draft EIR identifies impacts and mitigation to jurisdictional waters, riparian habitat and wetland under Impact Statement 4.4-2, pages 4.4-23 through 4.4-31 of the Section 4.4, *Biological Resources*. The City will require the Applicant to consult with the regulatory agencies, as necessary; however, these agencies do not issue final mitigation requirements until a formal application has been submitted to each respective agency and a Final EIR has been certified. Therefore, it is not feasible to present approved final mitigation requirements by CDFG or the Regional Board (or USACE) USACE in the Final EIR. However, the Draft EIR has analyzed the impacts to CDFG and Regional Board jurisdictional waters and proposed mitigation satisfying CEQA and which is likely to occur through the CDFG's 1602 Streambed Alteration Agreement, Section 401 Water Quality Certification, and/or Section 13260 Waste Discharge processes. The Draft EIR states that impacts to jurisdictional areas would be mitigated at not less than a 1:1 ratio onsite within, or adjacent to, the realigned Smith Creek Channel. However, additional specific mitigation requirements would be defined once the formal applications are provided to the regulatory agencies.

The proposed mitigation identified in the Draft EIR would reduce impacts to jurisdictional resources to a less than significant level and complies with Section 15370 of CEQA. The specific mitigation requirements for the CDFG and/or Regional Board would be further defined once the formal regulatory permitting application packages are submitted to each of the regulatory agencies. If CDFG and/or Regional Board impose additional mitigation requirements upon the Applicant as part of the 1602 Streambed Alteration Agreement, Section 401 Water Quality Certification, or Section 13260 Waste Discharge Requirements processes, these should occur during their respective review processes.

As a side note, a CDFG Section 1602 Streambed Alteration Notification process does not culminate in the issuance of a "permit" and that "permit" negotiations with the CDFG would not occur. Rather, the culmination of the Section 1602 process would result in the

issuance of a Section 1602 Streambed Alteration “Agreement” and this “Agreement” would be negotiated between the Applicant and CDFG.

Also refer to Response 7g above and Master Response #10.

- 7.k The comment states that the Department recommends avoiding the stream and riparian habitat to the greatest extent possible, and that any unavoidable impacts need to be compensated with the creation and/or restoration of in-kind habitat, either on-site or off-site, at a minimum 3:1 replacement-to-impact ratio. Additional mitigation requirements through the Department’s Streambed Alteration Agreement process may be required depending on the quality of habitat impacted, proposed mitigation, Project design, and other factors.

The EIR addresses a reasonable range of Project alternatives in Draft EIR Section 6. A jurisdictional avoidance alternative is not considered reasonable or feasible, given the extent of jurisdictional waters traversing the site (see Exhibits 4.4-2 and 4.4-3) and the inability of this alternative to meet the goals and objectives identified in Section 3.0, Project Description of the Draft EIR. It should be noted that the intent of the proposed stream relocation is to ensure that improvements to the Smith Creek drainage are complementary to the other components of the Project, while enhancing this drainage with additional groundwater recharge facilities and improvements that prevent further degradation of the stream course south of the project site. Also, please refer to Responses 7.a and 7.b above and Master Response #10.

- 7.l The comment lists information required for processing the 1602 Streambed Alteration Agreement, and recommends incorporating this information into the CEQA document to avoid subsequent CEQA documentation and project delays. The information required, according to the comment, includes a delineation of lakes, streams, and associated habitat that will be temporarily and/or permanently impacted by the proposed Project (including an estimate of impact to each habitat type); a discussion of avoidance measures to reduce impacts; and a discussion of potential mitigation measures required to reduce the Project impacts to a level of insignificance.

The Jurisdictional Delineation Report (Draft EIR Appendix C-2) includes a delineation of the limits of: (1) Corps jurisdiction pursuant to Section 404 of the Clean Water Act (CWA); (2) CDFG jurisdiction pursuant to Division 2, Chapter 6, Sections 1600-1616 of the Fish and Game Code; and (3) Regional Board jurisdiction pursuant to Section 401 of the CWA and Section 13260 of the California Water Code (CWC). It also includes a description of the associated habitat for each segment of jurisdictional waters identified.

The Draft EIR identifies avoidance measures and potential mitigation measures (Mitigation Measures BIO-1, BIO-2, and BIO-3) to reduce impacts to sensitive biological

resources identified in Impact Statements 4.4-1, *Sensitive Species and Habitats*, and 4.4-2, *Sensitive Natural Communities*, respectively, to a less than significant level. The Draft EIR concludes that these measures would reduce impacts to a less than significant level. Also refer to Responses 7a and 7g above and Master Response #10.

- 7.m The comment states that, because mitigation to offset the impacts was not identified, the Department does not believe that the Lead Agency can make a determination that impacts to jurisdictional drainages and/or riparian habitat are “less than significant” without knowing what the specific impacts and mitigation measures are that will reduce those impacts. These comments are addressed in Responses 7.a and 7.b above and Master Response #10.

As a side note, “permit” negotiations between an applicant and the CDFG would not occur as part of a Section 1602 Streambed Alteration Notification process. Rather, negotiations as part of the Section 1602 process would result in “agreement” negotiations as a Section 1602 Streambed Alteration “Agreement” is an “agreement” and not a “permit.”

- 7.n The comment states that the cumulative impact analysis should take into consideration the development that has taken place in the City of Banning since 1983 and 1993. The comment states that the loss of grassland as proposed in the Project should be discussed in the context of the MSHCP, along with its impact on identified raptors, small mammals and other predators.

The environmental baseline takes into account existing conditions which necessarily includes all development completed to date. The existing biological resources at the site are set forth in section 4.4.2 of the Draft EIR. The existing conditions establish that the majority of the site is sparsely vegetated with primarily non-native grasses due to existing cattle grazing and past agricultural activities. The impacts analysis identifies the Project’s limited impacts on sensitive species, habitat and jurisdictional waters and adopts mitigation measures that reduce these effects to a less than significant level.

Additionally, the Butterfield Specific Plan is consistent with the City of Banning General Plan, County of Riverside General Plan, and the MSHCP. These plans have included mitigation measures and preservation of land to compensate for the planned cumulative impacts associated with development of the Banning and Beaumont area. The Butterfield Project does not propose any impacts outside the purview of these plans and proposes mitigation consistent with these plans. Therefore the Project does not add additional cumulative impacts above and beyond those mitigated in these plans. The City and County General Plan EIRs are incorporated by reference into this EIR, as noted in Section 2.6.

The best support for analysis of the Project's biological effects under the MSHCP comes from the CEQA Guidelines. Under CEQA Guidelines §15130 ("Discussion of Cumulative Impacts") part (d), it states the following:

Previously approved land use documents such as general plans, specific plans, and local coastal plans may be used in cumulative impact analysis. A pertinent discussion of cumulative impacts contained in one or more previously certified EIRs may be incorporated by reference pursuant to the provisions for tiering and program EIRs. No further cumulative impacts analysis is required when a project is consistent with a general, specific, master or comparable programmatic plan where the lead agency determines that the regional or area wide cumulative impacts of the proposed project have already been adequately addressed, as defined in section 15152(f), in a certified EIR for that plan.

Here, the CEQA Guidelines have made clear that no further cumulative impacts analysis is required when a project is consistent with a programmatic plan where the Lead Agency has determined that cumulative impacts are adequately addressed. As an approved Natural Community Conservation Plan (NCCP), the MSHCP, by definition, adequately addresses cumulative effects related to biological resources. Therefore, as the Butterfield Specific Plan is in compliance with the MSHCP, the contribution to cumulative effects on biological resources has been adequately addressed.

There are 154,140 acres of grassland (151,403 acres of non-native grassland) in the MSHCP Plan Area. Approximately 42,820 acres of grassland (40,191 acres of non-native grassland) will be conserved by the MSHCP. The MSHCP has determined that these conserved grasslands are adequate habitat for raptors and other sensitive species in the region. The loss of 1,200 acres of grassland/agricultural pastureland is adverse but not significant as the development does not conflict with the MSHCP conserved areas. The MSHCP also states "The Banning-Beaumont area supports approximately 14,000 acres of grassland" that are not conserved under the Plan. The Butterfield Specific Plan falls under these grasslands that are not planned for conservation under the MSHCP. Compliance with the MSHCP, including payment of local development mitigation fees, offsets potential cumulative impacts related to development of the Project.

- 7.o The comment states that the Draft EIR provided inadequate impact and mitigation discussion. Refer to Responses 7.a through 7.n and Master Response #10 regarding the specific concerns of the Department.

Agency Comment Letter
No. 8



Linda S. Adams
Acting Secretary for
Environmental Protection



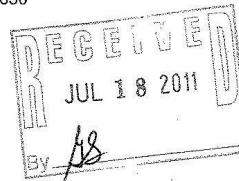
Department of Toxic Substances Control

Deborah O. Raphael, Director
5796 Corporate Avenue
Cypress, California 90630



Edmund G. Brown Jr.
Governor

July 15, 2011



Mr. Zia Abu Bakar
City of Banning
99 E. Ramsey Street
Banning, California 92220

NOTICE OF AVAILABILITY OF A DRAFT ENVIRONMENTAL IMPACT REPORT
FOR THE BUTTERFIELD SPECIFIC PLAN PROJECT, (SCH # 200709.1149),
RIVERSIDE COUNTY

Dear Mr. Bakar:

The Department of Toxic Substances Control (DTSC) has received your submitted draft Environmental Impact Report (EIR) for the above-mentioned project. The following project description is stated in your document: "The Butterfield Specific Plan proposes residential, potential golf course, parks, open space, school sites, and commercial uses similar to those proposed by the previously adopted Deutsch Specific Plan. The total acreage proposed within the Specific Plan is 1,543 acres. A maximum of 5,387 dwelling units (du) could be developed pursuant to the Plan, resulting in a gross density over the entire site of 3.5 du/ac. The Butterfield Specific Plan would be developed in five primary phases over an estimated 30-year implementation period, assuming an average construction of 180 dwelling units per year. The site is generally located north of I-10 Freeway within the northwestern portion of the City of Banning adjacent to the City of Beaumont and unincorporated areas of the County of Riverside, within the San Gorgonio Pass. Specifically, the Project is located north of Wilson Street, east of Highland Springs, generally north of the extended alignment of Brookside Avenue into San Bernardino Mountain foothills. The project site is generally surrounded by unincorporated Riverside County and portions of the San Bernardino Mountains to the north and northeast, Highland Home Road, and the Banning Bench to the south, and Highland Springs Avenue and the City of Beaumont and existing residential to the east and south, Wilson Street to the south, and Highland Springs Avenue and the City of Beaumont to the west".

8.a

Based on the review of the submitted document DTSC has the following comments:

- 1) DTSC provided comments on the project Notice of Preparation (NOP) on October 24, 2007; those comments have not been addressed in the submitted draft Environmental Impact Report. Please ensure that all those comments will be addressed in the final EIR.

8.b

Mr. Zia Abu Bakar
July 8, 2011
Page 2

- 2) If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). If it is determined that hazardous wastes will be generated, the facility should also obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942. Certain hazardous waste treatment processes or hazardous materials, handling, storage or uses may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA.
- 3) Also, in future CEQA document, please provide your e-mail address, so DTSC can send you the comments both electronically and by mail.

8.c

8.d

If you have any questions regarding this letter, please contact Rafiq Ahmed, Project Manager, at rahmed@dtsc.ca.gov, or by phone at (714) 484-5491.

Sincerely,



Greg Holmes
Unit Chief
Brownfields and Environmental Restoration Program

cc: Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044
state.clearinghouse@opr.ca.gov

CEQA Tracking Center
Department of Toxic Substances Control
Office of Environmental Planning and Analysis
P.O. Box 806
Sacramento, California 95812
Attn: Nancy Ritter
nritter@dtsc.ca.gov

CEQA # 3242

Greg Holmes, Unit Chief

**California Department of Toxic Substances Control (DTSC)
Brownfield and Environmental Restoration Program**

Response No. 8

8.a The comment states that previous comments submitted in response to the NOP have not been addressed in the Draft EIR. The Department's NOP comment is attached, and hereby incorporated into the EIR. Provided below are the responses to the Department of Toxic Control Substances' NOP comment letter:

- (1) The comment states that the EIR should identify and determine whether current or historic uses at the Project site may have resulted in a release of hazardous wastes or substances. As noted on page 1 of the *Hazardous Materials Review* (Draft EIR Appendix F), the northwesterly property within Riverside County was primarily used for dry-type winter farming or cattle grazing from as early as 1958 until the present. The property vicinity was occupied by the San Gorgonio Rancho in approximately 1823 as an outpost to the Mission San Gabriel Arcangel in the San Gabriel Valley. Due to the distance from the mission, the San Gorgonio Rancho was used strictly for grazing livestock. All hazardous wastes or substance found on site are expressly described in the "Memorandum Summaries" of this Draft EIR Appendix (page 1 of the two 2007 technical memorandums).
- (2) The comment requests that the EIR evaluate whether conditions at the site may pose a threat to human health or the environment. Draft EIR Section 4.8, Impact Statement 4.8-2 evaluates the risk of upset from conditions at the Project site. The prior uses and existing conditions on the site were determined to pose a less than significant impact with mitigation in regard to risk of upset.

The comment also lists databases of some of the regulatory agencies. These databases were queried for information regarding the Project site and information obtained from these databases is provided in the 2007 *Hazardous Materials Reviews* for the 19.5 acre northwesterly property and the remaining 1,552-acre portion of the site (refer to pgs. 2 and 4, respectively). The 2007 Reviews state that an EDR report of Standard Environmental Record Sources was prepared specifically for the Project site. The Project site was not identified on any of the databases queried for the EDR report.

- (3) The comment requests that the EIR identify the mechanisms to initiate any required investigation and/or remediation of any site that may be contaminated, and the government agency to provide appropriate regulatory oversight. Mitigation Measures HAZ-1 through HAZ-8 contain mechanisms by which the risk of exposure to hazardous materials will be reduced to less than significant levels. The overseeing agency, department, or individual, as well as the timing and criteria for action, is listed for each mitigation measure in the Mitigation Monitoring and Report Plan accompanying the staff report.

The comment also states that an environmental assessment should be conducted if hazardous materials or waste were, or are, stored onsite. Multiple *Hazardous Materials Reviews* were conducted (see Draft EIR Appendix F) for the Project site from 2002 to 2007. It was determined in these Reviews that no further assessments were necessary. However, Mitigation Measure HAZ-5 was inserted in the Draft EIR to require that additional assessment and testing be completed and proper methods of handling and disposal be identified and implemented for any particular hazardous waste or toxic material identified onsite.

- (4) The comment states that proper investigation, sampling and remedial actions overseen by the appropriate agency, if necessary, should be conducted prior to new construction. Refer to Response 8.a(3) above.
- (5) The comment states that if any property adjacent to the Project site is contaminated with hazardous chemicals, and if the Project site is within 2,000 feet from a contaminated site, appropriate precautions should be taken prior to construction.

The 2007 Hazardous Materials Reviews for the 19.5 acre northwesterly property and the remaining 1,552-acre portion of the site (pages 3 and 4, respectively) list adjoining properties identified during the review of regulatory agency records. The Reviews, however, determined that the potential for environmental impact to the Property from the adjoining properties appear to be low due to the type of regulatory listing and/or the fact that there are no reported violations or spills.

- (6) The comment states that appropriate sampling is required prior to disposal of excavated soils and if import soils are used onsite, proper sampling should be conducted. The basic grading of the site, including the remedial grading, is anticipated to balance on site (equal cut and fill). Therefore, no import or export of soils is anticipated.

- (7) The comment states that human health and the environment of sensitive receptors should be protected during the construction or demolition activities. As stated in Response 8.a(1) above, all hazardous wastes or substance found on site are expressly described in the "Memorandum Summaries" of this Draft EIR Appendix (pg. 1 of the two 2007 technical memorandums). The associated remediation efforts are required pursuant to Mitigation Measure HAZ-5, including testing, handling, and disposal requirements.
- Additionally, pursuant to Mitigation Measure HAZ-1, the grading plans will indicate methods to address potential contamination during construction, as well as safety consideration for onsite construction personnel and the general public.
- (8) The comment states that certain hazardous waste treatment processes may require authorization for the local Certified Unified Program Agency (CUPA). Applicable oversight and enforcement measures by the Riverside County CUPA, the Riverside County Hazardous Materials Management Division, are identified Section 4.8.5, pages 4.8-42 to 4.8-44 of the Draft EIR.
- (9) The comment asserts that the site may contain pesticide and agricultural chemical residue or dairy, animal or hazardous waste. The comment states that proper investigation and remedial actions, if necessary, should be conducted at the site prior to construction. As stated in the 2007 *Hazardous Materials Review* (Draft EIR Appendix F) for the 1,552-acre portion of the site, the Riverside County Agricultural Commissioner stated that there has been no major row or orchard crops on the site and the site consisted of cattle grazing only. The Commissioner did state that the northwestern portion of the Project site had been used for dry farming, but no herbicide or pesticides were used. The *Hazardous Materials Review* determined that no further assessment appears warranted in this regard.
- (10) The comment states that if during construction/demolition, soil and/or groundwater contamination is suspected, construction/demolition in the area should cease and appropriate health and safety procedures should be implemented.

Refer to Mitigation Measure HAZ-5 in the Draft EIR, which requires that additional assessment and testing be completed and proper methods of handling and disposal be identified and implemented for any particular hazardous waste or toxic material potentially identified onsite. Also, HAZ-1 requires that grading plans indicate methods to address potential contamination inadvertently discovered during construction. This measure also requires that earthwork immediately cease upon encountering hazardous substances. The measure further requires that a qualified hazardous materials engineer prepare a response plan using risk-based cleanup standards applicable to residential land uses. Upon approval of the response plan by the Fire Department or other agency, as applicable, the engineer will obtain any

required permits, oversee the removal of such features and/or conduct the response work to the satisfaction of the Fire Department or other agency, as applicable, until closure status is attained.

- 8.b The comment states that if hazardous wastes are, or will be, generated by the proposed Project, wastes must be managed in accordance with the California Hazardous Waste Control Law and Hazardous Waste Control Regulations. As identified on page 4.8-29 of the Draft EIR, to ensure safe handling, storage, use, and transport of hazardous materials associated with wastewater treatment, the facility would comply with Standard Guidelines adopted by the federal Occupational Safety and Health Administration (Hazardous Waste Operations and Emergency Response Standard, Title 29 Code of Federal Regulations (CFR) Part 1910.120), as well as the California Department of Toxic Substances Control (DTSC). In addition, operational transportation, storage, use, and disposal of hazardous materials and wastes would comply with all regulations, guidelines, and standards contained within the County's Hazardous Waste Management Plan and applicable permitting procedures required by all Federal, State, and local agencies associated with hazardous materials.
- 8.c The comment requests that in future CEQA documents an email address should be provided in order for DTSC to submit comments electronically. The NOA included a reference to the City's website and a phone number to contact staff. The City will endeavor to include an email address in addition to a physical address so interested parties may submit comments electronically.
- 8.d The comment requests that the City provide an e-mail address for future communication regarding this Project. Further communication regarding this Project can be forwarded electronically to Zai Abu Bakar, Community Development Director, at zabubakar@ci.banning.ca.us.

Agency Comment Letter
No. 9



Linda S. Adams
Acting Secretary for
Environmental Protection



Department of Toxic Substances Control

Deborah O. Raphael, Director
5796 Corporate Avenue
Cypress, California 90630



Edmund G. Brown Jr.
Governor

July 20, 2011

Ms. Zai Abu Bakar
City of Banning
99 E. Ramsey Street
Banning, California 92220
(zabubakar@ci.banning.ca.us)

DRAFT ENVIRONMENTAL IMPACT REPORT FOR BUTTERFIELD SPECIFIC PLAN
PROJECT, BANNING, RIVERSIDE COUNTY (SCH 2007091149)

Dear Ms. Bakar:

The Department of Toxic Substances Control (DTSC) has reviewed the Draft Environmental Impact Report (EIR) dated June 3, 2011, for the subject project. Based on review of the submitted document, DTSC would like to provide the following comments:

1. The proposed project includes the construction of two approximately 11-acre elementary school sites, served by the Banning Unified School District (USD) and Beaumont USD. } 9.a
2. If Banning USD and Beaumont USD plan to use State funds for the project, then they shall comply with the requirements of Education Code sections 17213.1 and 17213.2, unless otherwise specifically exempted under section 17268. } 9.b
3. The Draft EIR indicates irrigated farming may have been conducted prior to 1988. If the site was used for agricultural, livestock or related activities, onsite soils and groundwater might contain pesticides, agricultural chemical, organic waste or other related residue. Proper investigation, and remedial actions, if necessary, should be conducted under the oversight of and approved by a government agency at the site prior to construction of the project. } 9.c
4. Future project construction may require soil excavation or filling in certain areas. Sampling may be required. If soil is contaminated, it must be properly disposed and not simply placed in another location onsite. Also, if the project proposes to import soil to backfill the areas excavated, sampling should be conducted to ensure that the imported soil is free of contamination. } 9.d

♻️ Printed on Recycled Paper

Ms. Zai Abu Bakar
July 20, 2011
Page 2

If you would like to discuss this matter further, please contact me at (714) 484-5498 or josornio@dtsc.ca.gov.

Sincerely,


Juan Osornio
Project Manager
Schools Team – Cypress Office
Brownfields and Environmental Restoration Program

cc: State Clearinghouse (via e-mail)
Office of Planning and Research
(State.clearinghouse@opr.ca.gov)

Mr. Michael O'Neill (via e-mail)
Department of Education – Sacramento, CA
(Moneill@cde.ca.gov)

Mr. Darren Edgington (via e-mail)
Environmental Planner
(dedgington@rbf.com)

Ms. Nancy Ritter (via e-mail)
DTSC CEQA Tracking Center – Sacramento HQ
(NRitter@dtsc.ca.gov)

BERP Reading File – Cypress

CEQA Reading File – Cypress

**Juan Osornio, Project Manager
California Department of Toxic Substances Control (DTSC)
Brownfields and Environmental Restoration Program
Schools Team – Cypress Office**

Response No. 9

- 9.a The comment states that if State funds are to be used for school implementation, then the Project would be required to comply with the requirements of Education Code Sections 17213.1 and 17213.2, which require the preparation of a Preliminary Environmental Site Assessment for potential school sites. The applicant is not proposing to construct any school site(s); rather, these are being set aside for purchase by the school districts, which will then follow appropriate local, state and federal requirements. The school districts have not committed to building new schools at these sites or determined that such schools are necessary. The school districts may rely in part or whole upon this EIR, as determined appropriate by the school districts and responsible agencies, pursuant to CEQA.
- 9.b The comment states that there is a potential that onsite soils and groundwater may contain pesticides, agricultural chemical, organic waste, or other related residue. The Environmental Site Assessment (ESA) prepared for the Project does not include a finding that pesticides or herbicides were used to support prior agricultural uses, as identified on page 6 of the Hazardous Materials Technical Review prepared for the Project dated March 12, 2007 by Converse Consultants.

Hazardous waste management on construction sites is regulated by the Department of Toxic Substances Control, pursuant to the California Hazardous Waste Control Act while the disposal of inert construction debris is regulated by CalRecycle. As part of the implementation of the Butterfield Specific Plan Project, the developer and its contractors/subcontractors would be required to comply with existing hazardous materials regulations, which are codified in Titles 8, 22, and 26 of the California Code of Regulations, and their enabling legislation set forth in Chapter 6.95 of the California Health and Safety Code as well as with the applicable provisions of Title 14 of the Natural Resources Code¹⁴ which includes the disposal of inert construction debris. In addition, the Project would be required to comply with applicable federal, State, and local laws and regulations pertaining to the transport, use, and disposal of hazardous waste, including, but not limited to, Title 49 of the Code of Federal Regulation and as implemented by Title 13 of the CCR. In addition, mitigation measure HAZ-1 on page 4.8-31 of the Draft EIR, requires that grading plans indicate methods to address potential contamination discovered during construction.

With respect to groundwater potentially containing pesticides, as identified in Mitigation Measure WS-1 on page 4.14-36 of the Draft EIR, the City will periodically conduct a groundwater audit that evaluates groundwater level trends, production rates, groundwater quality or other aquifer/well/pump considerations from the previous year. This would ensure groundwater quality in the Project area.

Also refer to Response No. 8.

Agency Comment Letter
No. 10

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

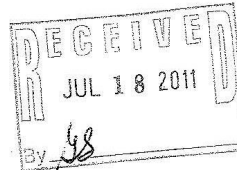
EDMUND G. BROWN Jr. Governor

DEPARTMENT OF TRANSPORTATION

DISTRICT 8
PLANNING
464 WEST 4th STREET, 6th Floor MS 725
SAN BERNARDINO, CA 92401-1400
PHONE (909) 383-4557
FAX (909) 383-6890
TTY (909) 383-6300



Flex your power!
Be energy efficient!



July 14, 2011

Zai Abu Bakar
City of Banning
99 E. Ramsey Street
Banning, CA 92220

Butterfield Specific Plan Draft Environmental Impact Report. SCH# 2007091149. Riv-10-PM
9.3/10.3

Dear Ms. Abu Bakar,

We have completed our review for the above noted project which is located north of Interstate 10 (I-10) east of Highland Springs Avenue, west of Highland Home Road, and north of Wilson Street in City of Banning. The project proposes a maximum of 5,387 dwelling units, a golf course and open space, parks, and other open space, to school sites, an existing utility substation facility, a potential fire station site and other uses.

As the owner and operator of the State Highway System (SHS), it is our responsibility to coordinate and consult with local jurisdictions when proposed development may impact our facilities. As the responsible agency under the California Environmental Quality Act (CEQA), it is also our responsibility to make recommendations to offset associated impacts with the proposed project. Although the project is under the jurisdiction of the City of Banning due to the Project's potential impact to State facilities it is also subject to the policies and regulations that govern the SHS.

} 10.a

We recommend the following comments:

Traffic Operations

1. We request a hard copy of the Traffic Impact Study for review.
2. There is a proposed realignment of Joshua Palmer Way and the new signalized intersection between westbound ramp and E 6th St/W Ramsey St. The study should be considered with this new intersection. Please contact the City for more information on this.
3. Please include opening year, and future with/without project conditions in this study.

} 10.b
} 10.c
} 10.d

"Caltrans improves mobility across California"

Ms. Abu Bakar
July 7, 2011
Page 2

Water Quality

1. Section 4.9.2.2 , page 4.9-16, bullet "Constructing General Permit" (CGP) – update Order No. to the current CGP in effect since July 2010. Include Project Registration Documents that must be submitted with the NOI. } 10.e
 2. Page 4.9-18 – revise last 2 sentences of the third paragraph – the General Construction Permit has already been revised and is currently in effect. } 10.f
 3. Exhibit 4.9-1 – replace "San Jacinto Watershed" label with "Santa Ana Regional Water Quality Control Board", since the map is meant to show jurisdictional boundaries. } 10.g
 4. Section 8.0 – include qualifications for all authors of technical studies. } 10.h
- We appreciate the opportunity to offer comments concerning this project. If you have any questions regarding this letter, please contact Joe Shaer at (909) 383-6908 or myself at (909) 383-4557 for assistance. } 10.i

Sincerely,



DANIEL KOPULSKY
Office Chief
Community Planning/IGR-CEQA

"Caltrans improves mobility across California"

Daniel Kopulsky, Office Chief
California Department of Transportation (CalTrans)
District 8
Community Planning/IGR-CEQA

Response No. 10

- 10.a The California Department of Transportation (CalTrans) notes that due to the Project's potential impact to State facilities, it is CalTrans' responsibility to make recommendations to offset associated Project-related impacts. The City has noted that CalTrans is a responsible agency under CEQA Guidelines. Responses to CalTrans' individual comments are incorporated below.
- 10.b The commentor is requesting a hard copy of the Traffic Impact Study (TIA). The City sent an electronic copy (CD) of the TIA to CalTrans on June 3, 2011 at the start of the Draft EIR public review period. The TIA was, and is, also available on the City's website at <http://banning.ca.us/Archive.aspx?AMID=54&Type=&ADID=>.
- 10.c The commentor states that there is a proposed realignment of Joshua Palmer Way and the new signalized intersection between westbound ramp and E. 6th Street/W. Ramsey Street. The commentor suggests that the TIA should have considered this potential new intersection.

The concept of realignment of Joshua Palmer Way and the new signalized intersections between westbound ramp and 6th Street/Ramsey Street was developed after the NOP and subsequent completion of the Traffic Impact Analysis (TIA) for the Butterfield Specific Plan Project. Hence, it is not included in the TIA. These are proposed interim improvements which will proceed independent of the Project, and are necessary to alleviate existing circulation deficiencies. The City and applicant are currently working with Caltrans in the review and approval of these interim improvement plans, which include the installation of new traffic signals at the proposed intersection of re-aligned Joshua Palmer Way further to the north from the I-10 westbound ramps, additional access control along Highland Springs Avenue, modification to existing traffic signals at Highland Springs Ave. and the I-10 westbound ramps, signal synchronizing and coordination in this area, and modifications to turning pockets on Highland Springs Avenue. Incorporation of these improvements will mitigate existing traffic impacts occurring today as well as future traffic impacts associated with buildout of the Project and General Plan. The plans for this work are currently being reviewed by the Cities of Banning and Beaumont and the aspects involving Caltrans right-of-way should be shortly submitted to Caltrans as a formal encroachment permit application.

- 10.d The commentor requests that the TIA include an analysis of opening year and future with/without Project conditions.

The Project will be built over a 30-year period. Hence, there is no “opening year.” The Project impacts to existing traffic conditions are analyzed in the TIA. Project impacts were conservatively analyzed by adding 100% of the Project trips to the existing road system (identified as the Existing [Baseline] Plus Project Condition. The improvements required to mitigate the Project impacts are also included in the TIA. The Project build-out analysis (2042) with and without the Project and a General Plan build-out analysis with and without project is included in the study. Additionally, the TIA included “interim years” 2022 and 2032, which represent partial buildout scenarios between first occupancy and buildout.

- 10.e The commentor requests that the current Construction General Permit (CGP) Order Number be updated to reflect the most-recent CGP in effect. Please refer to Section 4.0, Errata, of this document. The CGP Order Number has been updated to the most-recent version.

- 10.f The commentor requests revisions to the Draft EIR text. Clarifications have been added. Please refer to Section 4.0, Errata, of this document, under heading “Page 4.9-18, Third Paragraph”.

- 10.g The commentor requests revisions to Exhibit 4.9-1 of the Draft EIR. Clarifications have been added. Please refer to Section 4.0, Errata of this document.

- 10.h The commentor requests that the Draft EIR include qualifications of all authors of technical studies in Chapter 8.0, *Organizations and Persons Consulted*. This comment does not raise any specific technical issue with the EIR, and providing the requested information is not required by CEQA, as the City of Banning has determined that the technical studies are adequate under CEQA. Also refer to Master Response 1.

Agency Comment Letter
No. 11

STATE OF CALIFORNIA

Edmund G. Brown, Jr., Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
e-mail: ds_nahc@pacbell.net



June 14, 2011

Zai Abu Bakar
CITY OF BANNING
99 East Ramsey Street
Banning, CA 92220

Re: Tribal Consultation Per Government Code §§ 65092, 65351, 65352.3, 65352.4, 65560 and 65562.5 (SB 18) for General Plan Amendment, Butterfield "Specific Plan"; SCH#2007091149 (DEIR); City of Banning, Riverside County, California

Dear ZAI ABU BAKAR:

Government Code §65352.3 requires local governments to consult with California Native American tribes identified by the Native American Heritage Commission (NAHC) for the purpose of protecting, and/or mitigating impacts to cultural places. The Native American Heritage Commission is the state "trustee agency" designated for the protection of Native American Cultural Resource pursuant to CA Public Resources Code §21070. Attached is a consultation list of tribes with traditional lands or cultural places located within the Project Area of Potential Effect (APE). The tribal entities on the list are for your guidance for **government-to-government consultation** purposes. Pursuant to CA Public Resources Code §5097.95, please provide pertinent project information to the tribal consulting parties.

The NAHC did perform a Sacred Lands File search of the project location and **Native American cultural resources were not identified** by the USGS coordinates provided. Also, the NAHC Sacred Lands Inventory is not exhaustive; cultural resources may be discovered during construction ground-breaking activity. Please contact the Native Americans on the attached list to determine, from their knowledge, if the proposed changes might impact on Native American cultural resources, in order to see if your proposed project might impact Native American cultural resources that may be affected by the proposed action. If so, Section 15382 of the CEQA Guidelines defines a significant impact on the environment as "substantial," and Section 2183.2 requires documentation, data recovery of cultural resources identified.

The Native American Heritage Commission works with Native American tribal governments regarding its identification of 'Areas of Traditional Use.' The Commission may adjust the submitted data defining the 'Area of Traditional Use' in accordance with generally accepted ethnographic, anthropological, archeological research and oral history.

If you have any questions, please contact me at (916) 653-6251.

Sincerely,

Dave Singaman
Program Analyst

Cc: State Clearinghouse

Attachment: Native American Tribal Consultation List

} 11.a

**Native American Tribal Consultation List
Riverside County
June 14, 2011**

nona Band of Cahuilla Mission Indians
Joseph Hamilton, Chairman
P.O. Box 391670 Cahuilla
Anza , CA 92539
admin@ramonatribe.com
(951) 763-4105

Santa Rosa Band of Mission Indians
Mayme Estrada, Chairwoman
P.O. Box 609 Cahuilla
Hermet , CA 92546
srbcioffice@yahoo.com
(951) 658-5311
(951) 658-6733 Fax

Morongo Band of Mission Indians
Robert Martin, Chairperson
12700 Pumarra Road Cahuilla
Banning , CA 92220 Serrano
(951) 849-8807
(951) 755-5200

Serrano Nation of Indians
Goldie Walker
P.O. Box 343 Serrano
Patton , CA 92369

(909) 862-9883

Cahuilla Band of Indians
Luther Salgado, Sr., , Chairperson
PO Box 391760 Cahuilla
Anza , CA 92539
tribalcouncil@cahuilla.net
915-763-5549

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is applicable only for consultation with Native American tribes under Government Code Section 65352.3.

Dave Singleton, Program Analyst
Native American Heritage Commission (NAHC)

Response No. 11

- 11.a The comment requests that the City provide all pertinent Project information to additional tribal consulting parties. The tribal entities on the attached list have been added to our mailing list, and will receive all future mailings associated with the proposed Project. Section 4.6 of the DEIR (and Appendix D) indicates that the City conducted native American consultation pursuant to SB18 and CEQA requirements. The DEIR NOA was also distributed to local tribes, and only the Morongo Band of Mission Indians commented (refer to Comment No. 21).

Mitigation Measure CUL-4 in Chapter 4.6, *Cultural Resources*, of the Draft EIR, states that if previously unknown cultural resources, including human remains, are identified during grading activities, a qualified archaeologist shall be retained to assess the nature and significance of the find. If human remains are encountered, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner shall be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner shall notify the Native American Heritage Commission (NAHC), which shall determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 24 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials.

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Agency Comment Letter
No. 12

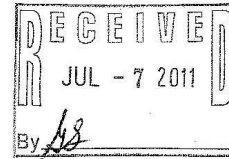
WARREN D. WILLIAMS
General Manager-Chief Engineer



1995 MARKET STREET
RIVERSIDE, CA 92501
951.955.1200
FAX 951.788.9965
www.rcflood.org
139190

RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

July 6, 2011



City of Banning
Department of Planning
Post Office Box 998
Banning, CA 92220

Ladies and Gentlemen:

Re: Notice of Availability (NOA) and Public Meeting for Butterfield Specific Plan Draft Environmental Impact Report (EIR)

This letter is written in response to the Notice of Availability of the Butterfield Specific Plan Draft Environmental Report (EIR). The project is located north of I-10, between Highland Springs and Highland Home Roads. The project is a comprehensive Specific Plan Amendment of the previously approved Deutsch Property (Banning) Specific Plan. The project proposes residential, potential golf course, parks, open space, school sites, and commercial uses, similar to those proposed by the previously adopted Deutsch Specific Plan, on 1,522 acres.

12.a

The Riverside County Flood Control and Water Conservation District has reviewed the NOA and has the following comments:

1. The proposed Butterfield Specific Plan is located within the District's Banning Master Drainage Plan (MDP). When fully implemented, MDP facilities would relieve the most serious flooding problems and would provide adequate drainage outlets. The drainage plan for the Butterfield Specific Plan appears to propose the functional equivalent of the District's Banning MDP Lines I, I-1 and Smith Creek Basin. Additional protection/drainage facilities are likely needed to protect the proposed development in its entirety. The District's MDP facility maps can be viewed online under Programs and Services at www.rcflood.org.
2. Portions of the proposed General Plan Update area are located within the 100-year Zone A floodplain limits as delineated on the Federal Flood Insurance Rate Map (FIRM) issued in conjunction with the National Flood Insurance Program (NFIP). The City of Banning is responsible for compliance with the FEMA floodplain management regulations within the city limits.
3. The District has existing facilities within the proposed General Plan Update area that may be impacted by future development. Any work that involves District right of way, easements or facilities will require an encroachment permit from the District. The construction of facilities within road right of way that may impact District storm drains should also be coordinated with the District.

12.b

12.c

12.d

139190

City of Banning -2- July 6, 2011
Re: Notice of Availability (NOA)
and Public Meeting for Butterfield
Specific Plan Draft Environmental Impact Report (EIR)

- 4. Upon written request from the City of Banning, the District would consider ownership of drainage facilities proposed with this development. Facilities would need to be constructed to District standards, and District plan check and inspection would be required. } 12.e
- 5. The Colorado River Basin Regional Water Quality Control Board (CRWQCB) has issued a Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) Permit (R7-2008-0001) to the County of Riverside, Riverside County Flood Control and Water Conservation District and incorporated Cities within the Whitewater Watershed. Development projects within the Butterfield Specific Plan located in the Whitewater Watershed may be required to prepare and implement a WQMP. } 12.f
- 6. The District is a signatory to the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). For purposes of procuring an encroachment permit from the District, the permit applicant will need to demonstrate that the portion of the project located within District rights of way, easements or facilities is consistent with the MSHCP. The DEIR should include a MSHCP consistency report with all of its supporting documents and provide adequate mitigation in accordance with all applicable MSHCP requirements. The report should address, at a minimum, Sections 3.2, 3.2.1, 6.1.2, 6.1.3, 6.1.4, 6.3.2, 7.5.3 and Appendix C of the MSHCP. } 12.g

If you have any questions please feel free to contact me at 951.955.1345.

Very truly yours,



EDWIN QUINONEZ
Senior Civil Engineer

c: Riverside County Planning Department
Attn: Kathleen Browne

JCG:blj

Edwin Quinonez, Senior Civil Engineer
Riverside County Flood Control and Water Conservation
District (RCFCWCD)

Response No. 12

- 12.a The comment advises that additional protection/drainage facilities are likely needed to protect the proposed development. The proposed Butterfield drainage facilities would be constructed in place of the system described in the Riverside Drainage Master Plan but would provide the same level of protection and perform the same functions as the County-planned facilities. It is anticipated that the completed drainage system would reduce the Project's peak flows in the fully developed condition to a level below the volumes anticipated by the County Master Plan. Future tract maps, grading plans and improvement plans will require City review and approval, including compliance with RCFCWCD requirements.
- 12.b The comment states that the City of Banning is responsible for compliance with the FEMA floodplain management regulations within the City limits. Refer to Response 3.a.
- 12.c The comment states that the District has existing facilities within the proposed General Plan Update that may be impacted by future development. The Project Applicant would be required to obtain encroachment permits from the District when conducting any work that involves District right of way, easements or facilities. All construction that would occur within District right of ways would be coordinated with the District. As identified on page 4.9-23 of the Draft EIR, the Project shall conform to all requirements imposed by the Riverside County Flood Control and Water Conservation District Hydrology Manual.
- 12.d The comment states that the District would consider ownership of drainage facilities proposed as part of the Project. This will be considered by the City and the applicant as the Project continues through the design and implementation phases.
- 12.e The comment states that development projects within the Butterfield Specific Plan may be required to prepare a WQMP. As stated on page 4.9-30 of the Draft EIR, pursuant to the WQMP Guidelines for the Whitewater River Watershed area, the City of Banning will condition the Tentative Tract Maps for the proposed Project, to submit for review and approval a WQMP that incorporates site design BMPs such as minimizing impervious areas, maximizing permeability, minimizing directly connected impervious areas, creating reduced or "zero discharge" areas, and conserving natural areas to the

extent feasible. In addition, the WQMP is required to: (1) incorporate applicable source control BMPs and provide a detailed description of their implementation; (2) incorporate treatment control BMPs and provide information regarding design considerations; (3) describe the long-term operation and maintenance requirements for BMPs; and (4) describe the mechanism for funding the long-term operation and maintenance of the BMPs. WQMPs will have to be approved by the City prior to issuance of Grading Permits for their respective Tentative Tract Map and will be required to conform to the Riverside County Whitewater River Region Stormwater Quality Best Management Practice Design Handbook (June 2009). The resultant WQMP will be required to maintain or improve the current water quality conditions onsite and downstream of the proposed Project.

- 12.f The comment states that the Draft EIR should include an MSHCP consistency report. As stated on page 4.4-13 of the Draft EIR, an MSHCP Consistency Analysis is required for all discretionary projects within jurisdictions of MSHCP co-permittees such as the City of Banning. The Draft EIR does include a MSHCP consistency analysis (refer to Draft EIR Appendix C). , Moreover, the EIR notes that future tract map, grading plan and/or improvement plans will require additional MSHCP consistency analysis as part of the regulatory permitting process, at such time when detailed grading and drainage plans are prepared, and specific drainage facility improvements are designed.

Agency Comment Letter
No. 13

CO OF RIVERSIDE

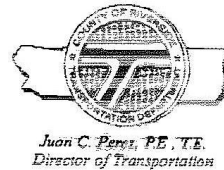
Fax: 951-955-0049

Jul 21 2011 17:14

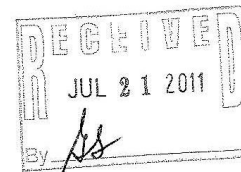
P. 02



COUNTY OF RIVERSIDE
TRANSPORTATION AND
LAND MANAGEMENT AGENCY
Transportation Department



July 21, 2011



City of Banning
Attn: Zai Abu Bakar, Community Development Director
Community Development Department
99 E. Ramsey Street
Banning, CA 92220

Subject: Notice of Availability (NOA), Butterfield Specific Plan Draft Environmental Impact Report

Dear Zai Abu Bakar:

Thank you for the opportunity to review the NOA for the DEIR for Butterfield Specific Plan in the City of Banning. The project proposes a maximum of 5387 dwelling units with other supporting land uses.

Under the County's Traffic Impact Analysis Guidelines, the impacts to Lamb Canyon Road at California Avenue (intersection #14) and Highland Springs Avenue at Erickside Avenue (intersection #20) would be considered project impacts under all project phases. The Riverside County Transportation Department requests that the project provide improvements necessary to mitigate project impacts to roadways and intersections within the County's jurisdiction.

Thank you again for the opportunity to review the NOA. Please contact me at (951) 955-2091 with questions or comments.

Sincerely,

Farah Khorashadi
Engineering Division Manager

FKrg

13.a

**Farah Khorashadi, Engineering Division Manager
County of Riverside Transportation and Land Management
Agency (TLMA) Transportation Department**

Response No. 13

- 13.a The comment states that under the County’s Traffic Impact Analysis (TIA) Guidelines, the impacts to Lamb Canyon Road at California Avenue (Intersection #10) and Highland Springs Avenue at Brookside (Intersection #20) would be considered Project impacts under all Project phases. The comment requests that the Project provide improvements necessary to mitigate Project impacts to roadway and intersections within the County.

Project impacts are identified in the “existing plus Project conditions” and the improvements to mitigate those impacts are directly or indirectly funded by the Project. The project is not responsible for fully funding the improvements required in the “General Plan Build-out conditions.” As shown in Tables 4.13-3 and 4.13-9 of the Draft EIR, the Project does not trigger the requirement for improvements at Intersection #10 (Lamb Canyon/California), but does trigger improvements at #20 (Highland Springs/Brookside). Table 4.13-16 shows that the Project is estimated to contribute approximately 7.8% of the future traffic at Intersection #10, and approximately 29% of the future traffic at Intersection #20.

Therefore, the Project proposes to make improvements at Highland Springs Avenue/ Brookside Avenue, subject to County concurrence and approval. However, as noted in Response No. 19, these locations are not within the purview of the City of Banning, but are County of Riverside road improvements. If the applicant constructs improvements of a County facility, these improvement costs are expected to be credited toward TUMF fees. As noted in the Draft EIR, due to the uncertainty on timing, ROW and funding for improvements outside the City of Banning, and inability of the City to control another jurisdiction’s capital improvement program, these County improvements may not be constructed, or may not be constructed in a timely manner, and as such are identified as a potentially unavoidable significant impact. Response No. 19, and Master Response No. 2, also indicate that the County may, and the applicant has no preference or control over, elect to construct a different alignment for the Highland Home Road extension, via Cherry Boulevard rather than Brookside Avenue.

With respect to Intersection #10, this location requires improvements to accommodate General Plan buildout, with or without the Project. The recommended improvements at the intersection of Lamb Canyon Road/California Avenue are currently funded through a combination of the WRCOG TUMF program and City of Beaumont Traffic Signal Fee

program. The proposed improvements at the intersection of Highland Springs Avenue/Brookside Avenue are partially funded through the WRCOG TUMF program. The additional improvements required to mitigate this intersection in the “General Plan Build out conditions” are not the responsibility of the Project.

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Agency Comment Letter
No. 14



South Coast
Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765-4182
(909) 396-2000 • www.aqmd.gov

E-MAILED: JULY, 21, 2011

July 21, 2011

Ms. Zai Abu Bakar, Director, zabubakar@ci.banning.ca.us
Community Development Department
City of Banning
99 E. Ramsey Street
Banning, CA 92220

Draft Environmental Impact Report (Draft EIR) for the Proposed Butterfield Specific Plan (SCH# 2007091149)

The South Coast Air Quality Management District (AQMD) appreciates the opportunity to comment on the above-mentioned document. The following comments are meant as guidance for the Lead Agency and should be incorporated into the Final CEQA document.

In the project description, the lead agency proposes the construction of a maximum of 5,387 residential dwelling units (936.4 acres); a golf course and open space (253.9 acres); parks (66.5 acres); two school sites (23.0 acres); commercial/office sites (36.0 acres); and other development on a total area of approximately 1,543 acres. The AQMD staff has concerns regarding the air quality construction and operational air quality analyses for regional emissions and is also concerned that the lead agency has not estimate localized air quality impacts. The AQMD staff is also concerned that the Draft EIR does not include specific targets to reduce the large increase in project operational mobile sources and the associated operational emissions generated consistent with the emission reduction targets established by SB 375. Finally, the Final EIR should include emission estimates and supporting documentation for emissions generated by the construction and operation of the proposed waste water treatment plant (WWTP). AQMD requirements including permits for applicable equipment and odor controls for the construction and operation of the proposed waste water treatment plant (WWTP) should also be cited in the Final EIR. Detailed comments are attached in this letter.

Pursuant to Public Resources Code Section 21092.5, please provide the AQMD with written responses to all comments contained herein prior to the adoption of the Final Environmental Impact Report. The AQMD staff is available to work with the Lead Agency to address these issues and any other air quality questions that may arise. Please contact Gordon Mize, Air Quality Specialist – CEQA Section, at (909) 396-3302, if you have any questions regarding these comments.

14.a

Ms. Zai Abu Bakar,
Director

2

July 21, 2011

Sincerely,



Ian MacMillan
Program Supervisor, Inter-Governmental Review
Planning, Rule Development & Area Sources

Attachment

IM:GM

RVC110607-15
Control Number

Ms. Zai Abu Bakar,
Director

3

July 21, 2011

Fugitive Dust Emissions From Construction Activities

1. The URBEMIS2007 model outputs presented in Appendix B include a variety of mitigation measures to control fugitive dust, including many identified in Tables 4.3-5 and 4.3-7. Unfortunately, due to a known calculation error within the URBEMIS2007 model,¹ applying all mitigation measures results in spuriously high dust control efficiencies (e.g., up to 84% for this project). In order to correct this error, AQMD staff recommends that the lead agency only include the single highest control measure in the URBEMIS model run. Depending on each project, this would be either the application of water 3 times per day or chemical suppressants. The higher resultant PM10 emissions may exceed AQMD's regional thresholds.
2. In Table 4.3-7 Phase 3 Construction Air Emissions, unmitigated and mitigated emission estimates are substantially different than the URBEMIS2007 computer output sheets for Phase 3 shown in Appendix B of the Draft EIR. For example, Year 2019 unmitigated grading emissions show 3,084.92 pounds per day for PM10, 646.46 pounds per day of PM2.5, 79.56 pounds per day of NOx, 11.12 pounds per day of ROG, and 47.71 pounds per day of CO. The URBEMIS2007 output sheets, however, show 609.35 pounds per day for PM10, 133.87 pounds per day of PM2.5, 238.69 pounds per day of NOx, 33.36 pounds per day of ROG, and 143.13 pounds per day of CO. There are also differences between the emissions reported in Table 4.3-8 Phase 4 Construction Emissions where in Year 2032 NOx is shown to be less than significant in the table (unmitigated 42.81 pounds per day) but exceeds the recommended threshold level of 100 pounds per day for NOx in the corresponding URBEMIS output sheets (128.44 pounds per day). Table 4.3-9 Phase 5 Construction Air Emissions for Year 2035 and its corresponding URBEMIS output sheets have a similar concern. In the Final EIR, these differences should be clarified and revised as needed (see also comment #1 regarding mitigation measure control efficiencies in the URBEMIS model).

} 14.b

} 14.c

Localized Significance Thresholds Analysis

3. Although regional project emission impacts have been estimated, the lead agency has not estimated localized air quality impacts. The AQMD staff recommends that the lead agency either:
 - 1) Estimate localized air quality impacts to ensure that any nearby sensitive receptors are not adversely affected by the construction activities that are occurring in close proximity, or
 - 2) Commit to conducting additional CEQA analysis (including localized impacts) for each specific phase of this project prior to its development.

} 14.d

It is noted on page 3.0-1 under surrounding land uses and in an aerial map inspection that the proposed project is located within one-quarter mile of sensitive receptors (residential uses, a pre-school, and two hospitals) surrounding the proposed project.

¹ www.aqmd.gov/ceqa/models.html

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AQMD guidance for performing a localized air quality analysis can be found on the AQMD web page.² The AQMD's LST guidance is voluntary but a lead agency still must demonstrate under CEQA that a project does not exceed applicable Ambient Air Quality Standards during construction and operation. Should the lead agency conclude after its analyses that construction or operational localized air quality impacts exceed the AQMD daily significance thresholds, staff has compiled mitigation measures in addition to those measures listed starting on page 4.3-29 of the Draft EIR that can be implemented if the air quality impacts are determined to be significant.³

14.d
cont.

Mobile Source Emission Impacts

4. Based on a review of the draft EIR the AQMD staff is concerned about the project's operational air quality impacts. Specifically, the lead agency has determined that the project's operational phase will exceed the AQMD's CEQA significance thresholds resulting in significant regional and cumulative air quality impacts. The project's operational air quality impacts are primarily from mobile source emissions related to the significant increase of vehicle trips (62,263 daily trips) associated with the proposed project. The lead agency has discussed recommended reduction targets from various regional agencies including the Southern California Association of Governments (SCAG). For example, SCAG has adopted regional greenhouse gas (GHG) emission reduction targets under SB 375 of 8% by 2020 and 13% 2035. The lead agency has also recommended a specific measures on page 4.5-46 to reduce transportation and related air quality impacts but has not stipulated specific targets to reduce the large increase in mobile source emissions allowed under the proposed project. A reduction in GHGs will very likely provide co-benefits by reducing criteria pollutant emissions. Therefore, the AQMD staff recommends that the lead agency include quantitative targets and/or performance standards for the development of this plan in order to minimize the project's significant air quality impacts. Potential quantifiable mitigation measures are included in the greenhouse gas quantification report⁴ published by the California Air Pollution Control Officer's Association in the final EIR.

14.e

Operational Air Quality Impacts

5. In the project description, the proposed project includes the potential construction and operation of an on-site waste water treatment plant (WWTP) that would operate 24-hours a day treating up to 1.5 to 2.0 million gallons per day (mgd) of wastewater. In the Final EIR, the lead agency should quantify the short- and long-term air quality impacts from the WWTP activities (e.g., emergency diesel generators, treatment process emissions, etc.) and include the assumptions, emission calculations, emission

14.f

² <http://www.aqmd.gov/ceqa/handbook/LST/LST.html>

³ http://www.aqmd.gov/ceqa/handbook/mitigation/MM_intro.html

⁴ California Air Pollution Control Officer's Association, August 2010. Quantifying Greenhouse Gas Mitigation Measures. Accessed at <http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf>

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factors, methodologies used, etc. in the Final EIR. If the lead agency does not quantify these emissions in the Final EIR, then the lead agency should commit to providing additional CEQA review that includes the aforementioned analysis. As the AQMD is a responsible agency due to its permitting authority for emissions from waste water treatment processes, this additional analysis would be required prior to issuance of any permit.

14.f
cont.

Permit Requirements/Odors Control

6. The equipment used during the on-site waste water treatment plant operations may require permits from the AQMD. Therefore, the lead agency should cite compliance with applicable AQMD rules in the Final EIR. AQMD Rule 201 – Permit to Construct and Rule 203- Permit to Operate would apply for the use of backup diesel generators to pump waste water, recycled water, and potable water. Also, if volatile organic compounds are encountered during soil disturbance, then Rule 1166 – Volatile Organic Compound Emissions from Decontamination of Soil would apply. Rule 1150 - Excavation of Landfill would apply if refuse is present in the soil. Lastly, odors from wastewater treatment would have to be prevented, so ventilation from the building to an appropriate odor control device (e.g., biofilter, scrubber, activated carbon, etc.) may be required. Permit or odor control questions can be directed to AQMD staff at (909) 396-2684.

14.g

Construction Mitigation Measures

7. In the Draft EIR, the lead agency has determined that construction air quality impacts will exceed the recommended daily significance threshold for reactive organic compounds (ROG). In the event that the lead agency determines that construction air quality impacts will also exceed the AQMD's daily significance threshold for oxides of nitrogen (NOx), carbon monoxide (CO), particulate matter PM10, and PM2.5 (see comments numbers 1-3), the AQMD staff recommends that the lead agency also consider adding the following mitigation measures in addition to the measures listed starting on page 4.3-29 to further reduce adverse project construction air quality impacts, if applicable and feasible:

Recommended Additional Mitigation Measures:

- Apply water three times daily, or non-toxic soil stabilizers according to manufacturers' specifications, to all unpaved parking or staging areas or unpaved road surfaces;
- Suspend all excavating and grading operations when wind speeds (as instantaneous gusts) exceed 25 mph;
- Reroute construction trucks away from congested streets or sensitive receptor areas;
- Sweep streets at the end of the day if visible soil is carried onto adjacent public paved roads (recommend water sweepers with reclaimed water); and

14.h

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- Appoint a construction relations officer to act as a community liaison concerning on-site construction activity including resolution of issues related to PM10 generation.

} 14.h
cont

Additional mitigation measures for consideration by the lead agency for off- and on-road engines and fugitive dust are also available at the AQMD website.⁵

} 14.i

⁵ http://www.aqmd.gov/ceqa/handbook/mitigation/MM_intro.html

Ian McMillian, Program Supervisor
South Coast Air Quality Management District (SCAQMD)
Inter-Government Review
Planning, Rules Development and Area Sources

Response No. 14

- 14a. The comment requests that written responses are provided to all comments prior to the adoption of the Final Environmental Impact Report (FEIR). Written responses will be provided per Section 21092.5 of the CEQA Statutes.
- 14b. Based on the note posted on the SCAQMD website (<http://www.aqmd.gov/ceqa/models.html>), the mitigation measures used when modeling the proposed project followed the SCAQMD's recommendation and did not include the use of chemical suppressants as a soil stabilizing mitigation measure. The project included the replacement of ground cover in disturbed areas quickly, water exposed surfaces two times daily, and equipment loading/unloading.
- 14c. The discrepancies between the emissions reported in Table 4.3-7, *Phase 3 Construction Air Emissions*, and Table 4.3-8, *Phase 4 Construction Air Emissions*, and the URBEMIS2007 outputs are due to an editing error. The construction assumptions were revised from URBEMIS2007 defaults to include project specific assumptions over the course of the analysis period. The 2019 and 2032 unmitigated grading emissions in Table 4.3-7 were not updated when project specific information was obtained and the model was revised. As a result, Table 4.3-7 and Table 4.3-8 in the Draft Environmental Impact Report (DEIR) will be revised as follows in the FEIR:

Table 4.3-7
Phase 3 Construction Air Emissions

Emissions Source	Pollutant (pounds/day) ^{1,2,4}					
	ROG	NO _x	CO	SO ₂	PM ₁₀	PM _{2.5}
PHASE 3^{5,6}						
2019 (Grading)						
Unmitigated Emissions	41.12 <u>33.36</u>	79.56 <u>238.36</u>	47.71 <u>143.13</u>	0.00 <u>0.01</u>	3,084.92 <u>609.35</u>	646.46 <u>133.87</u>
Mitigated Emissions ⁸	41.12 <u>33.36</u>	79.56 <u>35.54</u>	47.71 <u>143.13</u>	0.00 <u>0.01</u>	488.85 <u>103.92</u>	104.30 <u>28.32</u>
SCAQMD Thresholds	75	100	550	150	150	55
Is Threshold Exceeded?	No	No	No	No	Yes -No	Yes -No

Table 4.3-7 (continued)
Phase 3 Construction Air Emissions

Emissions Source	Pollutant (pounds/day) ^{1, 2, 4}					
	ROG	NO _x	CO	SO ₂	PM ₁₀	PM _{2.5}
2020 (Grading, Trenching, Paving, Building)						
Unmitigated Emissions	22.48	34.80	183.41	0.48	4.33	2.72
Mitigated Emissions ⁸	22.48	3.31	183.41	0.48	4.33	2.72
SCAQMD Thresholds	75	100	550	150	150	55
Is Threshold Exceeded?	No	No	No	No	No	No
2021 – 2029 (Building)³						
Unmitigated Emissions	5.72 15.84	27.38	136.30	0.48	4.15	2.56
Mitigated Emissions ⁸	5.72 5.97	6.81	136.30	0.48	4.15	2.56
SCAQMD Thresholds	75	100	550	150	150	55
Is Threshold Exceeded?	No	No	No	No	No	No
2030 2021 – 2031 (Architectural Coating)³						
Unmitigated Emissions	191.17 10.12	0.10 0.01	2.18 0.14	0.01 0.00	0.09 0.00	0.05 0.00
Mitigated Emissions	89.45 0.96	0.12 0.01	2.60 0.14	0.01 0.00	0.09 0.00	0.05 0.00
SCAQMD Thresholds	75	100	550	150	150	55
Is Threshold Exceeded?	Yes No	No	No	No	No	No
ROG = reactive organic gases; NO _x = nitrogen oxides; CO = carbon monoxide; SO ₂ = sulfur dioxide; PM ₁₀ = particulate matter less than 10 microns; PM _{2.5} = particulate matter less than 2.5 microns.						
Notes: 1. Emissions were calculated using the URBEMIS 2007 version 9.2.4 Computer Model, as recommended by the SCAQMD. The reduction/credits for construction emission mitigations are based on mitigation included in the URBEMIS 2007 version 9.2.4 Computer Model and as typically required by the SCAQMD (Rule 403 and Rule 1113). The mitigation includes the following: replace ground cover on disturbed areas quickly, water exposed surfaces twice daily, proper loading/unloading of mobile and other construction equipment, and the use of low ROG coatings. <u>Mitigated NO_x emissions also account for implementation of Mitigation Measure AQ-7 which requires the use of EPA certified off-road equipment. NO_x reductions are based on the percentage reductions identified in CARB Table I – CARB and EPA Off-Road Compression-Ignition (Diesel) Engine Standards (http://www.arb.ca.gov/msprog/ordiesel/documents/Off-Road_Diesel_Std.xls, accessed May 10, 2011), and SCAQMD Table II – Off-Road Engine Emission Rates and Comparison of Uncontrolled to Tiered Rates and Tiered to Tiered Rates (http://www.aqmd.gov/ceqa/handbook/mitigation/offroad/MM_offroad.html, accessed May 10, 2011).</u> 2. Note that the URBEMIS 2007 model has been found to overestimate diesel emissions from construction equipment, as it does not account for various rules and regulations such as the Portable Equipment Airborne Toxic Control Measure (ATCM), Transportation Refrigeration Units (TRU) ATCM, Red/Green Sticker Program, Carl Moyer Program, In-use Off-road Diesel Vehicle Regulation, and Local Rules (Sierra Research, Inc., <i>Emissions from Diesel-Fueled Non-Road Equipment in California</i> , April 19, 2010). Therefore, actual emissions may be lower than those presented above. However, the URBEMIS 2007 modeled emissions as presented is the suggested method of emissions quantification by CARB and the SCAQMD. 3. Emissions were similar during these years and the highest emissions are reported. 4. Refer to Appendix B, Air Quality Data, for assumptions used in this analysis. 5. Phase 3 includes construction of 1,761 single family dwelling units and 281 condominium/townhome units. 6. Grading activities would occur over an approximate 12 month period, trenching would occur for 2 months, paving would occur for 1 month, building would occur for 115 months, and architectural coatings would occur intermittently between 2021 and 2031. 8. CARB Certified Tier 4 equipment would be required post 2015 per Mitigation Measure AQ-7.						

**Table 4.3-8
Phase 4 Construction Air Emissions**

Emissions Source	Pollutant (pounds/day) ^{1,2,3}					
	ROG	NO _x	CO	SO ₂	PM ₁₀	PM _{2.5}
PHASE 4^{4,5}						
2032 (Grading, Trenching, Paving, Building)						
Unmitigated Emissions	6.24 <u>18.71</u>	42.81 <u>128.44</u>	32.51 <u>97.54</u>	0.11	683.14 <u>605.23</u>	143.90 <u>130.09</u>
Mitigated Emissions ⁶	6.24 <u>18.71</u>	6.78	32.51	0.11	109.14 <u>99.80</u>	24.02 <u>24.54</u>
SCAQMD Thresholds	75	100	550	150	150	55
Is Threshold Exceeded?	No	No	No	No	No	No
2033 (Building)						
Unmitigated Emissions	114.08	13.11	30.47	0.11	1.28	0.90
Mitigated Emissions ⁶	35.31	6.78	30.47	0.11	1.28	0.90
SCAQMD Thresholds	75	100	550	150	150	55
Is Threshold Exceeded?	No	No	No	No	No	No
2034 (Architectural Coating)						
Unmitigated Emissions	114.08	0.04	1.00	0.01	0.04	0.02
Mitigated Emissions	68.99	0.04	1.00	0.01	0.04	0.02
SCAQMD Thresholds	75	100	550	150	150	55
Is Threshold Exceeded?	No	No	No	No	No	No
ROG = reactive organic gases; NO _x = nitrogen oxides; CO = carbon monoxide; SO ₂ = sulfur dioxide; PM ₁₀ = particulate matter less than 10 microns; PM _{2.5} = particulate matter less than 2.5 microns.						
Notes:						
<p>1. Emissions were calculated using the URBEMIS 2007 version 9.2.4 Computer Model, as recommended by the SCAQMD. The reduction/credits for construction emission mitigations are based on mitigation included in the URBEMIS 2007 version 9.2.4 Computer Model and as typically required by the SCAQMD (Rule 403 and Rule 1113). The mitigation includes the following: replace ground cover on disturbed areas quickly, water exposed surfaces twice daily, proper loading/unloading of mobile and other construction equipment, and the use of low ROG coatings. <u>Mitigated NO_x emissions also account for implementation of Mitigation Measure AQ-7 which requires the use of EPA certified off-road equipment. NO_x reductions are based on the percentage reductions identified in CARB Table I – CARB and EPA Off-Road Compression-Ignition (Diesel) Engine Standards (http://www.arb.ca.gov/msprog/ordiesel/documents/Off-Road_Diesel_Stds.xls, accessed May 10, 2011), and SCAQMD Table II – Off-Road Engine Emission Rates and Comparison of Uncontrolled to Tiered Rates and Tiered to Tiered Rates (http://www.aqmd.gov/ceqa/handbook/mitigation/offroad/MM_offroad.html, accessed May 10, 2011).</u></p> <p>2. Note that the URBEMIS 2007 model has been found to overestimate diesel emissions from construction equipment, as it does not account for various rules and regulations such as the Portable Equipment Airborne Toxic Control Measure (ATCM), Transportation Refrigeration Units (TRU) ATCM, Red/Green Sticker Program, Carl Moyer Program, In-use Off-road Diesel Vehicle Regulation, and Local Rules (Sierra Research, Inc., <i>Emissions from Diesel-Fueled Non-Road Equipment in California</i>, April 19, 2010). Therefore, actual emissions may be lower than those presented above. However, the URBEMIS 2007 modeled emissions as presented is the suggested method of emissions quantification by CARB and the SCAQMD.</p> <p>3. Refer to Appendix B, Air Quality Data, for assumptions used in this analysis.</p> <p>4. Phase 4 includes construction of 390 single family dwelling units and 100,000 square feet of elementary school.</p> <p>5. Grading activities would occur for 2 months, trenching would occur for 1 month, paving would occur for 1 month, building would occur for 19 months, and architectural coatings would occur for 6 months.</p> <p>6. CARB Certified Tier 4 equipment would be required post 2015 per Mitigation Measure AQ-7.</p>						

The discrepancies between the mitigated NO_x emissions reported in Table 4.3-8, *Phase 4 Construction Air Emissions*, are due to emissions reductions from implementation of Mitigation Measure AQ-7. Phase 4 would occur between the years 2032 and 2034, and all construction equipment would be required to meet Tier 4 CARB certified standards. The URBEMIS2007 model does not calculate emissions reductions from the use of an entire construction fleet that meets Tier 4 standards. As a result, NO_x emissions were calculated by hand, utilizing CARB emissions factors from Table 1, *ARB and USEPA Off-Road Compression-Ignition (Diesel) Engine Standards (NMHC+NO_x/CO/PM in g/bhp-hr)* from CARB's website (www.arb.ca.gov/msprog/ordiesel/documents/Off-Road_Diesel_Stds.xls). It should be noted that only Table 4.3-7 and Table 4.3-8 would need to be updated. No new impacts would result and no updates are required in the appendix.

- 14d. Based on the guidance on the SCAQMD webpage, the Lead Agency has elected not to include a Localized Significance Threshold (LST) analysis for the proposed project. The guidance states that the use of LSTs is voluntary, to be implemented at the discretion of local public agencies acting as a lead agency pursuant to CEQA. As indicated, this analysis is to be conducted at the discretion of the Lead Agency. The LST standards were developed in response to environmental justice initiatives to alleviate impacts to existing low-income/minority residents who are disproportionately affected by environmental pollution and hazards, which is not an issue with this project. The DEIR also identified significant unavoidable impacts for both construction and operational impacts, which also encompass impacts to local sensitive receptors. Furthermore, it should be noted that the project is approximately 1,543 acres, and construction and operational activities would be dispersed throughout the site and would not necessarily be concentrated near any one sensitive receptor for extended periods of time.
- 14e. Although reduction measures were accounted and quantified for GHG emissions in Section 4.5, *Climate Change*, of the DEIR, these measures would not be able to reduce emissions of criteria pollutants to less than significant levels. The Project has been designed to provide free traffic flow and provides alternatives to VMT, including trails, bike paths, bike storage facilities, bus stops, onsite commercial and public uses and dedicated circuits for electric vehicle use. Even with adoption of these and other measures, Mobile Sources emissions would remain significant. Moreover, the ultimate effect of these and other measures depend on the individual behavior of future residents and business owners over whom the City and Applicant have little control. Therefore, application of emission reduction targets and/or performance standards would not create a discernable reduction in project mobile source emissions and emissions of criteria pollutants would remain significant and unavoidable, as indicated in the DEIR.
- 14f. It should be noted that the onsite Wastewater Treatment Plant (WWTP) is a potential option should the City decide to build the WWTP onsite some time in the future. It is

more likely that the City will continue to expand its existing facility. In order to provide flexibility to the City, the Project reserves land in the southeast portion of the site for a potential WTP and for purposes of CEQA evaluates potential effects should the WTP be constructed. However, the City will ultimately decide where to build its facilities and the new facilities will undergo additional CEQA review.

The short term impacts from construction of the WTP were incorporated into the construction assumptions for the entire project. As a result, these emissions and associated impacts are included in the overall project construction emissions presented in the DEIR. Emissions from long-term operations of the WTP would primarily occur from energy consumption necessary for the pumping, filtration, and treatment processes. Criteria pollutant emissions from energy consumption are not typically considered part of the project's daily emissions as power generation could occur outside of the Basin and beyond. Actual project-related emissions are not possible to attribute to any one plant, since the project's electrical demand would be met by numerous power plants connected to a regional power supply grid, with some of those plants located outside Southern California. It should be noted, however, that emissions from the electrical consumption of the WTP were calculated as part of GHG analysis. If the WTP is proposed by the City, an air emissions analysis would be required and CEQA would mandate additional public review and comment prior to City approval.

Furthermore, emissions from power consumption are regulated by the SCAQMD's Regional Clean Air Incentives Market (RECLAIM) program. The RECLAIM program is an air pollution cap-and-trade program, and encompasses most of the Basin's largest NO_x and SO_x stationary sources. It requires industries and businesses to cut their emissions by a specific amount each year, resulting in a 70 percent reduction for NO_x and a 60 percent reduction for SO_x within the 10-year planning period from the inception of the program. Future NO_x and SO_x emissions for the region, including those resulting from the WTP, would be offset through the RECLAIM program, and no significant regional air quality impacts are anticipated.

Emissions from emergency backup diesel generators would only occur during periods of electrical outages or other emergency situations and would not occur on a regular basis and would be subject to SCAQMD Rules 201 and 203, which are required for the use of backup diesel generators. Additionally, the proposed project would be subject to SCAQMD Rule 1301, which would ensure that the WTP includes all Best Available Control Technology (BACT), and that operation of the WTP does not interfere with progress in attainment of state and national ambient air quality standards.

- 14g. As noted in the comment, the project would be subject to all applicable SCAQMD rules, regulations, and permits. If the City chooses to build the onsite WTP, it will undergo its own CEQA review and the City will be required to comply with all applicable

permits and rules. Moreover, the DEIR identifies compliance with SCAQMD rules 402, 403, and 1113, and incorporates these rules into mitigation measures in order to ensure that emissions are reduced to the greatest extent feasible. The additional SCAQMD rules identified in the comment would also apply to the proposed project but were not included in the DEIR as they do not represent mitigation measures that would reduce emissions calculated within the impact analysis of the DEIR. Rules 201 and 203 require permits from the SCAQMD prior to construction or operation of the project.

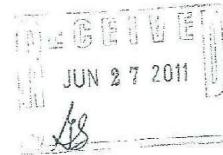
As indicated in the Phase I Environmental Site Assessment prepared for the project, and Section 4.8, *Hazards and Hazardous Materials*, of the DEIR, the project contained evidence of some illegal dumping of asphalt, automotive parts, tires, and other related debris. However, none of these debris piles appear to contain toxic materials in any appreciable quantity. Therefore, decontamination of soil would not be necessary. In the event that decontamination of soil is necessary, SCAQMD Rule 1166 would apply. Implementation of the project would require the export of minimal amounts of debris or refuse, but would not require excavation of a landfill. As a result, SCAQMD Rule 1150 would not be applicable.

- 14h. The additional mitigation measures provided in the comment are from SCAQMD Rule 403 dust control measures and the Rule 403 Best Available Control Measures (BACM) that are applicable to all construction activity sources. Therefore, the Project is already subject to these requirements. Additionally, Mitigation Measure AQ-7 in the DEIR provides numerous measures to reduce NO_x emissions including requiring truck traffic to avoid congestion by operating during off-peak hours as well as development of a traffic plan to minimize traffic flow interference from construction activities.
- 14i. The recommended additional mitigation measures are already encompassed within Mitigation Measures AQ-1 through AQ-7 within the DEIR as well as SCAQMD rules and regulations. Mitigation AQ-1 specifically requires confirmation that the Grading Plan, Building Plans, and specifications stipulate that, in compliance with SCAQMD Rule 403, excessive fugitive dust emissions shall be controlled by regular watering or other dust prevention measures, as specified in the SCAQMD's Rules and regulations. SCAQMD Rule 403 requires that large projects "implement the applicable actions specified in Table 2 of this Rule at all times and shall implement the applicable actions specified in Table 3 of this Rule when the applicable performance standards can not be met through use of Table 2 actions..." Table 2, Dust Control Measures for Large Operations, includes the following Control Action for Disturbed Surface Areas (2a/b): "Apply dust suppression in sufficient quantity and frequency to maintain a stabilized surface. Any areas which cannot be stabilized, as evidenced by wind driven dust must have an application of water at least twice per day to at least 80 percent of the unstabilized area." Per Rule 403, this Control Action will be implemented at all times. Table 3, Contingency Control Measures for Large Operations, requires application of

water three times per day to disturbed surface areas (2B). Per Rule 403, this Control Action will be implemented when performance standards are not met after implementation of Table 2 Actions. Since these Actions are embedded in the mitigation measures for the proposed project, the addition of the mitigation measures recommended in the comment is not necessary.

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**Public Comment Letter
No. 15**



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June 23, 2011

Zai Abu Bakar, Community Development Director
City of Banning
Community Development Department
99 E. Ramsey Street
Banning, California 92220

Re: Butterfield Specific Plan Project

Dear Mr. Bakar:

I represent both Banning Healthcare, a 64-bed skilled nursing facility located at 3476 W. Wilson Street, Banning, and Cherry Valley Healthcare, a 132-bed skilled nursing facility located at 5800 W. Wilson Street, Banning. Both facilities have been a part of the Banning community for about twenty years. Cherry Valley Healthcare is directly across the street from the southern border of the proposed Butterfield Project, and Banning Healthcare is approximately a quarter of a mile away. My clients and I have reviewed the Draft EIR and have some comments and concerns regarding the size, scope, and impact of the project on these two skilled nursing facilities.

Banning Healthcare and Cherry Valley Healthcare are home to approximately 190 residents receiving varied types of skilled nursing services and therapies. An important component of therapy is the comfort the residents take in their surroundings. Most days, residents sit outside of the Cherry Valley Healthcare building, facing north, enjoying the beautiful view of the San Jacinto Mountains from the front patio. The EIR actually refers to that view as one of the benefits for the eventual Butterfield homeowners (section 4.2). The view is not, and should not be exclusive to the Butterfield homeowners. My clients' concern is that the view their residents currently enjoy not be blocked out by two or three story townhomes, or other construction on the site.

We've noted that in section 3.3.2.4 there is provision for graded slopes to be oriented so as to minimize visual impacts to surrounding areas. We expect this will include protecting the view from, and for, the community situated at the lower-lying southern border of the project, as well as from within the project itself.

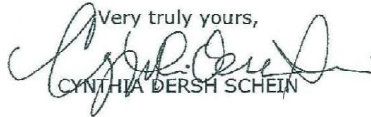
} 15.a
}
} 15.b

*Letter to Zai Abu Bakar
Re: Butterfield Specific Plan Project
June 23, 2011
Page two*

It appears the Wilson Street side of the project is slated for Medium Density housing; however, it is not clear from the documents whether this housing is single story, two story, or higher. The magnificent view of the mountains from the Cherry Valley Healthcare front patio has been an important part of its residents' lives for the past many years. Please consider the impact on the quality of life, including esthetics such as the view, for the surrounding businesses and residents in evaluating this project for eventual construction.

} 15.c

Thank you for your kind consideration. Please feel free to contact me if I can provide additional information or answer any questions.

Very truly yours,

CYNTHIA DERSH SCHEIN

Banning Healthcare and Cherry Valley Healthcare (submitted by Cynthia Dersh Schein, Attorney at Law)

Response No. 15

- 15.a The comment states the views of the San Jacinto Mountains may be blocked from both Banning Healthcare and Cherry Valley Healthcare upon Project implementation. The San Jacinto Mountains are south of these nursing facilities. The Project would not in any way block views from either of the nursing facilities to the San Jacinto Mountains because it lies north and northwest of these facilities. The mountains north of the site are the San Bernardino Mountains. As stated in Section 4.1, *Aesthetics, Light, and Glare*, the visual character of the site would be dramatically altered as a result of Project implementation. Development of the site would alter the existing view corridor offered by the undeveloped site and modify the quality of the scenic vista currently available, including from Wilson Street. It would not, however, obscure the scenic vista provided by the San Bernardino Mountains to the north or the San Jacinto Mountains to the south from any point along the perimeter of the project with the possible exception of those portions of west-bound Wilson Street and portions of southbound Highland Home Road and Highland Springs Avenue traversing flat, lower elevation terrain along the currently undeveloped frontage, where the foreground would be dominated by homes, perimeter walls and maturing landscape, especially trees, that would block the line of sight to long range views to the north and southeast. That condition currently exists along the entire developed Wilson Street frontage through the City of Banning and extending west into the City of Beaumont.

It should also be noted that development plans for this site began in 1981 with the original version of the Deutsch Specific Plan. In 1993 this Specific Plan was amended to include additional properties which cover the approximate limits of the proposed Project. Since 1993 this site has been approved for development similar to the proposed Project. This information has been available to the public throughout this process.

- 15.b The comment identifies a concern with views currently enjoyed by residents being blocked by construction on the site. Refer to Response 15.a, above. In addition, as identified in Butterfield Specific Plan Section 3.3.2(4), graded slopes shall be oriented to minimize visual impacts to surrounding areas, which would include views from the southern border of the Project site.
- 15.c The comment states that the EIR is unclear as to whether housing proposed along Wilson Street is going to be single-story, two-story, or higher. The residential planning areas along Wilson Street (Planning Areas 4, 5, 9 and 11) are designated as Medium Density Residential (MDR), which could be developed at 0-10 dwelling units per acre.

This designation would allow for the development of single family homes. Maximum allowed building height would be 35 feet. It is anticipated that a mix of one- and two-story residential units would be developed in these Medium Density Residential land use designations. This maximum height allowed within these Planning Areas is consistent with the maximum height listed in the City's zoning ordinance for similarly designated properties.

**Public Comment Letter
No. 16**

*in behalf of Cherry Valley Pass area & neighbors
Cherry Valley Environmental Planning Group*
Water Supply

The EIR and the Water Supply Assessment rely on the draft 2010 Urban Water Management Plan although it has not yet been approved. The EIR needs to explain the differences between the existing 2005 Plan, the draft 2010 Plan, and the Water Supply Assessment.

16.a

The first major discrepancy is in the demand projections. The 2005 Plan projects that demand for water in Banning will be 24,569 acre feet per year by 2030. But the 2010 draft Plan claims that demand will be only 14,482 acre fee per year in 2030. Even worse, the Water Supply Assessment claims that demand in 2030 will be even less -- 12,413 acre feet. You need to explain these huge discrepancies.

16.b

The second major discrepancy is on the supply projections. The approved 2005 Plan projects water supply of 28,863 acre feet in 2030. The draft 2010 Plan projects supply of 16,045 acre feet in 2030. And the Water Supply Assessment projects water supply in 2030 at 79,303 acre feet. Once again, you need to explain these huge discrepancies.

16.c

The Water Supply Assessment seems to rely on a "Stored Water Account Balance" in the Beaumont Basin to support its supply assumptions. Neither the 2005 Urban Water Management Plan or the draft 2010 Plan do this. The Water Supply Assessment does not explain why. In addition, the EIR does not disclose whether this water actually exists in the Basin. It also does not disclose the impacts of taking that water out of the Basin. It must do both, so that the City understands the project's true impacts.

16.d

*Patty Reilly
6-21-11*

6-21-11

My name is Patsy Reeley, I am speaking in behalf of Cherry Valley Acres & Neighbors - Cherry Valley Environmental Planning Group and myself - a resident of Cherry Valley.

I am expressing opposition to the Butterfield project for the following reasons.

- The density is far too great for the rural area
- There are no jobs to support the number of Units
- There are sufficient numbers of Golf Courses in the area.
- There will be over 10,000 additional Automobiles creating smog and TREMENDIOUS traffic problems on Highland Springs Ave. – Brookside – Cherry Valley Blvd and any other street in the WESTERLY direction in an attempt to reach I-10 freeway.
- It states there will be 2 schools built with no impact on the Beaumont School District...how do you think the students will get to the Middle Schools and Beaumont High? Those schools are almost at capacity now.
- Highland Springs Ave. to the South will be so congested it will be impossible to reach the hospital.

16.e

16.f

16.g

16.h

16.i

16.j

16.k

- We live in a desert – EVERYONE seems to forget that fact!
There is NOT sufficient water currently to sustain the current population. Let alone the number of Units previously planned in Beaumont and Banning.

} 16.l

- The Urban Water Management Report has increased from a couple of hundred pages to OVER 600. All those words DO NOT GUARENTEE WATER.

} 16.m

- *written ^{comments} ~~response~~ will ^{be} forth-coming.*

} 16.n

Rahy Reiley

**Cherry Valley Acres and Neighbors and
Cherry Valley Environmental Planning Group
(submitted by Patsy Reeley, President)**

Response No. 16

- 16.a The commenter requests that the EIR explain the differences between the existing 2005 *Urban Water Management Plan (UWMP)*, the Draft 2010 UWMP, and the *Water Supply Assessment (WSA, Draft EIR Appendix J)*.

Draft 2010 UWMP Compared to Final 2010 UWMP

The Draft 2010 UWMP, which is attached to the WSA as Appendix A, was approved on June 28, 2011 under Banning Utility Authority Resolution No. 2011-09. A copy of the Final UWMP is included in the Final EIR as Appendix B. All references in this Responses to Comments and in the Final EIR are to the approved and adopted 2010 UWMP, unless otherwise noted.

Table 16-1 lists all changes to the Draft 2010 UWMP that are reflected in the Final 2010 UWMP. All changes were immaterial and do not change the analysis contained in the Draft EIR or the WSA with respect to the matters described in the 2010 UWMP.

Table 16-1

2010 UWMP Section, Page Revised	Change Between Draft 2010 UWMP and Final 2010 UWMP	Nature of Change
Cover Page	Delete: May 11, 2011 (draft) Add: July 22, 2011 (FINAL)	Immaterial
2nd page from cover, letter to Duane Burk from Dennis E. Williams, President of GEOSCIENCE Support Services, Inc.	Delete: Twenty copies of UWMP included with attachment Add: Four copies of UWMP included with attachment Add: UWMP available to the public again within 60 days.	Immaterial
2nd page from cover, letter to Duane Burk from Dennis E. Williams, President of GEOSCIENCE Support Services, Inc.	Delete: "Department of Water Resources" Add: "DWR"	Immaterial
2nd page from cover, letter to Duane Burk from Dennis E. Williams, President of GEOSCIENCE Support Services, Inc.	Delete: removed a comma Add: clarification that "City" referred to "City of Banning." Add: Period after second bullet point.	Immaterial
Table of Contents, Pages v and vi	Change: pagination change for section 6.0 pages. Pagination decreased by one page in the final version, starting with section 6.0 (i.e. page 100 became page 99).	Immaterial
Table of Contents, Page vii	Delete: Appendix B, "Documentation of Public Hearing Notice, Summary of Public Hearing and Comments, Agencies Which reviewed the Draft 2010 Urban Water Management Plan" Add: Appendix B, "Documentation of Public Hearing Notice, Summary of Public Hearing and Comments"	Immaterial
Table of Contents, Page vii	Delete: Appendix D, "Document Transmittal Verifying Submittal of 2010 Urban Water Management Plan To Department of Water Resources" Add: Appendix D, "Document Transmittal Verifying Submittal of 2010 Urban Water management Plan to Department of Water Resources, California State Library, and Riverside County."	Immaterial
List of Acronyms, Page viii	Change: Margins adjusted, "RHNA, Regional Housing Needs Assessment" moved to Page ix	Immaterial

2010 UWMP Section, Page Revised	Change Between Draft 2010 UWMP and Final 2010 UWMP	Nature of Change
Table 1-1, Page 5	Add: Table filled in to reflect agency comments. Add: Note, clarifying, "YVWD and SGPWA stated that they have reviewed the 2010 UWMP but did not provide comments. BCVWD provided comments during the public hearing, June 14, 2011. SGPWA noted that for planning purposes, the assumption of water available from SGPWA was appropriate, however, the agency is unable to provide a commitment to provide any set amount of water."	Reflects new information received during comment period
Table 5-9, Page 94	Change: Footnotes moved onto the same page as the table itself.	Immaterial

2005 UWMP Compared to 2010 UWMP

The 2010 UWMP was prepared in compliance with Water Code Section 10610, *et seq.* and Water Code Section 10608.20(j) (providing for an extension of the deadline for retail water providers preparing UWMPs from December 31, 2010 to July 1, 2011). The 2010 UWMP considers data and information developed after 2005, including pertinent plans and actions adopted by the City after preparation of the 2005 UWMP. Thus, the City's 2010 UWMP updates and supersedes its 2005 UWMP. For example, with respect to the availability and reliability of the City's groundwater supplies, the 2010 UWMP incorporates the recent analysis conducted by Geoscience, on behalf of the City, and reported in its *Maximum Perennial Yield Estimates for the Banning and Cabazon Storage Units, and Available Water Supply from the Beaumont Basin (2011)*. (Draft EIR Appendix J, Sub-Appendix D.) The 2010 UWMP represents a more up-to-date, accurate assessment of the City's existing and future water supplies and demand.

Differences between the 2005 and 2010 UWMPs are described throughout the WSA and explained in detail. For example, the 2010 UWMP uses a residential demand factor of 0.52 AFY per residential unit, whereas the 2005 UWMP used a factor of 0.67 AFY per residential unit. (See WSA Section 5). The 0.67 AFY factor (2005 UMP) was based on the City's 1994 Water Master Plan, which is now outdated and does not reflect the City's current actual residential water use pursuant to recent City records.

Another example includes changes in conservation efforts. Amendments to the UWMP Act since the 2005 UWMP report was prepared include the passing of California 20x2020 Plan, referred to as the Water Conservation Act of 2009, which requires that the City identify conservation targets in per capita water use to achieve statewide conservation by 20 percent by December 31, 2020 and a 15-percent reduction by December 31, 2015.

Therefore, the 2010 UWMP's demand projections incorporate these new requirements. (See WSA Section 5.3.1.)

Another example of change occurring between the City's preparation of the 2005 and 2010 UWMPs was the significant slowing of growth, and thus reduced demand, as a result of the Great Recession and financial crisis of 2007-2010. (See WSA Section 5.2.2.)

2010 UWMP Compared to WSA

As noted in the WSA, the City has made every effort to ensure that the WSA and the 2010 UWMP are entirely consistent. The same data and information relied upon and incorporated into the WSA has also been relied upon and incorporated into the 2010. For example, the Geoscience 2011 *Maximum Perennial Estimates* report (WSA Appendix A and 2010 UWMP Appendix F) provides substantial evidence of the availability of the City's groundwater supplies, and the report's data, conclusions and analysis are incorporated into both the WSA and the 2010 UWMP.

As permitted by Water Code Section 10910(c)(2), the WSA incorporates by reference the City's 2010 UWMP. (As noted above in response to comment 16.a., the City replaces the draft 2010 UWMP with the adopted 2010 UWMP.) However, as a result of the fact that the study period for the WSA is 10 years longer than the planning period for the 2010 UWMP, and given the fact that the Draft 2010 UWMP and the WSA were released for public review and comment at the same time, the WSA also makes an independent assessment of the sufficiency of the City's supplies during normal, single dry, and multiple dry years to meet the demand of the Project, in addition to the City's existing and planned future uses, for the study period 2015 to 2045. (See WSA Section 1.5.)

Differences between the WSA and 2010 UWMP are largely immaterial, but are noted whenever they occur in the WSA. These differences occur for three reasons, primarily:

1. The WSA and 2010 UWMP are prepared for different purposes pursuant to different statutes. The WSA, a component of an applicant's compliance with CEQA (*California Water Impact Network v. Newhall County Water Dist.* (2008) 161 Cal.App.4th 1464, 1485-86; *Citizens for Responsible Equitable Environmental Development v. City of San Diego* (2011) 196 Cal.App.4th 515, 523-24), is required to be prepared by Water Code Section 10910 *et seq.*, and the 2010 UWMP is required to be prepared by Water Code Section 10610 *et seq.*
2. The study period applied in the WSA and 2010 UWMP are different. The WSA employs a 35-year study period to correspond to the Project EIR. The 2010 UWMP employs a 20-year study period, as required by Water Code Section 10631.

3. To ensure a conservative analysis of the availability of the City's existing and future water supplies, over a 35-year planning period, taking into account single dry, multiple dry and wet hydrologic cycles, the WSA makes several conservative assumptions and uses conservative data and projections when available. For example: With respect to the City's identification of future available water supplies, the UWMP identifies return flows from recycled water use and return flows from potable water use as sources of supply, whereas the WSA does not; a more conservative assumption. (Compare 2010 UWMP Table 4-1 and WSA Table 1.7A, B and C.) Similarly, the UWMP projects the availability of imported water delivered to the Beaumont Basin as increasing in 2014 as a result of the anticipation completion of EBXII, whereas the WSA assumes that EBXII will not be completed until 2015. (See WSA Tables 6.1.5.10B and p. 86, n. 325.) As a result, the 2010 UWMP projects that the City will have approximately 76,526 AF in storage in the Beaumont Basin by 2035, whereas the WSA calculation of 75,238 AF is more conservative. (Compare WSA Table 1.7A, B and C and WSA Appendix C with 2010 UWMP Table 4-4.)

As a result of these differences in purpose and study period, the 2010 UWMP sums existing and future water supplies separately from the quantity of water the City is projected to have in storage in the Beaumont Basin in different tables, whereas the WSA combines these two functions in the same tables to permit comparison of the total projected available supplies (annual and groundwater in storage) and the total projected demands. This difference is largely a formatting difference – the data is the same. (Compare WSA Tables 1.7A, B and C and 2010 UWMP Table 4-1 (City's projected annual supply, not accounting for groundwater in storage) and Table 4-4 (City's Groundwater in Storage).) Both the WSA and the 2010 UWMP project that the City will continue to pump approximately 2,514 AFY annually from the Beaumont Basin and both project that the City will import and store in the City's Stored Water Account approximately 2,595, on average annually, of imported SWP water. (See WSA Table 1.7A, B and C, WSA Appendix C, and 2010 UWMP Table 4-4.) As a result, both the WSA and the 2010 UWMP project that the City will have approximately 75,000 AF in storage by 2035. (See WSA Table 1.7A, B and C and 2010 UWMP Table 4-4.)

A comparison of the City's 2010 UWMP, Tables 5-2, 5-3, and 5-4 with the WSA's Tables 1.7A-C demonstrates that until the City's demand exceeds its annual production rights (for the Beaumont Basin, see WSA Table 6.1.5.9.4B), the City need not draw from its storage account. As the WSA describes, the City's Stored Water Account balance will begin to decrease after 2035. (WSA, p. 9.) Given that the 2010 UWMP study period ends in 2035, this information is not presented in Table 4-1. (2010 UWMP, p. 54 ("as demand increases, additional water will be

extracted as needed from the Beaumont Storage Unit to meet demand.”.)
Despite increasing demand over time, the WSA projects that the City will have at least 80,000 acre-feet in storage by 2045.

Lastly, it should be noted that the WSA’s calculation of the projected quantity of groundwater in storage in the Beaumont Basin already takes into account the City’s projected annual pumping of 2,514 AFY. (See WSA Appendix C (subtracting 2,514 AF from the City’s stored water account balance every year).) Therefore, WSA Tables 1.8A-C, which compare total projected supplies and total projected demand, *including* the 2,514 AF to be produced from the Beaumont Basin, presents a conservative analysis of the City’s accumulation of water in storage over time during the study period.

- 16.b The comment states that major discrepancies related to water demand projections exist between the 2005 UWMP, Draft 2010 UWMP, and the WSA.

The differences between the 2005 UWMP and 2010 UWMP are referenced above under Response 16.a, “2005 UWMP Compared to 2010 UWMP”. As for the stated discrepancy between the 2010 UWMP and the WSA, the 14,482 AFY figure cited in this comment refers to the total, or gross, City water demand based on population growth estimates prior to inclusion of the 20 x 2020 reduction required under the Water Conservation Act of 2009. To accurately compare the total projected demand after conservation presented in the 2010 UWMP and the WSA, refer to Table 3-8 of the 2010 UWMP and Table 1.6.2.B of the WSA. For year 2030, the total net (after conservation) water demand, including the Project, is estimated at 12,413 AFY in both the 2010 UWMP and the WSA. (Compare WSA Table 1.6.2.B and 2010 UWMP Table 3-8.)

- 16.c The comment states that a major discrepancy regarding supply projections exists between the 2005 UWMP, Draft 2010 UWMP, and the WSA.

The differences between the 2005 UWMP and 2010 UWMP are referenced above under Response 16.a, “2005 UWMP Compared to 2010 UWMP”. The formatting differences between the WSA’s and 2010 UWMP’s presentation of the same data are described above under Response 16.b, “2010 UWMP Compared to WSA.”

- 16.d The comment states that the 2005 UWMP and the Draft 2010 UWMP do not rely on a “Stored Water Account Balance” in the Beaumont Basin to support its supply assumption. Refer to the discussion above under Response 16.b. In summary, both the WSA and 2010 UWMP project that the City will have approximately 75,000 AF in storage in the Beaumont Basin by 2035. Both documents acknowledge that “as demand increases, additional water will be extracted as needed from the Beaumont Basin to meet

demand.”¹ The 2010 UWMP includes this Stored Water Account; it merely identifies it separately in Section 4.2.3 of the report.

The comment also asks whether water in the Stored Water Account actually exists in Beaumont Basin. Table 4-4 of the 2010 UWMP provides an estimate of the projected volume of the City of Banning’s groundwater in storage within the Beaumont Basin, which is their estimated production right. (See also WSA Appendix C.) As described in the WSA (see Section 6.1.5.5 and 6.1.5.10), the City has an approved Groundwater Storage Agreement with the Watermaster permitting it to store up to 80,000 AF in the Beaumont Basin. The City’s existing stored water account balance is calculated by the Beaumont Basin Watermaster and published in the Sixth Annual Report of Watermaster, Table 7. For 2009, the Watermaster reported an ending account balance of 18,584 AF in storage. (See also WSA Table 6.1.5.10A (calculating the City’s 2010 account balance based on published information).) The City’s projected annual stored water account balance for the period 2015-2045 is calculated. (See WSA Appendix C.)

Further, the comment states that the WSA and Draft EIR do not disclose the impacts of taking Stored Water Account supplies from the Beaumont Basin. As described in detail in Section 6.1.5.10 and as shown in Appendix C of the WSA, by prioritizing pumping from the City’s annual sources of supply, to the extent operationally feasible, the City does not anticipate increasing pumping from the basin over historical averages – i.e., 2,514 AFY. Therefore, the City’s projected pumping is not anticipated to result in significant impacts over baseline conditions. Moreover, given the City’s existing and projected purchases of imported water, the City’s replenishment activities and conjunctive use of the Beaumont Basin will *add* approximately 60,000 AF (see WSA Appendix C (compare 2011 ending account balance and 2045 ending account balance) of water to the Beaumont Basin over the 35-year study period. The Watermaster has already approved this plan.

As discussed in Section 4.14, *Water Supply*, of the Draft EIR, the Beaumont Basin is an adjudicated basin subject to a court judgment, which quantifies pumping rights for all users, including the City, and provides for the use of available storage capacity. All pumping from the basin must be supported by a party’s rights in the basin, including annual production rights and the right to withdraw water from storage. Further, all pumping is subject to the Beaumont Basin Judgment and rules and regulations of the Beaumont Basin Watermaster. The Watermaster is responsible for the monitoring of the basin and enforcement of the judgment. The Watermaster is responsible for accounting for production from the basin, the storing of “New Yield” in the basin, which includes imported SWP. Groundwater pumping in the Beaumont basin is subject to extensive monitoring, replenishment, and coordination. The City’s pumping is subject to the Watermaster’s ongoing management. The court’s and Watermaster’s ongoing

¹ Refer to 2010 UWMP, pg. 54.

management of the basin ensures that the City's production of its rights in the basin, including withdrawal of water from storage, does not result in adverse impacts on the basin or material interference with other basin right holders. Therefore, in the event the City's production of water from the Beaumont Basin exceeds baseline conditions (2,415 AFY, on average), as permitted by its rights under the Judgment and its approved Stored Water Account agreement, such pumping will be subject to the Watermaster's ongoing monitoring and management. As such, less than significant impacts to groundwater as a result of the City's withdrawal of water from its Stored Water Account are anticipated.

- 16.e The comment expresses Cherry Valley Acres and Neighbors and Cherry Valley Environmental Planning Group opposition to the Butterfield Project. These organizations' opposition to the Project is duly noted. Responses to these organizations' specific concerns are addressed below.
- 16.f This comment states that the proposed density is too great for the rural area. The proposed density is in conformance with the Deutsch Specific Plan which was originally approved in 1985 and later amended in 1993. The Project proposes a total of 5,387 residential units as compared to the 5,400 units permitted pursuant to the previously approved 1993 Specific Plan. The average gross density of the proposed Project would remain at 3.5 du/ac. The total area of the Project would be approximately 1,543 acres and is slightly less than the total 1,552-acre area covered by the Deutsch Specific Plan. In addition, the City of Banning General Plan and Zoning Map currently allow the site to be developed with a mix of commercial, high-density, medium-density, low-density, and very low-density residential, and parkland land uses with a Specific Plan Overlay (refer to the General Plan Land Use Map). The Project density is relatively consistent with the approved and partially constructed Sundance Specific Plan project located immediately to the west, the existing Highland Springs Country Club and Highland Springs Village developments to the northwest, existing and approved development to the south east, and existing development to the immediate south.

To allow for better compatibility with the existing land form and lower density residences to the north and east, the Project proposes the lower residential density of the Project with larger lots in the northern and northeasterly portion of the site. In addition, the Project has designated Planning Area 50 as Low Density Residential, with an average lot size of 7,500 sq. ft. Furthermore, starting at the back of the closest existing offsite residential lots located south of PA 50, there will be approximately 390 feet of open space (SCE easement) between the back of these lots and the southern boundary of Planning Area 50. The higher density uses are focused within the southern portion of the site, where adjacent existing uses generally consist of higher density uses. Proposed commercial uses within the Specific Plan are also located in the southern portion of the site in proximity to existing commercial and institutional uses and therefore are

consistent with the neighborhood character. Therefore, the proposed Specific Plan is not expected to significantly conflict with nearby lower density uses.

- 16.g The comment states that there are no jobs to support the proposed number of units. This update and restatement of the prior approved 1993 Deutsch Property Specific Plan is based on current, but also projected market conditions, which will allow for the appropriate physical and economic development of the property.

While it is true that employment has decreased in the very recent years within the region, objectives of the proposed Project are to increase employment opportunities throughout the 30 year build out period and to provide for a future range of housing opportunities. This will include developing a diverse range of housing types available at a variety of price points, responsive to market demand, varying lifestyles, and the developing economic profile of the community. The development sequence presented in the Draft EIR (Section 3.0, *Project Description*) will be subject to change over time in response to various factors including the cyclical nature of the housing market, which is closely tied to the availability of jobs. In addition, the Project is estimated to reach full build-out in 30 years; therefore, the jobs picture is likely to fluctuate over the life of the Project and, if so, the Project would serve to meet the resultant housing demand. Refer to 17.vv, below for a full discussion on the jobs-housing balance.

- 16.h The comment states that there are a sufficient number of golf courses in the area. In planning for the scenario in which the market does not support an additional golf course, the Specific Plan will permit as alternatives other types of open space and recreational uses. These alternative uses include various combinations of parks, trails, native habitat, drainage facilities, water quality improvements, groundwater recharge areas, and wetland mitigation areas. The potential impacts of a “no golf course” Alternative are discussed in greater detail in the Section 6.0, *Alternatives*, of the Draft EIR.

- 16.i This comment asserts that there will be over 10,000 additional traffic trips created, resulting in traffic congestion on Highland Springs Avenue, Brookside Avenue, Cherry Valley Boulevard, and other roadway connecting to Interstate 10. The comment is accurate in stating that over 10,000 additional trips will be created if referring to average daily trips; at buildout, the Project is expected to generation 62,263 average daily trips. The Project’s trip distribution patterns were developed and modeled for the *Traffic Impact Assessment* (Draft EIR Appendix I) and it was determined that with mitigation all study intersections would function at acceptable levels of service (refer to Table 4.13-8). However, as addressed in the Draft EIR (Section 4.13, *Traffic and Transportation*) and in preceding comment responses, mitigation of certain Project-related traffic impacts in other jurisdictions (besides Banning) are outside the control of the Applicant and the City of Banning, and/or would require substantial right-of-way or otherwise may not be

feasible to construct in a timely manner. Therefore, these locations may have unavoidable significant impacts associated with either Project or cumulative traffic levels.

The comment also links future addition trips to an increase in smog. The chemicals in smog include nitrogen oxides (NO_x), volatile organic compounds (VOCs) or reactive organic compounds (ROGs), and ozone (O₃), among others. NO_x forms mostly from combustion sources (e.g., motor vehicles engines, power plants, refineries, and other industrial processes). VOCs are given off by paint, gasoline, and pesticides via evaporation, but also form from combustion engine exhaust. Ozone is a photochemical pollutant, and needs VOCs, NO_x, and sunlight to form. Therefore, VOCs and NO_x are ozone precursors.

As seen in Table 4.3-5 through 4.3-10 of the Draft EIR, construction-generated and long-term mobile and stationary emissions after mitigation would exceed the South Coast Air Quality Management District (SCAQMD) thresholds for NO_x and ROG due to the magnitude of the proposed development, and a significant unavoidable impact would result.

- 16.j The comment states that the existing middle schools and high school within the Beaumont School District that would service the proposed Project are almost at capacity now. According to the Draft EIR (pp. 4.12-5 to 4.12-7), the Sundance Elementary School has existing capacity for 111 students, the San Gorgonio Middle School has capacity for 414 more students and Beaumont High School is overcapacity by 118 students. However, Beaumont USD is pursuing a 21-classroom expansion that would accommodate approximately 600 students, providing net capacity for 300 additional students when completed. Banning USD currently has excess capacity to serve approximately 1,148 students. The first homes are not expected to be completed until 2013. Buildout will occur over a 30-year period. Therefore, the existing capacity and long planning horizon will permit the school districts to adequately plan for future enrollment. As identified in Section 4.12, *Public Services and Utilities* of the Draft EIR, the Project would comply with Government Code Section 65995 and would pay prevailing school facility impact fees at the time of building permit issuance, which would provide full mitigation of the Project's impacts on school facilities, pursuant to SB50 and the *California Government Code*. The General Plan EIR identifies payment of these fees as the primary mitigation measure for school impacts; refer to Section 4.12.3, *Regulatory Framework*, of the Draft EIR, which sets forth all of the General Plan policies and GP EIR mitigation measures that apply to public schools. Funds generated by school facility impact fees would pay for improvements to existing school facilities and/or fund additional facilities as needed.

Project impacts would also be mitigated through the provision to two potential school sites within the development PSU-3 (and more sites if the school districts determine they are necessary).

- 16.k The comment states that Highland Springs Avenue to the south will be so congested it will be impossible to reach the hospital. As identified in Section 4.13, *Traffic and Transportation* of the Draft EIR, many improvements are proposed to occur on Highland Springs Avenue and Wilson Avenue, adjacent to the existing hospital. These improvements are designed to accommodate the additional traffic that would be generated by the Project and maintain levels of service. Section 4.13 of the Draft EIR identifies mitigation measures that require the Project Applicant to construct both on and offsite roadway improvements, as well as pay fair share traffic mitigation fees for associated improvements. If not constructed by the City or others, the Applicant shall construct road improvements identified in Table 4.13-9, *Summary of Future Improvements*. These improvements include portions of Highland Springs Avenue in the City of Beaumont, between I-10 and Brookside. If constructed by the Applicant, the cost of these improvements shall be credited against applicable City fees, and/or shall be eligible for reimbursement agreements with the City and/or third parties. The Improvements listed in Table 4.13-9 are consistent with the General Plan Circulation Element. As identified in Section 4.13, *Traffic and Transportation*, the timing of when the improvements outside of the City of Banning will be built depends on approvals from agencies over which the City has no control. As a result the City determined that there is a potential that impacts could occur prior to construction of mitigation improvements. The City cannot guarantee less than significant impacts with regard to traffic and circulation for improvements outside its control.
- 16.l The comment states that “we live in a desert” and there is not sufficient water currently to sustain the current population, let along the number of units previously planned in Beaumont and Banning.

The Draft EIR provides a comprehensive description of baseline conditions in the City and at the Project site; refer to Draft EIR discussion beginning on page 1.14-3. The WSA, which is incorporated into the Draft EIR, the 2010 UWMP and the 2011 Geoscience *Maximum Perennial Yield Estimates* report provides detailed information regarding the hydrologic conditions in the region, including historical precipitation data.

The 2010 UWMP determines that over the next 25 years, the City is anticipated to have a surplus of water to meet its customer’s demands.² In support of this determination, the report presents to follow rationale:

² Refer to 2010 UWMP, pg. 92.

- While population is increasing, housing density is increasing as well, because hillside density transfers are applied to rural and agricultural residential areas. This will result in a decrease in residential irrigation on a per capita basis.
- Following the completion of Phase I of the City's Wastewater Treatment Plant, recycled water can be utilized to meet the City's irrigation demands for open space, including land for hillside preservation and recreation.
- The demand projections included in the 2010 UWMP will be achieved through a combined use of recycled water, conservation within new developments and retrofitting of existing infrastructures.
- Groundwater management, water conservation and the effective use of recycled water generated within the City are the primary elements of the City's long-term strategy for meeting its water needs. The goals of the City's water conservation program are to reduce water demands, demonstrate a commitment to best management practices (BMPs), and ensure reliable water supplies.
- Currently, the City can meet demand with existing sources of potable water from existing groundwater wells, additional production from existing wells or additional wells will be necessary to meet demand in the future.³

The WSA, prepared in conformance with the requirements of Water Code Section 10910 *et seq.* concludes that the City will have sufficient water supplies available during normal, single dry and multiple dry years during a 35-year projection to meet the project water demand associated with the Project, in addition to the City's existing and planned future uses.

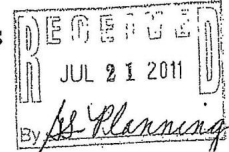
- 16.m The comment states that the number of pages of the (2010) UWMP does not guarantee that water will be available for the City in future years. Because this comment does not identify a specific deficiency in the water supply analysis presented in the Draft EIR and/or WSA, this comment does not directly address the environment issues analyses of the Project. The Project WSA provided an evaluation of the adequacy of the total existing and future water supplies available to serve the Project, and was prepared in conformance with California Water Code Section 10910, *et seq.* Therefore, no further response is warranted.
- 16.n The comment states that written comments will be forthcoming. This comment is duly noted. The City will address additional comments submitted during the comment review period as they are received.

³ Refer to WSA (Draft EIR Appendix J), pg. 4.

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Public Comment Letter
No. 17

CHERRY VALLEY PASS ACRES AND NEIGHBORS
P.O. BOX 3257
BEAUMONT, CALIFORNIA 92223



July 21, 2011

VIA HAND DELIVERY

Mr. Zai Abu Bakar
Director
Community Development Department
Planning Division
City of Banning
99 E. Ramsey Street
Banning, CA 92220

Re: Butterfield Specific Plan/Environmental Impact Report, June 3, 2011
SCH # 2007091149

Dear Mr. Bakar:

We are submitting these comments concerning the Butterfield Specific Plan Environmental Impact Report – June 3, 2011 (“EIR”) on behalf of Cherry Valley Pass Acres and Neighbors (“CVAN”) and the Cherry Valley Environmental Planning Group (“CVEPG”).

CVAN is a California non-profit corporation comprised of more than 300 families, many of whom live and work in Cherry Valley, an unincorporated community of interest located north and east of the proposed project.

CVEPG is a California non-profit corporation that was established to protect and preserve the environment and water supply in and around Cherry Valley.

17.a

304966.2

Mr. Zai Abu Bakar
July 21, 2011
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As a preliminary matter, we understand that the City of Banning ("City") has set a "deadline" of July 21, 2011, for submission of comments. While we are submitting our initial comments within that time period, you should recognize that in accordance with applicable law we reserve our rights to submit additional comments, orally and in writing, up until the time the City takes final action on the EIR.

} 17.b

The EIR relates to a proposed 5,387 unit residential subdivision in the currently undeveloped northwestern portion of Banning and unincorporated Riverside County ("the Project"). The Project as currently configured is inappropriate and environmentally damaging in a number of respects. The Project is sited in an undeveloped area that provides habitat for a number of important species of wildlife, but the location currently has no utilities, the area has a shortage of water, and the Project site has significant risks of flooding and wild fires. Moreover, the Project is adjacent to largely undeveloped Highland Springs Resort, which is a Riverside County historical location, as well as the San Bernardino National Forest. Suffice it to say that placing thousands of people in that location is both environmentally damaging and bad public policy and we urge the City to rethink this Project.

} 17.c

Unfortunately, the EIR is highly deficient in its analysis of the potential environmental impacts of the Project. Accordingly, at a minimum the City should not certify this deficient EIR, and should instead revise it, and then recirculate it for public comment.¹

} 17.d

¹ All documents referenced in this letter are hereby incorporated by reference hereto and should be included in the Administrative Record.

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Water Supply

The EIR's water analysis is inadequate and fails to meaningfully discuss and disclose the Project's impacts on the Pass Area's precious water resources. Although the Pass Area's prime water resource, the Beaumont Basin, is in overdraft, and the Project will increase the overall demand for water in the Pass Area by more than 4,224 acre feet per year ("AFY"), the EIR concludes that the Project will not have a significant impact on the area's water resources. The Pass Area does not have the water to support this type of development, nor frankly does it have the housing demand that require the Project, and the City should not approve the Project on this ground alone.

} 17.e

The EIR, and the Water Supply Assessment ("WSA") that was prepared for it, rely heavily on a draft 2011 Urban Water Management Plan ("Draft 2010 UWMP") that was prepared for the City of Banning, rather than the operable 2005 Urban Water Management Plan ("2005 UWMP"). In that the Draft 2010 UWMP appears to be in the public review phase, and has not actually been approved, it is improper for the EIR to rely on it.

} 17.f

In addition, the EIR fails meaningfully to discuss significant conflicts between the analysis in the 2005 UWMP on the one hand, and the WSA and Draft 2010 UWMP on the other. The EIR appears to decide on an ad hoc basis whether it will accept conclusions in the Draft 2010 UWMP that differ from conclusions in the 2005 UWMP, without disclosing the basis for this selection, thereby precluding the public from understanding some of the key analytical underpinnings of the water analysis.

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The EIR fails coherently to explain the dramatic discrepancies between the projected demand for water in the WSA, the 2005 UWMP, the Draft 2010 UWMP, and the San Geronio Pass Water Agency's ("SGPWA") 2010 Urban Water Management Plan ("SGPWA 2010 UWMP"). As is reflected below, the EIR projects that water demand in Banning will be substantially less than the demand for water projected by the SGPWA and the City of Banning in its two most recent UWMP. It is essential that these discrepancies be explained.

} 17.h

Discrepancies in Potable and Non Potable Demand Projections

	2015	2020	2025	2030	2035	2040	2045
EIR/WSA ²	10,376 ³	10,183	11,243	12,413	13,705	15,135	16,701
SGPWA 2010 UWMP ⁴	12,501	15,518	18,535	21,552	24,569		
2005 UWMP ⁵	15,002	17,380	19,726	22,051			
2010 UWMP ⁶	14,736	16,746	18,755	20,765	22,775		

² Table 1.6.2.B, WSA; Table 4.14-14, EIR

³ All figures are acre feet per year.

⁴ Tables 2-1 and 2-2, SGPWA 2010 UWMP.

⁵ Table 5-1, 2005 UWMP

⁶ Table 3-3, Draft 2010 UWMP

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The projected supply numbers are also wildly divergent in the various planning documents, which once again is not explained.

Discrepancies in Water Supply Projections

	2015	2020	2025	2030	2035	2040	2045
EIR/WSA ⁷	53,686 ⁸	63,166	71,612	79,303	86,290	92,975	99,615
2005 UWMP ⁹	21,017	22,098	26,281	28,863			
2010 UWMP ¹⁰	15,563	15,792	16,045	16,323	16,628		

17.i

The EIR and WSA have underestimated the Project's water demands by selecting too low an estimate of the amount of water consumed by an average home. Indeed, as the WSA concedes, the 2005 UWMP estimated that each residential unit would consume .67 afy of water per year. However, the WSA has estimated that each home will use only .52 afy, or approximately 25% less. The purported basis for this calculation is that water usage has actually declined in Banning over the past number of years, and that there are numerous conservation measures in place. There is no empirical evidence in the record to support the conclusion that conservation efforts will result in the reduction in water consumption that the WSA assumes. Oddly, the WSA does not acknowledge the large number of home foreclosures in the Banning area, and the fact that vacant houses use less water than occupied

17.j

⁷ Table 1.7A, WSA; Table 4.14-10, EIR
⁸ All figures are acre feet per year.
⁹ Table 2-1, 2005 UWMP
¹⁰ Table 4-1, Draft 2010 UWMP

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houses. If the .67 afy per unit is used, the actual gross water demand for the Project is 4,953 AFY (5,387 units X .67 = 3,609 + 1,344 "non potable" = 4,953).

The WSA (and the EIR) impermissibly understate the Project's actual water demands by assuming that the Project will be "phased in" over a thirty (30) year period. Thus, the projected water usage for the Project is calculated to increase slowly over time. (WSA, Table 1.6.1.) However, the WSA and EIR fail to specify the basis for its conclusion that the Project will be phased, or how it determined what percentage of the Project's projected water demand to allocate to various years. If Project demand figures are applied to the entire period after Project approval, which we believe is appropriate, the projected demand for water in Banning would be as follows:

Water Demand With Project "Phased" and Without Project "Phased"

	2015	2020	2025	2030	2035	2040	2045
Demand with Project "Phased" ¹¹	10,376 ¹²	11,880	13,117	14,482	15,989	17,653	19,491
Demand with Project Not Phased ¹³	13,731	14,213	14,943	15,793	16,717	17,858	19,491

¹¹ WSA Table 1.6.2.B. The WSA further reduces demand by subtracting "Demand Savings From Conservation." However, there is no empirical support for this deduction and it is not included in the chart.

¹² All figures are acre feet per year.

¹³ This simply includes the WSA's calculation of "gross water demand" of 4,224 AFY in each year.

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Unless there is some legal requirement that the Project be phased in over a thirty year period – and we are unaware of none – then the Project’s full projected water demand should be considered in each year following Project approval. This will allow the public, and the decision makers to understand what the impacts of the Project actually are.

} 17.k

The analysis of available water supplies is also inadequate. The EIR, WSA, and Draft 2010 UWMP rely heavily on "recycled water" to support their water supply analysis. (EIR 4.14-6.) However, the EIR states that the City will not even implement "the first phase" of a recycled water project until 2015, and then optimistically states that if the City does not build its recycled water project, the Project proponent will. (*Id.*) While the water supply projections in the WSA assume that 1,680 AFY of recycled water will be available by 2015, there does not appear to be any factual support for this prediction. (WSA, Table 1.7A.) In fact, there currently is no recycled water available for direct surface use. (WSA, p. 128.) Before such water is available, the City must fund a \$35.5 million upgrade to its wastewater treatment plant. (WSA, p. 132.) It appears that this is merely a "paper project," and that the City merely has "recycled water goals" as opposed to actual recycled water. (WSA, p. 128.)

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The WSA indicates that while some environmental review of the wastewater treatment plant has been conducted, the City still requires permits that will allow it to discharge recycled water, such as a Waste Discharge Requirements permit from the Regional Water Quality Control Board. (*Id.*, p. 131.) The WSA states that the City is "currently in the process of undertaking these additional required environmental analyses," but there is no indication of when this process will be completed or even if the project upgrade will be

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allowed to proceed once the additional environmental review is completed. (WSA, p. 133.)

Beyond that, it is not clear that there is even funding available for the \$35.5 million sewer plant upgrade. The WSA notes that there has been a rate increase to “help finance” the upgrade, but no indication of what portion of the project cost the rate increase covers.

(WSA, p. 132.) The WSA states that the City has “applied for a State grant” to partially pay for the upgrade, but again there is no discussion of the status of this grant application and what portion of the \$35.5 million plant upgrade the grant will cover. (WSA, p. 132.)

Finally, the WSA does not indicate whether construction of the sewer plant upgrade has begun, if not, when it will begin, and when the project will be completed. In sum, there are so many uncertainties concerning the availability of recycled water that there is no basis for the City’s inclusion of it in its water supply calculations.

The WSA also suggests that in lieu of the sewer plant upgrade, that a “satellite treatment plant” will be built within the Project site to generate recycled water. But the WSA’s discussion of this plant is equally deficient, with no details on whether funding is available, no details regarding necessary environmental review and permits, and when – if ever – it will be constructed. (WSA, p. 133-140.) Once again, this appears to be a “paper project,” and thus the recycled water that it may theoretically generate some day should not have been included in the water supply analysis.

The EIR and WSA do not disclose the significant problems that are generally associated with recycled water. As the SGPWA recently stated in its April 11, 2011, “Report on Water Conditions - Reporting Period 2009” (“SGPWA 2009 Water Conditions Report”) “[w]hile recycled water is a benefit to the region, its use as a water supply will also require

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desalting at some point in the future. Desalting is costly and requires a brine disposal method.¹⁴ The Santa Ana Regional Water Quality Control Board regulates salinity in the area." (*Id.*, at Section 3.2.) The SGPWA 2009 Water Conditions Report goes on to state: "Local retail water purveyors continue to make slow progress in implementing recycled water systems. These systems are complex and expensive to complete, and funding and water quality (salinity) are key issues that require attention." (*Id.*, at Section 6.0.) The EIR and WSA do not discuss the salinity issue, whether either the City or the Project proponent have obtained the necessary approvals from the Regional Water Quality Control Board to discharge treated wastewater, and how brine will be disposed of, and the environmental impacts of doing so.

17.s
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The WSA also relies on the "capture" of stormwater and urban runoff to be discharged to Smith Creek. (WSA, p. 2.) However, there is no discussion of when this will occur, whether such discharge will require a permit and, if so, whether the Project proponent has obtained such permits, and whether such water will need to be treated prior to discharge. Nor are impacts from this "capture" addressed.

17.t

The WSA's discussion of purchase of SWP water from the SGPWA is particularly confused. It appears that the WSA's water supply assumptions are based in part on the assumption that Banning has a "right" purchase 25% of the SGPWA's allotment of SWP water. (WSA, p. 108.) Later, the WSA states that Banning possesses no such "right."

17.u

¹⁴ Available at <http://www.sgpwa.com/pdfs/2009%20SGPWA%20Report%20on%20Water%20Conditions.pdf>. We request that this report be included in the Administrative Record.

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(WSA, p. 122) Nonetheless, the WSA states that Banning's ability to purchase 25% of the SGPWA's total allocation of SWP water is "reliable." (WSA, p. 114.) These significant factual and legal discrepancies should be resolved, and the WSA should discuss uncertainties inherent in the purchase of water from the SGPWA. Among other issues to consider, are the fact that the SGPWA has a statutory duty to address the overdraft in the Beaumont Basin, and the fact that there are likely to be many more water retailers seeking to purchase water from the SGPWA in the future.

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The WSA also assumes that the SGPWA has the capacity to transport its full allotment of 17,300 AFY of SWP water to the Pass area. (WSA, p. 108.) This is incorrect. The SGPWA has the capacity to transport only 50% of this amount. While there is a project in place to double this capacity, the WSA fails to discuss whether, and if so when, this expansion project will be completed. In addition, the SGPWA is mandated by law to give "the highest priority ... to eliminating groundwater overdraft conditions with an any agency or district receiving the [SWP] water." (SGPWA Report on Conditions, 2004 to 2005, Dated April 2007 [SGPWA 2007"], p. 1.)¹⁵ The EIR and WSA fail to address how this statutory mandate may affect the ability of SGPWA to sell SWP water to the City.

17.v

Much of the WSA's water supply analysis is based on the assumption that it will purchase SWP water from the SGPWA and place this water in the Noble Creek recharge ponds, which are owned by the Beaumont Cherry Valley Water District ("BCVWD"). (WSA, p. 114) It is unclear what the capacity of these ponds is – 25,200 AFY or 20,000

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¹⁵ Available at <http://www.sgpwa.com/pdfs/SGPWA%202004-5%20report.pdf>

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AFY, and the WSA does not discuss whether there is sufficient capacity to recharge water from Banning and all other sources. (WSA, p. 115.) The WSA does not discuss the efficacy of this recharge effort; i.e., how long it takes water placed in the ponds to reach the Beaumont Basin, whether 100% of the water reaches the Basin, whether there is loss through evaporation, etc. The WSA appears to assume that the recharge occurs very quickly, and that all water placed in the ponds reaches the Basin, although there appears to be no technical support for these assumption. It is also unclear what right, if any, Banning has to use the BCVWD ponds. While the WSA makes a number of statements about formalizing a relationship to use the ponds, including possible purchase of them, as well as expansion of the ponds, there is no discussion of the status of these negotiations, whether there is funding available, and what contingency plans are in place should Banning lose the ability to use the recharge ponds.¹⁶

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The primary source of water for the Project will be extractions from various groundwater basins. The WSA assumes that the City will be entitled to withdraw 100% of the “perennial yield” of the Banning Basin, Banning Bench Basin, and Banning Canyon Basin, apparently without causing water levels in these basins to decline. (WSA, p. 94.) However, the WSA does not disclose what other users will draw water from these basins, what the projected combined withdrawals are, and how that will affect the groundwater

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¹⁶ The WSA also states that there will be “several” groundwater “recharge basins” within the Project area. However, there is not discussion or disclosure of where these basins will be located, the efficacy of the recharge from these basins (i.e., will the basins actually recharge the Beaumont Basin and, if so, how long will it take for the water to reach the Basin), and whether the recharge basins will require permits (and if so, whether such permits have been obtained).

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basins. We note that the SGPWA 2010 UWMP states that the water levels in the Banning groundwater basins have been declining.

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The City also plans to withdraw water from the Beaumont Basin. The Beaumont Basin is currently in a state of "overdraft," meaning that more water is removed from the Basin than it can safely produce. In 2009, the Beaumont Basin experienced an overdraft of 8,848 AFY. (SGPWA 2009 Conditions Report, Section 4.2.) The SGPWA, which is the governmental body responsible for addressing the overdraft of the Beaumont Basin, has further opined that "the cumulative overdraft" of the Beaumont Basin since 1997 is 114,346 AF. (*Id.*) Because the Project will require additional extractions from the Beaumont Basin, it is essential that the EIR analyze and disclose the impact of these increased extractions.

} 17.y

The EIR notes that there is a discrepancy between the "safe yield" that was agreed to in the Stipulated Adjudication of the Beaumont Basin and the "safe yield" that the SGPWA has determined. The SGPWA 2009 Conditions Report states as follows: "Prior studies have pointed to an estimated long-term annual safe yield of about 5,000 to 6,100 acre-feet per year for the Beaumont Basin (Boyle Engineering, 1995; Boyle Engineering, 2002).¹⁷ This is smaller than the safe yield of 8,650 acre-feet defined in the Beaumont Basin Judgment, which represents the sum of the overliar rights." (*Id.*, Section 4.2) The EIR adopts the 8,650 AFY "safe yield" calculation for the Beaumont Basin, apparently relying

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¹⁷ Available at <http://www.sgpwa.com/pdfs/SafeYieldStudyBeaumontStorageUnit.pdf>, <http://www.sgpwa.com/pdfs/BeaumontStorageUnitBasinYieldUpdate.pdf>. We request that these reports be included in the administrative record

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the Stipulated Adjudication. (EIR 4.15-7.) However, it does not provide a technical basis for its rejection of the lower safe yield that the SGPWA has established, based on two scientific studies. The EIR does not disclose what the 8,650 safe yield calculation is based on -- i.e., scientific studies or, as SGPWA states, merely sum of the overlier rights. Nor does it provide any reasonable basis for its apparent selection of the Stipulated Adjudication's figure rather than the SGPWA's figure. The WSA's discussion of this issue is conclusory at best, stating as a justification for rejecting SGPWA Agency's safe yield that the SGPWA's studies are "significantly older." (WSA, p. 76.) Yet, while the WSA refers to "studies" of the Watermaster, it does not discuss whether there was any scientific basis for the 8,650 safe yield which the WSA "assumes" is the proper safe yield. The WSA is utterly lacking in any meaningful analysis of this issue, which is a critical flaw in its over all analysis. Without understanding what the Beaumont Basin's safe yield is, it is not possible to evaluate the impacts to the Beaumont Basin of increasing extractions to supply this Project will have. SGPWA has concluded that the Stipulated Adjudication "will make elimination of overdraft more difficult in the near term, as an additional 168,000 acre-feet are being and will continue to be withdrawn without replenishment between 2004 and 2013." (SGPWA 2007, pp. 7-8.)

A substantial amount of the City's claimed water supply comes from extractions from what the City calls its "storage account" in the Beaumont Basin. This "storage account" appears to consist of three sources. "Credit" for water that the City has the right to extract but that it did not extract in past years, "credit" for recycled water that the City recharges into the Basin, and "credit" for State Water Project ("SWP") water that the

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City plans to buy and then place into recharging pools. As a preliminary matter, and is discussed above, the EIR's analysis of the underlying supplies (recycled water, recharged water, SWP water) is based on a number of assumptions for which there is no factual support in the EIR.

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Beyond that, the EIR's and WSA's discussion of the "storage account" is incomplete, concusory, and lacking in factual support. The EIR asserts that the City has the "right" to "store" up to 80,000 AFY of water in the Beaumont Basin. (EIR 4.14-7.) However, the WSA predicts that Banning will have water in a "storage account" in the Beaumont Basin amounting to 86,633 acre fee by 2045. (WSA, p. 86.) There is no discussion of whether this amount of water will actually be present in the Beaumont Basin, and whether its extraction will have any effect on the overdraft condition of the Basin. There also is no discussion of whether there is sufficient storage capacity for the City, as well as all other parties with "storage accounts." We note that the SGPWA claims that there is only approximately 200,000 af of storage capacity in the Basin.

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In sum, the EIR and WSA's reliance on recycled water, the so-called "Storage Account" in the Beaumont Basin, and the "phasing" of the Project, have resulted in a utter failure to disclose the actual impacts that this Project will have on water resources. In particular, in their references to the Beaumont Basin "Storage Account," the EIR and WSA are misleading in that they fail to disclose the actual extractions from the overdrafted Beaumont Basin. The chart below shows a comparison between the demand estimated in the EIR and WSA (assuming the Project is not "phased") and the supply available (less the

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speculative “recycled water” and Storage Account figure). The shortfall – which occurs each year – reflects the extractions that will be necessary from the Beaumont Basin.

Supply versus Demand and Needed Extractions from Beaumont Basin

	2015	2020	2025	2030	2035	2040	2045
Demand with Project (not “phased”) ¹⁸	13,731 ¹⁹	14,213	14,943	15,793	16,717	17,858	19,491
Supply ²⁰	8,345	8,610	8,808	9,076	9,372	9,698	10,559
Needed Extractions from Beaumont Basin	5,386	5,603	6,135	6,717	7,345	8,169	9,432

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As can be seen in this chart, the City’s extractions from the Beaumont Basin will exceed the SGPWA’s safe yield for the Beaumont Basin by 2015 – and then continue to increase each year thereafter. Yet the EIR and WSA fail to disclose or to analyze the impacts to the Basin of such massive extractions. As the SGPWA has stated, “the implications of lower water levels are great.” (SGPWA 2009 Conditions Report, Section 4.3.) In addition to increasing the cost of pumping water, it also leads to the drying up of wells in addition to “land

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¹⁸ This simply includes the WSA’s calculation of “gross water demand” of 4,224 AFY in each year, without the deduction for “Demand Savings From Conservation.” WSA Table 1.6.2.B.

¹⁹ All figures are acre feet per year.

²⁰ Table 1.7A, WSA. This figure does not include “Beaumont Basin (Stored Water Account Balance) and “Recycled Water.”

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subsidence and the drying up of traditional wetlands or streambeds." (*Id.*) None of these potential impacts are disclosed or mitigated in the EIR.²¹

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Biological Resources

The EIR does not provide a sufficient context to allow the reader to understand the impacts of the Project. The EIR does not include sufficient information regarding the past, present, and projected future status of habitat for, and population counts of, local and migrant species in the region. Without this information, it is impossible to make an informed decision regarding the severity of the Project's impacts on a project specific and cumulative level. Significantly, the EIR does not address the further loss of viable habitat and species in the lower elevations of the region. In other sections of the EIR, it is noted that substantial amounts of residential development has and will continue to occur in the region. As with most other residential developments in the region, the Project will impact the flatter lower elevation habitat in such a way to make it unusable for local and migrant species. Thus, some habitat and associated species are being disproportionately impacted by the development in the area. In addition, the EIR does not provide any evidence that compliance with the Western Riverside Multiple Species Habitat Conservation Plan has been and will be effective in mitigating impacts to biological resources. Lastly, because the Project will compound the effects of climate change, the EIR should take into account the resulting loss of viable habitat which may occur.

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²¹ In addition, while as discussed elsewhere, we believe that there is insufficient technical data to support the concept of a "water storage account," if the realistic supply and demand figures are used, as reflected above, this "storage account" would be depleted prior to 2045. Yet the EIR and WSA fail to address or disclose this issue.

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For the reasons stated above, the EIR's conclusions regarding species such as the burrowing owl and other nesting birds, double-crested cormorants, northern harrier, California horned lark, loggerhead shrike, coyote, and black-tailed jackrabbit are not supported by any evidence. The EIR concludes sufficient habitat for these species exists off-site and that these species will simply move from the Project site to an alternative habitat in the general area. In addition, the EIR concludes that the Project will not result in a significant reduction of the populations of these species in the region. There is no evidence to support the assumption that alternative habitat will be available for these species in the short or longer term, or that any existing habitat will be able to accommodate the migration of these species into that area. Without any information regarding the past, present, and projected future population counts of these species, it is impossible to determine whether any reduction in their populations is significant.

17. ff

San Bernardino National Forest

The EIR fails to disclose, analyze, and provide mitigation for impacts to the adjacent San Bernardino National Forest.²² Impacts that may occur, include but are not limited to, impeding the implementation of forest plans and other planning documents, increased risk of wildfire in the wildland-urban interface, increased use impacts, impacts to

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²² Information regarding the forest, including, public use of the forest, sensitive species, forest plans and relevant federal projects can be found at http://www.fs.usda.gov/wps/portal/fsinternet!/ut/p/c4/04_SB8K8xLLM9MSSzPy8xBz9CP0os3gjAwhwtDDw9_AI8zPwhQoY6BdkOyoCAPkATLA1/7ss=110512&navtype=BROWSEBYSUBJECT&cid=FSE_003853&navid=09100000000000&pnavid=null&position=BROWSEBYSUBJECT&ttype=main&pname=San%2520Bernardino%2520National%2520Forest-%2520Home.

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the wilderness experience sought by visitors, loss of species, introduction of invasive species and domestic animals, and the hindrance of the recovery of sensitive species. For more information regarding the San Bernardino National Forest and the resources which may be impacted please see "A Conservation Alternative for the Management of the Four Southern California National Forests" (available at <http://www.biologicaldiversity.org/publications/papers/con-alt.pdf>) and "The Community Protection Zone: Defending Houses and Communities from the Threat of Forest Fire" (available at <http://www.biologicaldiversity.org/publications/papers/wui1.pdf>).

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Air Quality and Climate Change

In Section 4.5.4, the EIR lists many of the mitigation measures to reduce global warming related impacts identified by the California Attorney General. Many mitigation measures from this list appear to be feasible, but were improperly rejected without explanation or adequate consideration. For example, the EIR states that rooftop solar and electric vehicle charging stations will simply be "allowed." No explanation or evidence is provided for the implied conclusion that installation of these mitigation measures as part of the Project would not be feasible. In addition, the EIR rejects the use of passive solar design because trees will be planted to provide shade. The EIR does not address why passive solar design could not be used in combination with shade trees.

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Similarly, it does not appear that the EIR considers many potentially feasible measures included on the Attorney General's list, including but not limited to: the use of small scale wind power, solar hot water heaters, on-site energy storage, grey water systems,

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devising a site-specific comprehensive water conservation strategy, conditioning development on proven offsets for water demand, meeting recognized smart growth benchmarks, meet an identified transportation-related benchmark (such as a reduction in the jobs to housing ratio), provide public transit incentives, install infrastructure allowing teleconferencing, provide incentives and infrastructure for use of low emission vehicles, light colored paving, and preservation of agricultural land and other open space. Additional potentially feasible measures that should be discussed and analyzed in the EIR can be found in the Appendix B of the document prepared by CAPCOA entitled CEQA and Climate Change, available at <http://www.capcoa.org/wp-content/uploads/downloads/2010/05/CAPCOA-White-Paper.pdf>. Further, it does not appear that any off-site mitigation was considered, including but not limited to conservation easements, mitigation fees to fund emission reduction programs, and emission offsets. Offsite mitigation measures are identified in the documents referenced above.

Given the substantial unmitigated impacts the project will have, the EIR should provide an analysis of potentially feasible mitigation measures prepared by an independent private or non-profit green building certification program. This analysis should include evidence regarding the feasibility of further mitigation for the Project's impacts. Although the costs of these measures is a valid concern, a mitigation measure is not considered to be infeasible solely because it will increase costs to build the Project. Moreover, the costs associated with climate change and degraded air quality are likely much greater than the cost of feasible mitigation which will reduce or avoid these impacts.

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Considering the substantial reliance of the Project on coal power and the low jobs to housing ration in the area (which greatly increases vehicle miles traveled (“VMT”), it is not unreasonable for the Project to include additional measures to reduce its significant impacts. Also, please note that pursuant to CEQA Guideline Appendix F, all EIRs must consider the potentially significant energy implications of the project, and that Appendix F lists potential mitigation measures.

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In addition, many of the measures that are to reduce air quality impacts simply state that a report will be prepared at a future date and be approved by a city employee. (*E.g.* EIR 4.3-29-33.) These measures do not provide adequate criteria regarding what specific actions are required and how those measures will be enforced. Further, it appears that the EIR assumes that solutions to degraded air quality will be remedied in the future by the South Coast Air Quality Management District (“SCAQMD”) or some other agency. (*E.g.* EIR 4.3-36.) However, regulatory agencies such as SCAQMD do not themselves generate any significant amount of air pollution. It is local governments, developers, and residents who must implement the changes needed to make the regions air safe to breath. Thus, the EIR should adopt additional measures or project design features now which will avoid or significantly reduce the Project’s future emissions. Moreover, for each phase of the Project, the EIR should mandate that the Project will use the current best available technology to reduce emissions and implement all more stringent air quality measures and policies which may be devised (including greenhouse gas regulations), even if the project is “grandfathered” in and exempt from those policies.

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Further, careful review of the projects approved by the City of Beaumont, City of Banning, the County of Riverside, and other local governments would reveal that these agencies have approved more than the number of housing units that regional planners have anticipated in their planning documents. In addition, Banning and nearby municipalities are already considered to be housing rich because of the low jobs to housing ratio. This imbalance in jobs to housing is a leading cause of the relatively high VMT associated with this and similar Projects, because residents are forced to commute to and from Orange and Los Angeles Counties for work. See <http://www.scag.ca.gov/Housing/pdfs/Balance.pdf>. The Project will worsen the situation. Thus, what is needed is more jobs in Banning and more housing along the coast. *Id.* Accordingly, the EIR should consider alternatives and measures which could reduce Banning's jobs to housing ratio and thus reduce the VMT associated with the Project.

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Agricultural Resources

In Section 4.2 the EIR notes that the site was previously used for agricultural uses, such as wheat production, and was formerly protected by a Williamson Act contract. The site is now used for cattle grazing and is designated as Farmland of Local Importance. The EIR states the site could again be used for crop production, but that the City has planned for residential development of the site. The EIR notes that agricultural uses of the site could cause a nuisance to adjacent residential land uses, assuming the use of pesticides and fertilizer and the generation of dust. However, the EIR notes that right to farm ordinances could be designed to protect agricultural uses. Moreover, the EIR provides no evidence that

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agricultural uses, for example organic crop production, could not be designed in such a way to eliminate any potential nuisance.²³ The EIR also notes the substantial value of agriculture to the State of California and the County of Riverside. The EIR indicates that nearby offsite lands have planned agricultural uses.

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In its impact analysis, the EIR incorporates the conclusion from the eighteen year old EIR for the Deutsch Specific Plan which stated that the Deutsch Project would not result in an impact to agricultural resources. Given the rapid growth in the area since that original EIR was considered, notably the addition of 1,883 housing units from 2000 to 2010 and an apparent loss of additional agricultural resources, it is improper for the EIR to rely on this outdated document and analysis. (EIR Table 5.7-5.) Further, the analysis in the EIR appears to focus solely on economic impacts, with no consideration of the environmental impacts associated with the loss of viable farmland. In addition, the EIR needs to provide additional information regarding the location of nearby agricultural uses and how development pressure associated with the Project may impact those uses.

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The EIR has failed to consider many potentially feasible methods to avoid or reduce the impacts of the Project. Potential on-site measures include designating areas within the Project site for farmers markets and community gardens. Potential offsite measures including funding conservation easements and the payment of mitigation fees. These measures would have the additional benefit of reducing the Project's greenhouse gas

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²³ It should be noted that the County of Riverside concluded in its General Plan that conflicts between agricultural and residential uses is rare.

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impacts. <http://www.capcoa.org/wp-content/uploads/downloads/2010/05/CAPCOA-White-Paper.pdf>, Appendix B. Several courts have found conservation easements and similar preservation measures to be reasonable mitigation measures. *Building Industry Assn. of Central California v. County of Stanislaus* (2010) 190 Cal.App.4th 582, 592, *San Mateo County Coastal Landowners' Assn. v. County of San Mateo* (1995) 38 Cal.App.4th 523, 549-51, *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 494-96. In addition, the California legislature has clearly indicated that agricultural land is a vital resources that CEQA should play a role in preserving. Stats. 1993, ch. 812, § 1, subd. (d), p. 4428; CEQA Guidelines §§ 15317, 15370(d-e); Gov. Code, §51220, 65561; Civ. Code, §§ 815-816; Stats. 1979, ch. 179, pp. 398-400; Pub. Res. Code §§ 10200 et seq., 10201(d), 31156. For further guidance regarding measures to mitigate the loss of agricultural land see: California Dept. of Conservation, *California Farmland Conservancy Program, Guidelines for the Preparation of Agricultural Conservation Easement Appraisals*, available at <http://www.consrv.ca.gov/dlrp/cfcp/Documents/CFCP%20Appraisal%20Guidelines.pdf>; County of Riverside General Plan, Chapter 3: Land Use Element, available at <http://www.rctlma.org/genplan/content/gp/chapter03.html>. In addition, the California Supreme Court has found that payment to a third party for offsite mitigation is a feasible form of mitigation. *City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal.4th 341, 360, 367.

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Land Use and Planning

As noted above, the Project will worsen the jobs to housing ratio in the region. Thus, the conclusion that the Project is consistent with SCAG's goal of locating new housing near existing jobs is not supported by any evidence. (EIR 4.10-17; *See* <http://www.scag.ca.gov/Housing/pdfs/Balance.pdf>.) The EIR provides no evidence that any existing jobs are available for the Project's residents. The reality is that most of the residents in the Project area will commute to Los Angeles and Orange County for existing jobs. Further, the EIR misleadingly categorizes the Project as "infill" development. (EIR 4.10-17, 10-18.) The Project converts vacant land on the periphery of the City to urban uses, it does not fill undeveloped land within the urban core. Indeed, the Project is the antithesis of an infill development. The EIR also improperly concludes that it is consistent with the policy to preserve rural and agricultural areas. (EIR 4.10-19.) The EIR states that there are no rural or agricultural areas on the Project site. However, the Project site as described in the EIR is a locally important farmland and exists in a rural undeveloped state. Moreover, the EIR provides no mitigation for the loss of these resources.

In addition, the Project includes a portion of, and is surrounded by, unincorporated areas of the County of Riverside but includes no analysis of consistency with the County General Plan. Similarly, as noted above, the EIR provides no analysis of consistency with the adjacent national forest's planning documents.

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Public Services and Utilities

The EIR notes that facilities such as fire and police stations, schools and other public facilities will likely need to be constructed. However, no information or analysis regarding that impacts from that construction and any necessary mitigation are provided. Similarly, this information is not provided for infrastructure projects such as recycled water, sanitary sewer, and water storage facilities. In addition, the EIR notes that landfill capacity will be exhausted in Lamb Canyon by 2021, in Badlands by 2016, and El Sobrante by 2045. Thus, no landfill capacity would exist at the approximate time the Project is expected to be completed. The EIR does not discuss how the loss of that landfill capacity will be addressed.

The EIR states that trails will be built connecting the Project site to the adjacent national forest. As discussed above, no discussion of the impacts on the national forest and needed mitigation is provided.

The EIR does not provide sufficient information to support the claim that the Project would not encourage inefficient, wasteful or unnecessary consumption of energy. As discussed above, many feasible mitigation measures which would reduce energy consumption have not be considered. Similarly, the EIR indicates that "LivingSmart" homes would achieve greater reductions in energy use, as well as reduce other environmental impacts, but does not explain why the impact reducing features of this type of home are not incorporated into all housing units. In addition, insufficient evidence is provided to support the claimed reductions in energy consumption the Project design features are expected to achieve.

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The mitigation measure regarding waste management at the golf course is not sufficient. As with many other mitigation measures, it contemplates the preparation of a future plan to be approved by a City employee. The measure does not provide sufficient criteria for preparing the waste management plan or mandatory language which would ensure implementation and enforcement. Moreover, no information regarding the amount of waste which will be generated and what effect the mitigation measure is expected to have are provided.

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Traffic and Transportation

As an initial matter, the limited scope of EIR's analysis is not reasonable. The analysis of "Streets" is limited to a five mile radius from the Project Site. (EIR 4.13-5.) The analysis of "Freeways" is limited to ten freeway segments "most likely to be affected by the proposed Project." (EIR 4.13-8.) Because of Banning's low jobs to housing ratio and the amenities offered by nearby coastal areas, it is known that the Project's traffic related impacts will effect Los Angeles and Orange Counties, as well as destinations in between. Accordingly, the analysis should be expanded to all areas that will be significantly impacts by the Project.

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The Traffic Impact Analysis, included in Appendix I of the EIR, does not sufficiently explain why growth projections included in SCAG's Regional Transportation Plan ("RTP 2008") were used for the purposes of estimating when the City's General Plan build-out would occur. The EIR concluded that the RTP 2008 growth forecast reflects a period of accelerated regional growth that subsequently slowed dramatically. (EIR 5.0-11).

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Because the EIR concludes that SCAG's estimates do not reflect current conditions and are not consistent with the City's own estimates, it was not reasonable to base the traffic analysis on SCAG's estimates. Accordingly, a new traffic analysis is needed.

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The EIR concludes the Project would have no impact on air traffic patterns, but provides no information or analysis regarding air traffic levels in the past, present, or future. (EIR 4.13-31.) Thus, it is unknown whether an increase in air traffic, and associated air emissions, will occur.

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The EIR concludes that the Project will not decrease the performance of public transit facilities but provides no information or analysis to support that conclusion. The EIR simply concludes that Project is required to consult with the City of Banning and Riverside County Transit Authorities and some future date. Thus, it is unknown whether the transit agencies can or will expand their service to accommodate the Project. Moreover, no information regarding the current and projected future level of service of any public transit system is provided. It was improper for the EIR to assume a solution to public transportation impacts would be found without any information or analysis to support that assumption. Moreover, it is very likely that the Project's addition of 62,263 daily vehicle trips, and resulting significant traffic impacts, will affect the performance of vanpools, buses and other public transportation systems.

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The EIR addresses possible construction projects needed to expand the capacity of the transportation system, but does not address any of the needed maintenance for this system. The Project's addition of 62,263 daily vehicle trips to the transportation system

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will cause more wear and tear on the transportation infrastructure but these impacts are not addressed. Nor does the EIR adequately identify and address any of the impacts of the construction Projects described in the EIR. The EIR simply lists areas where construction may occur and the states a plan will be prepared that may or may not include vaguely described elements.

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The EIR finds that long-term traffic congestion impacts would be significant and unavoidable. (EIR 6.0-5). The EIR identifies mitigation but does not commit to mitigating impacts because improvements can not be guaranteed and many improvements are needed outside the jurisdiction of Banning. The Project is not excused from the duty to mitigate or avoid off-site impacts to traffic solely because work must be performed off-site. Further, a commitment to pay fees without any evidence that mitigation will actually occur is inadequate. The EIR should condition each phase of the development on assurances that traffic mitigation has occurred or will occur in a reasonable time. This will not only avoid significant traffic impacts, it will also reduce toxic and greenhouse gas emissions because vehicles impeded by traffic have greater emissions.

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Alternatives to the Project

The EIR does not provide a sufficient basis for concluding it was appropriate to evaluate the 1993 Deutsch Specific Plan as the No Project Alternative. As noted in the analysis, the 1993 Deutsch Specific Plan does not reflect current and projected market conditions and current environmental standards and knowledge. (EIR 6.0-8 to 6.0-16.) Thus, the evidence does not support the conclusion that the 1993 Deutsch Specific Plan

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would ever be implemented. Accordingly, the No Project Alternative evaluated does not provide sufficient information regarding expected conditions should the proposed Project not be built.

The EIR provides an insufficient explanation as to why the environmentally superior Reduced Density Alternative was rejected. (EIR 6.0-16 to 6.0-22.) An alternative must be selected if it would substantially reduce the project's significant impacts, it not need completely avoid the impact. However, the analysis in the EIR demonstrates that significant reductions in impacts resulting from the Reduced Density Alternative were disregarded because impacts were not fully avoided. Moreover, no evidence is provided that the Reduced Density Alternative could not be designed to completely avoid all or some of the Project's unmitigated impacts. Thus, the EIR should include an alternative which avoids the Project's unmitigated impacts.

In addition, there is no support for the conclusion that "a number of project objectives" would not be fulfilled. The EIR identifies only two of sixteen project objectives that would purportedly not be achieved. The only conflict identified with the goal of the Project being a "Master Planned Community" is a reduction in the number of housing units as compared to the 1993 Deutsch Specific Plan. (EIR 6.0-22.) But the EIR concludes that the Reduced Density Alternative would still satisfy regional housing needs. (EIR 6.0-19.) Further, in the analysis of growth inducing impacts, the EIR concludes that population forecasts among various agencies varies widely and the City's projections are speculative. (EIR 5.0-13.)

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Similarly, the EIR lacks any evidence to support the conclusion that a conflict with the goal of providing a wide range of housing opportunities exists. The EIR assumes, without any rational basis, that each specific planning area would need to be reduced by 20%. Even if that were true, the Reduced Density Alternative would still provide the same variety of housing opportunities, only the total number of each variety would be reduced. Similarly, the EIR provides no basis for conclusion that flexibility regarding the location and type of housing offered would be reduced. The reduction, could for example, be taken disproportionately from any of the planning areas as economic and environmental considerations dictate. This is apparently what the analysis envisioned in the discussion of biological resources and hazards analysis. (EIR 6.0-18, 6.0-19.) The analysis of the Active Adult Community Alternative and No Golf Course Alternative are similarly deficient as they significantly reduce the Project's impacts and meet almost all of the Project's objectives.

Cumulative Impacts

As an initial matter, the reliance and incorporation of planning documents which considered the 1993 Deutsch Specific Plan is not appropriate. (EIR 4.0-4 to 4.0-6.) Although, that plan is similar to the Project, the Project is a distinct project which requires an amendment to the City General Plan and was not considered by previously approved planning documents. Similarly, reliance on the analysis and conclusion in the 1993 Deutsch Specific Plan was not appropriate as it was completed eighteen years ago when environmental conditions were dramatically different.

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Further, the list of related projects is legally inadequate. It does not appear the list includes any past projects and all reasonably foreseeable future projects. It appears the list only includes present projects in Banning and Beaumont were considered. Further, no rational basis is provided for the geographic scope of the list. To be adequate, the EIR should consider projects in nearby Palm Desert, Palm Springs, Redlands, Yucaipa, Cabazon, San Jacinto, Hemet, Moreno Valley, and unincorporated areas of the County of Riverside.

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We appreciate your consideration of these comments, and request that you not certify this EIR and that you instead engage in the additional analysis required. We also request that you provide us with all notices regarding this project issued by the City of Banning, or any department thereof.

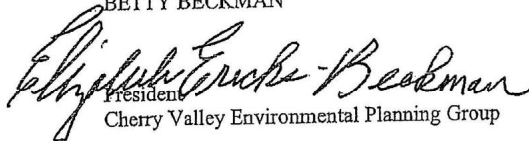
Thank you.

Very truly yours,



PATSY KEELEY
President
Cherry Valley Pass Acres & Neighbors

BETTY BECKMAN



President
Cherry Valley Environmental Planning Group

cc: Robert C. Goodman, Esq.

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**Cherry Valley Acres and Neighbors and
Cherry Valley Environmental Planning Group
(submitted by Patsy Reeley, President and Betty Beckman)**

Response No. 17

- 17.a These are introductory paragraphs describing the Cherry Valley Pass Acres and Neighbors (CVAN) and the Cherry Valley Environmental Planning Group (CVPEG). No response is necessary.
- 17.b The comment states that in accordance with applicable laws it is reserving the right to submit additional comments, orally, and in writing, up until the time the City takes final action on the EIR. Additional comments are welcome up to the date of the final action on the EIR; however, CEQA Guidelines Section 15088 only requires that a lead agency respond to comments received during the noticed comment period, but states that the lead agency “may” respond to late comments. In an effort for full disclosure, the City has responded to comments received during the public review period and those received after the closure of the review period. In addition, all oral and/or or written comments submitted during the Final EIR public hearings will be made part of the administrative record.
- 17.c The comment asserts that the Project as currently proposed is inappropriate and environmentally damaging in a number of topical areas. The topical areas identified in the comment are analyzed in the Draft EIR and the Response to Comments herein. Refer to the following sections for a detailed discussion of these topical areas:
- Wildlife: refer to Draft EIR, Section 4.4, *Biological Resources*, which discusses the existing site conditions, regulatory environment, potential impacts, and necessary mitigation measures with respect to Biological Resources, including wildlife species. In addition, refer to Responses 17.ee through 17.ff for further clarification.
 - Utility Connections: refer to Draft EIR, Sections 3.0, *Project Description*, and 4.12, *Public Services and Utilities*, which discuss the existing site conditions, regulatory environment, potential impacts, and necessary mitigation measures with respect to public services and utilities associated with the proposed Project. In addition, refer to Responses 17.yy below for further clarification.
 - Shortage of water: refer to Draft EIR, Section 4.14, *Water Supply*, discusses the existing site conditions, regulatory environment, potential impacts, and necessary mitigation measures with respect to water resources including the

potential for water shortage. In addition, Draft EIR Appendix J contains the Project's Water Supply Assessment, which provides further detail regarding the City's projected water supplies and demands. Refer to Responses 17.e through 17.dd for additional detail regarding particular concerns.

- Risks of flood: refer to Draft EIR, Section 4.9, *Hydrology and Water Quality*, which discusses the existing site conditions, regulatory environment, potential impacts, and necessary mitigation measures with respect to flooding impacts. This section specifically addresses flooding issues in Impact Statements 4.9-2, 4.9-4, and 4.9-5.
- Wildfires: refer to Draft EIR, Section 4.8, *Hazards and Hazardous Materials*, which discusses the existing site conditions, regulatory environment, potential impacts, and necessary mitigation measures with respect to wildfires. Impact Statement 4.8-5 specifically addresses wildfire hazards associated with the Project.
- Adjacent land uses (including Highland Springs Resort and the San Bernardino National Forest) have been discussed in Draft EIR Section 4.10, *Land Use and Planning*. In addition, further clarifications to adjacent land use issues are provided in Responses 17.gg, 20.i, and 20.pppp.

Impacts related to these topical areas referred to by the comment were determined to be less than significant impacts. It should also be noted that the Deutsch Specific Plan in its current form has been approved since 1993, which allows a similar amount and type of development as proposed in the Butterfield Specific Plan. Without particular concerns regarding the adequacy of the analysis in these Draft EIR impact statements, no further response is appropriate.

17.d The comment states that the Draft EIR is deficient in its analysis of the potential environmental impacts. The City does not concur with this statement. As noted above in Response 17.c, no particular concerns regarding the adequacy of the analyses in the Draft EIR is presented in this specific comment. However, as direct questions are raised in the following comments regarding the adequacy of the environmental analysis, appropriate and corresponding responses are provided.

17.e The comment states that the Draft EIR does not disclose the Project's impacts on the San Gorgonio Pass Water Agency's (SGPWA) prime water resource, the Beaumont Basin. In this comment, the comment contends that the Pass Area does not have the water to support this type of development and neither is there sufficient housing demand to support this Project.

Preliminarily, the comment misstates the projected water demand of the Project. As summarized in Table 1.6.1 of the WSA, the total net demand of the Project at buildout (2045) is projected to be 3,103 AFY. This includes both potable and non-potable

demands. The figure 4,224 AFY referenced in the comment is a gross calculation based on historical demand and does not take into account the numerous required conservation measures that will be applied to the Project. (See WSA Section 5.3.)

As discussed in Section 1.7 of the WSA (Draft EIR Appendix J), the City will manage all of its water supply resources (including groundwater produced from five separate subbasins, imported water and recycled water) conjunctively to maximize the yield and reliability of each supply.

Impact 4.14-1 provides an analysis of impacts that would occur within the Beaumont Basin from implementation of the proposed Project. To the extent operationally feasible, the City does not intend to increase pumping from the Beaumont Basin over historical levels (2,514 AFY, on average). No new wells are required to serve the Project.

As described both in the Draft EIR, Impact 4.14-1 and the WSA (Draft EIR Appendix J) Section 6.1, the Beaumont Basin has been adjudicated. All proposed pumping from the Beaumont Basin is supported by the City's rights in and to the basin pursuant to the Beaumont Basin Judgment. The City has the right to pump its adjudicated Production Right, plus any water banked in its Stored Water Account pursuant to the Beaumont Basin Judgment. The City's rights are accounted for by the Beaumont Basin Watermaster.

As described in the WSA, the Beaumont Basin is actively monitored and has been for many years. The Watermaster collects data on production, water levels and water quality from all basin pumpers and other cooperating agencies to monitor and understand the basin. The Watermaster compiles information on production and recharge into an annual report. Every two years, the Watermaster prepares an engineering report on the state of the Basin's water resources, including changes in groundwater elevation, storage and quality. These studies support the conclusion that the Watermaster's management of the basin, on behalf of the court, has stabilized the basin such that the permitted uses may continue without undesirable effects. (See WSA, Section 6.1.5.7.) No other environmental review or approvals are required to exercise the City's production and storage rights in the Beaumont Basin. (WSA, Section 6.1.5.11.) The Draft EIR and the WSA (Draft EIR Appendix J), Section 6.1 have provided sufficient analysis and demonstrates that the Beaumont Basin does have the available supply to support the proposed Project.

In regard to housing demand, refer to Response 16.g. and 17.vv. below. The development sequence presented in the Draft EIR (Section 3.0, *Project Description*) will be able to respond to the cyclical nature of the housing market. The Project is estimated to reach full build-out in 30 years; therefore, the housing market is likely to fluctuate over

the life of the Project and, if so, the Project would serve to meet these changes in the housing demand.

- 17.f This comment states that it is improper to rely on the Draft 2010 Urban Water Management Plan (UWMP) if it is in the public review phase. The City acknowledges that this conclusion is correct; however, the Draft 2010 UWMP was approved on June 28, 2011 under Banning Utility Authority Resolution No. 2011-09. The approved 2010 UWMP has been included in the Administrative Record for this Project.

See Response to Comment 16.a.

- 17.g The comment states that the EIR fails to discuss conflicts between the 2005 UWMP, the WSA, and the Draft 2010 UWMP. The comment also concludes that the EIR arbitrarily accepts conclusions in the Draft 2010 UWMP that differ from those of the 2005 UWMP.

The City of Banning and its Water Utility are required to update its UWMP every five years pursuant to State law, Water Code Section 10610, *et seq.* The 2010 UWMP update replaces and supersedes the outdated 2005 UWMP for the City. (See, e.g., the differences described in WSA Section 5.2.2. and 5.3.) Section 1.5 of the WSA (Draft EIR Appendix J) includes a summary of the 2010 UWMP. As permitted by law, the WSA incorporates the information and analysis contained in the 2010 UWMP. The WSA also makes an independent assessment of the sufficiency of the City's supplies during normal, single dry, and multiple dry years to meet the demands of the Project, in addition to the City's existing and planning future uses. The WSA identifies and discusses material changes between the 2005 and 2010 UWMPs.

Also, please refer to Response 16.a, which include a more in-depth comparison of the 2005 UWMP and the 2010 UWMP.

- 17.h The comment states that the EIR fails to explain discrepancies between the WSA, 2005 UWMP, 2010 UWMP, and the SGPWA's 2010 UWMP. The comment presents a table of "Discrepancies in Potable and Non-Potable Demand Projections" and states that the identified discrepancies must be explained.

Preliminarily, refer to Response 16.a and 17.g above for a detailed explanation of the differences between the 2005 UWMP, 2010 UWMP, and WSA.

In response to the information presented in the commenter's table, first, the information presented for the 2010 UWMP is not correct. The correct information is provided in Table 3-8, *Based on Population Growth Estimates Including 20x2020 Reductions*, of the 2010 UWMP and Table 5.3.1, *Net Projected City Water Demand Applying 20x2020 Conservation Targets*.

City-wide projections in the 2010 UWMP and WSA are based on the methods used in the City’s population and housing growth projections as described in Sections 5.2.3 and 5.2.4 of the WSA. Specific land use information for City-wide future development is not as precise. Only average City-wide land use projections are available for future demand. Therefore, City-wide water demands are projected by customer type and household unit growth as derived from population growth projections (refer to WSA, Section 4.5.2). The City’s water demand projections are based on actual historical demand trends in both the 2010 UWMP and the WSA.

As illustrated below, the WSA and 2010 UWMP do not contain the wide discrepancies described in this comment; in fact, they are identical. Refer to Table 17.h-1 below for a comparison of the WSA/EIR and the 2010 UWMP projections for City demand.

**Table 17.h-1
Comparison in Potable and Non-potable Water Demand Projections**

Source	2015	2020	2025	2030	2035	2040	2045
WSA/EIR ¹	10,376	10,183	11,243	12,413	13,705	15,135	16,701
2010 UWMP ²	10,376	10,183	11,243	12,413	13,705	N/A	N/A
Sources: 1. WSA (Draft EIR Appendix J), Table 1.6.2.B. 2. 2010 UWMP, Table 3-8. N/A – Not available							

As stated above, the 2005 UWMP is outdated and has been replaced by the 2010 UWMP. Therefore, the 2005 UWMP projected demand information is not included in Table 17.h-1.

Similarly, SGPWA’s 2010 Final UWMP (December 2010), is based on outdated information. The SGPWA 2010 UWMP, which was prepared and approved before the City’s preparation of its own 2010 UWMP, includes potable and non-potable water demands for the City of Banning that are based on inaccurate baseline data and do not take into account recent historical demand trends or account for existing and future required conservation measures that will reduce demand over time. (See WSA, Draft EIR Appendix J, Section 1.6.2 (pg. 5, footnote 13).) In Tables 5-2, 5-3 and 5-4 of its 2010 UWMP, SGPWA estimates projected demand for the City using demand assumptions from the City’s 2005 UWMP, arriving at potable demand of 16,175 AFY by 2030, substantially higher than the City’s own demand estimates. SGPWA also relied on outdated demand estimates in preparing its October 2009 Supplemental Water Supply Planning Study, prepared by Albert E. Webb Associates. (SGPWA, 2009 Supplemental

Water Supply Planning Study, at 2-9, 2-10.) Accordingly, SGPWA's projected demand information is not included in Table 17.h-1.

- 17.i The comment also states that the EIR fails to explain discrepancies between the WSA, 2005 UWMP, and 2010 UWMP for the City's projected supply. Refer to Response 16.a and 17.g above for an explanation of the differences between the 2005 UWMP, 2010 UWMP, and WSA.
- 17.j The comment states that the WSA has selected too low of a number for the residential water demand factor (estimated at 0.52 AFY). The comment suggests that the 2005 UWMP factor (0.67 AFY) should be applied instead of 0.52 AFY.

As stated in the WSA, the 2005 UWMP based its factor on the City's 1994 Water Master Plan. This 1994 average residential water demand does not reflect the City's actual (realized) residential water use pursuant to recent City records. In addition, the 2005 UWMP indicated the City's estimated water system loss was approximately 8 percent. Current City records indicate that the average system loss is approximately 7.8 percent. The WSA relies on the actual and updated information.

The comment also states that no empirical evidence in the record is given to support the conclusion that conservation efforts will result in the reduction in water consumption that the WSA assumes.

The WSA provides substantial detail and analysis of the effect of conservation on projected demand in the future. The WSA employs two different methodologies to calculate savings from conservation to ensure reasonable estimates: (1) target reductions based on requirements imposed by the Water Conservation Act of 2009 (the 20X2020 Plan) (see WSA Section 5.3.1); and (2) required reductions based on application of specific City and state conservation requirements (see WSA Section 5.3.2 and WSA Appendix F).

To corroborate the reasonableness of the City's 20x2020 conservation targets and corresponding net demand calculations for the study period, the incremental savings methodology applies specific City and state conservation requirements, and is based on studies conducted by the City that demonstrate that new homes are significantly more water efficient than older homes as a result of these conservation requirements. The WSA's approach to conservation assumes that demand will remain constant, even in dry years. This approach is conservative, because water use generally declines in dry years due to public notification of drought conditions and voluntary and mandatory conservation actions.

The WSA states that the City projects that new residences will use 39 percent less water than existing residences. Approximately half of this reduction results from the City's existing indoor water use regulations and the State's plumbing code requirements enacted in 1992, which required more efficient plumbing fixtures in all new construction (such as low-flow shower heads and faucets and low-flush toilets). The City conducted studies to determine what impact the 1992 code change has had on water demands. In a June 2010 analysis, Gouvis Engineering Consulting Group, Inc. found that water use savings for household indoor plumbing fixtures (showers, toilets, faucets) in post-1992 homes are as much as 39.8 percent more efficient than older homes.^{1[1]} The City also reviewed individual water records for a sample of homes built prior to 1992, and compared them with residences built since 1992 (2002-2005). The comparison that was conducted between similarly sized homes, lots and landscaping shows that post-1992 homes are 50% more water efficient than pre-1992 homes.

Additional indoor conservation requirements resulting from compliance with the 2010 California Green Building Standard Code will also reduce indoor potable water use by 20 percent beginning in January 2011. These reductions are required under California Code of Regulations, Title 24, Section 4.303.1. Reductions will be demonstrated pursuant to Title 24.

In addition, the City's water residential demand factor also factors in new rules requiring existing residences to reduce water use. In 2009, new rules were imposed to require pre-1994 residential development to replace all non-compliant plumbing fixtures with water-conserving fixtures starting in 2014 in a phased approach through 2019. While retrofitting older properties will be gradual, it will further increase water demand reductions beyond the average 20% indoor reduction projected in the WSA resulting from 1992 plumbing code changes.

The WSA also demonstrates that conservation efforts will reduce the outdoor water use of a new residential unit by 38%. Twenty-five percent of this reduction is a result of the City's new landscape standards for new development and the remaining 13% reduction will come from requirements that new residences install weather or soil moisture based irrigation controllers starting in 2011. Studies have shown that these controllers result in an additional 13% water savings.^{2[2]} Accordingly, beginning in 2011, all landscape irrigation demand for future residential development will be reduced an additional 13%. Appendix F quantifies the estimated demand savings that will result from outdoor conservation measures.

^{1[1]} Gouvis Engineering Consulting Group, Inc., *Water Usage Comparison of Pre-1992 Efficiency Standards vs. Present Standards* (June 15, 2010).

^{2[2]} Water Use in the California Residential Home study prepared by ConSol Consulting in January 2009 indicates weather/soil moisture irrigation controllers will reduce irrigation (outdoor) water use by 13% (based on previous Irvine Ranch Water District studies).

Appendix F of the WSA presents the estimated demand reductions for each conservation requirement based on the incremental savings methodology. All assumptions and methodologies are described in detail in this Appendix of the WSA.

Lastly, the comment states that the WSA does not acknowledge the large number of homes in foreclosure. Please refer to Section 5.2.2 of the WSA (Draft EIR Appendix J) for a discussion regarding the effects of the recent foreclosure crisis on projected water demand. The WSA concludes that the City's 2005 UWMP future projections for population, housing development, and water demands were overstated, because the 2005 UWMP was released prior to the collapse of the national housing bubble, which increased foreclosure rates. The WSA (Section 5.1) calculates average water deliveries per residential unit based on 2005-10 records and derives these values from the Department of Finance **occupied** housing unit estimates. Therefore, the WSA's demand projections represent an accurate estimate of future water demand, and account for the City's recent increase in vacancy rates.

- 17.k The comment states that absent a legal requirement that the Project be phased in over time, the WSA understates the Project's actual water demands by assuming that the Project will be "phased in" over a 30-year period.

The WSA law (Water Code Section 10910 *et seq.*) requires that the public water system (here, the City), discuss whether the total projected water supplies available during normal, single dry, and multiple dry water years during a 20-year projection will meet the projected water demand associated with the proposed project, in addition to the public water system's existing and planned future uses. (Water Code Section 10910(c)(4).) The Department of Water Resources' *Guidebook for Implementation of Senate Bill 610 (the WSA Law) and Senate Bill 221 of 2001* recommends that this information be provided in 5-year increments, just as is required by the Urban Water Management Plan Act (Water Code Section 10631, 10635). Further, the WSA Law permits incorporation of the requested information from the City's most recently adopted UWMP. Accordingly, the WSA presents all growth and water demand information in this format.

As described in the WSA (see Section 5.2), according to the 2010 Census data, the current population of the City of Banning in year 2010 was 29,603. Based on a 2-percent average annual population growth rate, which is consistent with actual historical growth and the City's projections,³ and an approximate average of 2.7 people per equivalent dwelling units (EDUs)⁴, as an example, the City is estimated to add approximately 237 EDUs in year 2015 (the first 5-year increment of the WSA study period) from the previous year 2014 projection with an approximate 2-percent increase each year thereafter (refer to

³ From 1990 to 2008, the City's average annual growth rate was 1.84% per Census data. The City's 2008 Draft Housing Element projected the City's average annual population growth rate from 2008 to 2014 at 2.0067%. 2008-2014 Draft Housing Element, pp. III-117 to III-118.

⁴ 2008-2014 Draft Housing Element, pp. III-125.

Table 17.k-1). If the Project's full projected water demand were to occur immediately following approval of the Project, as is recommended in this comment, then the analysis would essentially assume that the entire 5,387 units would be built within the first year of development, contrary to the Project description. This growth would represent approximately 2,273-percent of year 2015's projected growth as anticipated by both the 2008 Draft Housing Element Update and 2010 Census data, and as presented in the 2010 UWMP.

The WSA projects water demand for the City based on the above-referenced anticipated growth rate of 2-percent annually for the City and assumes that the Project will add 180 dwelling units on average over the 30-year life of the Project. The projected 180 units per year on average build-out for the Project is consistent with actual build-out rate realized in similar development projects, including Pardee Homes' Sundance project immediately to the west over the last eight years. More recently due to depressed economic and market conditions Pardee has been building far fewer homes than 180 units on average. Therefore, this assumption is a conservative estimate of the anticipated buildout rate of the Project.

The City projects that 7,703 future residential housing units will be constructed in the City (WSA, Section 5.2.4.1) by year 2045 (including the proposed Project) based on known or proposed projects. The City also projects that an additional 3,386 future units not currently in the planning phase *may be* constructed during the 35-year planning period consistent with the City's General Plan. Together, this equals 11,089 units, which over the 35-year planning period, based on the 2-percent growth rate, will result in approximately 316 units on average per year, if it is looked at as a flat rate number of units per year. Given that 180 units per year on average are assumed to be built over the life of the Project, 136 units on average could be anticipated to come from other projects within the City, as a flat rate average. The WSA projects demand for all of these projected units.

If 237 additional units are anticipated for year 2015 from the previous year 2014 projection, based on the 2-percent average annual compounded growth rate, and 180 units per year would be absorbed by the proposed Project on average, the remaining 57 units would need to be absorbed by other future projects within the City on average for this year (2015). This is consistent with the anticipated 136 units described above. Therefore, it is speculative and inconsistent with the City's anticipated growth projections, as well as the Project description itself and the absorption capacity of the City and region, to assume that the entirety of the Project's water demand would occur within each year following Project approval as stated in this comment.

Table 17.k-1 summarizes the information provided in this Response to Comment 17.k.

**Table 17.k-1
Year-over-Year Growth**

Year	Population	Year-over-Year Change in Population ¹	Avg. People per EDU ²	[a] Estimated Addition Annual Housing Units Needed	[b] Proposed Project Avg. Units per Year	Remaining Units per Year from Other Projects = + [a] - [b] (compounded rate)	Other Future Projects Avg. Units per Year ³ (flat rate)
2010	29,603 ⁴	-	-	-	-	-	136
2015	32,684	641	2.7	237	180	57	136
2020	36,086	708	2.7	262	180	82	136
2025	39,842	781	2.7	289	180	109	136
2030	43,989	863	2.7	319	180	139	136
2035	48,567	952	2.7	353	180	173	136
2040	53,622	1,051	2.7	389	180	209	136
2045	59,203	1,161	2.7	430	-	430	136
Total over 35-Year Planning Period		29,600 = [59,203 - 29,603]			5,387	5,702	5,702⁵

Sources:
¹ City's average annual population growth rate was derived from the 2008-2014 Draft Housing Element, pp. III-117 to III-118.
² 2008 - 2014 Draft Housing Element. pg. III-125.
³ Average units per year for "other" future projects within the City was derived from WSA, Table 5.2.4.1.
⁴ 2010 Census Data as reported by Department of Finance.
⁵ 5,689 total units from other future projects = 11,089 units (total future anticipated units per WSA Section 5.2.4.1) - 5,387 units (Butterfield Project)

17.1 The comment states that the analysis of water supplies is also inadequate because the Project relies heavily on "recycled water," but recycled water does not presently exist and therefore cannot be relied upon to support the Project.

The comment correctly notes that recycled water is not presently available and is not anticipated to be available until 2015. The City's Phase I Upgrade project will not be complete (fully implemented) until 2015 as indicated in the Draft EIR and WSA. Refer to the WSA (Draft EIR Appendix J), Section 6.4.2.2.1. Contrary to the comment's conclusion that recycled water cannot be relied upon to support the Project, the WSA Law permits an assessment of both existing and planned future supplies. (Water Code Section 10910(c).)

The comment states that the Project Applicant will build a recycled water project, if the City does not, is not correct. The Draft EIR, pg. 4.14-6 does not contain any statement to that effect. Instead, the Project Applicant has proposed an optional alternative “satellite” WWTP on the Project site, which the City may elect to construct in lieu of or in addition to the Phase I Upgrade. (Refer to the WSA, Section 6.4.2.2.2.) The City has identified the Project site as one possible alternative location for the construction of its recycled water facilities. Accordingly, the Project Applicant has agreed to make that location available to the City for this purpose. The Draft EIR and WSA describe the Project site as an alternative location for construction of a recycled water facility, the anticipated recycled water supply that could be generated by a satellite WWTP on the Project site, as well as the approvals that would be required to permit construction of a satellite WWTP on the Project site. (WSA Section 6.4.2.2.2.) The Draft EIR in various sections evaluates the environmental impacts that would be associated with location of the City’s satellite WWTP on the Project site. (See Draft EIR 4.1-18, 4.3-39, 4.3-26-27, 4.5-30-31, 4.8-28-29, 4.11-38, 4.12-61-65, 4.14-30.)

- 17.m The comment states that there does not appear to be any factual evidence that supports the prediction that the 1,680 AFY of recycled water will be available to the City by 2015.

Refer to the WSA, (Draft EIR Appendix J), Section 6.4.2.2.1.2. This section states that the environmental review for the Phase I Upgrade was completed in May 2008, which described the additional 1.5 mgd (1,680 AFY) capacity. This includes an advanced treatment process using a membrane bioreactor to produce recycled water. As stated in the WSA, design plans for the Phase I Upgrade are complete. Required approvals have been requested and some have been obtained. (WSA Section 6.4.2.2.1.2.) The City is in the process of obtaining its permits from the Colorado RWQCB (Region 7) and the Santa Ana RWQCB (Region 8) and has submitted Wastewater Discharge and Water Quality Reports to the Regional Boards to allow it to directly use tertiary treated recycled water in its service area, as stated in the WSA, Section 6.4.2.2.1.2.⁵ The City does not anticipate obstacles in securing the remaining approvals for the Phase I Upgrade.

The Phase I Upgrade is anticipated to cost up to \$35.5 million. The City’s Capital Improvement Plan 2007-12 anticipates these costs and includes funding for it, specifically \$6.4 million in bond proceeds and \$2.3 million in development impact fees. (See City of Banning, Capital Improvement Program 2007-12.) The City approved increased monthly sewer usage fees on October 10, 2010, and further annual increases for four years, to fund capital and operating expenses, including the Phase I Upgrade. Additionally, a monthly surcharge of \$2.00 is assessed for the Phase I Upgrade. (See City of Banning Ordinance 1429; City of Banning Agenda Regular Meeting, October 26, 2010; City of Banning Agenda Regular Meeting, September 14, 2010; Banning Code 13.08.060 – 070.) The City has also applied for a State Revolving Loan for the balance of

⁵ Second Amendment to Agreement for Consultant Services Between the City of Banning and Parsons Water and Infrastructure, Inc. (June 10, 2008).

the Phase I Upgrade project costs and the City's application is making its way through the State loan process and currently under review. The City does not anticipate obstacles in securing this funding for the Phase I Upgrade. The SRF loan process is described in detail in Section 6.4.2.2.1.2. of the WSA.

As required by Banning Municipal Code are at 17.32.070 et seq., the Project includes the construction of the infrastructure (i.e., pipelines) necessary to permit the delivery and use of recycled water for irrigation to the Project. These facilities will allow the City to deliver recycled water generated by the Phase I Upgrade to be delivered to the Project for use by the Project. The Draft EIR in various sections evaluates the environmental impacts associated with the construction of those facilities and the use of recycled water on the Project site.

- 17.n The comment states that there is currently no recycled water available for direct surface use and that a \$35.5 million upgrade will need to be constructed to make recycled water available. The comment concludes that the Phase I Upgrade is merely a "paper project" and the City merely only has "recycled water goals" as opposed to actual recycled water.

The comment correctly notes that recycled water is not currently available for use within the City of Banning. However, as described in Section 6.4.2.2. of the WSA, the City anticipates that approximately 1,680 AFY of recycled water will be available for both direct use within the City of Banning and groundwater recharge in the Cabazon Basin no later than 2015. The City's recycled water supply is a future water supply source.

The comment incorrectly asserts that future water supplies are "paper water" supplies. Water Code Section 10910 et seq. (the "WSA Law") expressly provides for the assessment of the availability of both existing and planned future sources of supply. The EIR for the Project need not demonstrate with certainty that a particular planned future source of supply will be available. Rather, the EIR need only demonstrate that the projected supply will likely be available, over the long term, for this Project. (See *Vineyard Area Citizens v. City of Rancho Cordova* (2007) 150 P.3d 709, 842-843; *Western Placer Citizens for an Agric. & Rural Env't v. County of Placer* (2006) 144 Cal.App.4th 890, 899.) Based on the City's programmed WWTP improvements and available funding, recycled water will likely be available by 2015. See Response to Comment 17.1.

- 17.o The comment states that additional environmental analysis will be required for the Phase I Upgrade, that approvals will be required to permit construction and operation of the project, and that there is no indication as to when this process will be completed or even if the Phase I Upgrade will be allowed to proceed once the additional environmental review is complete.

See Responses to Comments 17.l and 17.m. The City adopted the final Mitigated Negative Declaration for the Phase I Upgrade project on May 27, 2008. (See City Resolution 2008-050.) No additional environmental review is required. All required approvals are described in Section 6.4.2.2.1.2 of the WSA. As noted above, the City does not anticipate obstacles in securing required approvals or SRF funding for the Phase I Upgrade. The City anticipates that the Phase I Upgrade project will be completed and operational by 2015.

- 17.p The comment expresses concern as to whether there is adequate funding for the \$35.5 Phase I Upgrade.

See Responses to Comments 17.m, 17.n. As noted above, the City has reserved approximately \$10 million for construction of the Phase I Upgrade. The balance of the costs associated with the Phase I Upgrade will be financed by a low-interest loan.

- 17.q The comment states that there are so many uncertainties concerning the availability of recycled water that there is no basis for the City's inclusion of recycled water as a supply source. The use of recycled water in lieu of water suitable for potable demand, such as the City's numerous groundwater supplies, is a beneficial use of water. (Water Code § 13551.) Given the significant efforts the City has undertaken to make recycled water available, as discussed in Responses to Comments 17.l – 17.p., it is likely that recycled water will be an available source by 2015.

- 17.r The comment states that the discussion of the alternative Butterfield Satellite Plant does not include any details regarding necessary environmental review and permits or any indication as to when it will be constructed. The comment asserts that this recycled water project is a "paper project" and should not be included in the water supply analysis.

The WSA (Draft EIR Appendix J), Section 6.4.2.2.2 discusses in detail the environmental review, permitting and funding necessary for construction and operation of the optional satellite WWTP, if the City were to elect to construct the plant in lieu of or in addition to the Phase I Upgrade project. Section 6.4.2.2.2.1, Table 6.4.2.2.2.1.A of the WSA shows the quantity of recycled water that could be developed on the Project site by the optional satellite WWTP. The Butterfield Satellite Plant would be constructed by 2015, but the total projected recycled water supply to be produced by the Butterfield Satellite Plant would not be available in 2015. (Compare WSA Table 6.4.2.2.1 and WSA Table 6.4.2.2.2.1.A.) Irrespective of the location the City selects to construct its recycled water facility (the existing WWTP as part of the Phase I Upgrade, the Project site, or another location); the City anticipates having a recycled water supply available by 2015.

- 17.s The comment states that the EIR and WSA do not disclose the significant problems related to water quality, particularly related to salinity, that are generally associated with recycled water. The comment cites the SGPWA 2009 Water Conditions Report and asked that it be made part of the administrative record.

As stated in the WSA (Draft EIR Appendix J), the City has completed the environmental review for the Phase I Upgrade and has adopted an Initial Study/Mitigated Negative Declaration for this project. Therefore, no further environmental review for the Phase I Upgrade pursuant to CEQA Guidelines is required.

For the optional satellite WWTP, the necessary environmental review is discussed in Section 6.4.2.2.2.2 of the WSA, including necessary permits from the Santa Ana RWQCB (Region 8) for use of recycled water in the Project area. This section also discusses water quality impacts related to salinity, stating that the City, as a permittee, is required to implement a salinity management program as part of the Region 8 Basin Plan Amendment adopted in January 2004. The salt and nutrient management plan was based on evidence in the record demonstrating that managing salinity inputs in the manner prescribed would ensure attainment of water quality objectives and protection of beneficial uses.⁶

Regarding effluent from the treatment process at the optional satellite WWTP, approximately 25% of wastewater flows into the plant will be put back into the City sewer system and allowed to flow to the City's WWTP for further treatment and solids handling. There would be no solids handling at the satellite plant. This process is not a specific desalting process and therefore there would be no specific brine disposal. As summarized in Section 6.4.2.2.2.2 of the WSA, the City is participating in the Beaumont Management Zone Maximum Benefits program to comply with the management plan. The plan as currently proposed does not envision having to provide brine disposal, per the summary in WSA Sec. 6.4.2.2.2.

In its preparation of the WSA, the City reviewed the SGPWA 2009 Water Conditions Report, which is cited and discussed on the following pages of the WSA: 66-67, 73, 75-76 (discussion), 110.

- 17.t The comment states that the WSA relies on the "capture" of stormwater and urban runoff to be discharged to Smith Creek. The comment further states that there is no discussion regarding the timing of the generation of this supply, the regulatory approvals required to capture and discharge stormwater and no discussion of the environmental impacts of this activity.

⁶ Order No. R8-2010-0008, Amending Order No. R8-2009-0021, NPDES No. CA 8000409 Waste Discharge and Producer/User Reclamation Requirements et al.

These statements are not correct. First, as stated in the WSA (Draft EIR Appendix J), Section 6.1.5.9.4, capturing additional runoff would require significant storm events to generate flows, would occur infrequently and irregularly, and would be difficult to quantify. For these reasons, these flows were not included in WSA's anticipated water supplies. Second, in terms of timing of this new yield, refer to Table 6.1.5.9.4A, which includes a discussion of the calculation method used to derive the new yield incremental values for the study period. Table 6.1.5.9.4A illustrates that stormwater runoff from the Project is anticipated to amount to 470 AFY by 2045, of which as much as 117 AFY will recharge the Beaumont Basin for the benefit of the City – e.g., it will be stored in the City's Beaumont Basin Stored Water Account and will be available to the City for future use. Again, however, this quantity of water is not included in the City's projected available supply.

As noted in the Draft EIR at 4.9-15, the project site overlays the Beaumont groundwater basin, and sits immediately east of the boundary between the Santa Ana and Colorado Regional Water Quality Control Board jurisdictions. The Beaumont groundwater basin is split geographically between the jurisdictions; however, the primary sources of surface water used to recharge to the Beaumont basin, as well as the basin itself, are located within the Upper Santa Ana River Watershed, which is within the jurisdiction of the Santa Ana Board. Accordingly, groundwater standards for the Beaumont basin are set by the Santa Ana Regional Board. Thus, the capture of stormwater from the Project site and recharge of that supply into the Beaumont Basin requires compliance with the Santa Ana Region Basin Plan, and that Region's permitting approvals, specifically, Order R8-2010-0033, the municipal storm water permit for Riverside County. Order R8-2010-0033 prescribes waste discharge requirements for urban runoff from the cities and the unincorporated areas in Riverside County within the jurisdiction of the Santa Ana Regional Board. The City is not currently covered under this general permit. To recharge stormwater into the Beaumont Basin, the City must file a Notice of Intent (NOI) for coverage of its activities under Order R8-2010-0033, submit monitoring data and follow best management practices as part of the Stormwater Management Program for the region.

Draft EIR Section 4.9, *Hydrology and Water Quality*, also includes necessary permits/approvals (e.g., Water Quality Management Plan) and describes how low-flow drainage and storm flows will be directed into water quality treatment facilities (refer to Section 4.9.4, "Project Design Features and Existing Regulations, Rules, and Requirements", and Impact 4.9-1, pg. 4.9-29, "Operational Interim Phase – On-site").

Lastly, the impacts related to the capture of the stormwater from the Project site are discussed in detail in Impact Statements 4.9-1 and 4.9-3 of the Draft EIR.

- 17.u This comment relates to the City's purchase of imported SWP water and the reliability of that water. The comment states that the WSA, (page 108) claims that the City has a "right" to 25% of the SGPWA supply. The comment also asserts that there will likely be more water retailers seeking to purchase water from SGPWA in the future.

The WSA does not claim that the City has a "right" to 25% of the SGPWA supply. Rather, the WSA clearly states that the City intends to purchase as much water as the SGPWA makes available to it (WSA, page 121) and that it assumes that it will have the ability to purchase up to 25% of that supply in the future. The SGPWA itself has a Table A contract for the purchase of 17,300 AFY. (WSA Section 6.3.2.1.)

Both the WSA and the 2010 UWMP project that the City can reasonably expect to purchase 25%, on average, of the SGPWA's annual supply. The projection that the City will be able to purchase 25% of the SWP water actually delivered to the Pass Area for the study period is based on several factors. First, historically, the City has purchased more than 25% of the delivered supply. Second, the City's planning area is approximately 25% of the total acres within the SGPWA's jurisdiction (and 33.8% of the developable acres). Third, only three retail water agencies, including the City, have filed applications with the SGPWA expressing their intent to purchase imported water. In short, the City anticipates it will have at least 25% of the demand for imported water supplies within the region and, thus, may continue to purchase at least 25% of the actual quantity of SWP supplies delivered to the SGPWA. Since only three agencies have indicated their intent to purchase imported water, it is speculative to assume that "many more" water suppliers will be seeking the purchase of imported water in the future (refer to WSA, Draft EIR Appendix J, Section 6.3.6.3).

Additionally, the comment states that the WSA should consider that future supplies may be reduced due to the SGPWA's statutory duty to address any overdraft in the Beaumont Basin.

WSA Section 6.3.6.3 provides a detailed discussion of the SGPWA's groundwater replenishment activities and the potential impact of those activities on the City's projection that it may continue to purchase up to 25% of the delivered SWP supply. The SGPWA carries out its authorizing legislation and Ordinance No. 8 by requiring all retail water users to dedicate their return flows to overdraft mitigation. As such, a portion of every AF of water purchased by the City is dedicated to mitigating overdraft. Accordingly, the Beaumont Basin's safe yield is expected to increase over time as retail water users like the City increase imported water purchases. No impacts to the City's ability to purchase imported water are anticipated from the SGPWA's replenishment activities.

- 17.v The comment states that WSA incorrectly assumes that the SGPWA has capacity to transport 100% of its SWP Table A entitlement and cites to WSA p. 108. The comment further claims that the WSA fails to discuss whether, and if so when, EBXII, the future proposed expansion project (set to raise SGPWA's capacity to 17,300 AFY) will be completed.

There is no discussion of the SGPWA's capacity to transport its full allotment of 17,300 AFY of SWP on page 108 of the WSA. The WSA states that the "Pass Agency has ordered its full Table A entitlement for 2010 and beyond," which is correct. (See WSA, p. 108, n.386.) Section 6.3.5.1. of the WSA provides a complete discussion of: (1) the capacity of existing facilities (EBX) to deliver imported water to the SGPWA service area (approximately 8,650 AFY, or one-half of SGPWA's Table A entitlement); (2) the capacity of the delivery system following the completion of EBXII (17,300 AFY, or 100% of SGPWA's Table A entitlement, when available); and (3) the status of the EBXII project (construction is anticipated to be completed by 2015).

The comment also states that the EIR and WSA fail to address SGPWA's statutory mandate to eliminate groundwater overdraft conditions. Refer to Response 17.u and the WSA, Section 6.3.6.3 for a discussion regarding this statement.

- 17.w The comment states that it is unclear what the capacity of the Beaumont-Cherry Valley Water District (BCVWD) Noble Recharge Facility is. The comment also states that many of the aspects of the Noble Recharge Facility are not discussed sufficiently in the WSA, including recharge efficacy, recharge duration, loss through evaporation, and the City's right to use the ponds. The comment also states that the discussion of the on-site recharge ponds is not adequate, including location, capacity, efficacy and required regulatory approvals.

As described in the WSA (Draft EIR Appendix J, Section 6.3.5.2), BCVWD certified a Final Environmental Impact Report, titled *Groundwater Recharge Program*, and approved construction of the Noble Recharge Facility in March 2003. The WSA states in Section 6.3.5.2 that while the recharge capacity of this facility is approximately 25,200 AFY, due to decreases in recharge rates over time, the effective capacity is 20,000 AFY. This facility, therefore, is more than sufficient to take delivery of 2,595 AFY, on average, that the City projects that it will purchase from the SGPWA. In fact, the recharge facility's capacity is sufficient to take delivery of SGPWA's entire 17,300 AFY of Table A entitlement, when available. Technical information, such as the time it takes water to reach the Beaumont Basin, losses to evaporation, required permits, and locations of the basins are discussed in the Final EIR referenced, above. No further environmental review is required.

Historically and currently, the City takes delivery of its purchased imported water at the BCVWD's Noble Recharge Facility. SGPWA records reflect the sale of water to the City and delivery at the Noble Recharge Facility. The imported water is delivered, recharged in the Beaumont Basin, and then stored in the City's Stored Water Account. The City is invoiced for its purchase of imported water from the SGPWA and pays the SGPWA. The City is also invoiced and pays the BCVWD monthly for the City's use of the facility. The City intends to continue this relationship and use of the BCVWD Noble Recharge Facility indefinitely or until such time as the BCVWD and the City may make other arrangements.

As discussed in Section 6.3.5.2 of the WSA, if at any time during the study period, the City is no longer able to take delivery of its purchased imported water at the BCVWD Noble Recharge Facility; the City (not the Project Applicant) may elect to build a pipeline connecting the SWP pipeline and the City. This pipeline, the SWP Pipeline Extension, would provide a direct connection between SGPWA and the Project site. Accordingly, the Project Applicant has agreed to make the Project site, specifically the North Basin Reservoir (see WSA Section 4.3.2) and the Project recharge basins (WSA Section 4.3.4), available to the City for this purpose. As a result, the Draft EIR in various sections evaluates the environmental impacts that would be associated with the construction of the SWP Pipeline Extension, the delivery of imported water to the Project site and the recharge of that water into the Beaumont Basin for storage in the City's Stored Water Account. Section 6.3.5.2 of the WSA identifies the permits/approvals that would be required and the funding source that would be available to construct the SWP Pipeline Extension, if the City ever elects to build it.

The Project's proposed on-site recharge basins are fully described in Section 4.3.4 of the WSA and evaluated in the Draft EIR. The on-site recharge basins would be used for the recharge of imported water only in the event the City elects to build the SWP Pipeline Extension. (See also Master Response 4.) All recharge of the Beaumont Basin, whether imported water, recycled water, or stormwater, or some combination of these supplies, will be subject to the Beaumont Basin Judgment, the Rules and Regulations of the Watermaster, and the on-going metering, monitoring and enforcement of the Watermaster. (See generally, WSA Appendix B: Beaumont Basin Judgment, VI (5).) Annually, the Watermaster makes an independent assessment of, and accounts for, all recharge operations in the Beaumont Basin. (WSA Appendix B: Beaumont Basin Judgment, VI (5)(V).)

Required regulatory approvals for on-site recharge of the Beaumont basin differ depending on the source of supply – i.e., imported water, recycled water or stormwater – and are described in detail in the Draft EIR Sections 4.9-25-27 and 4.14-37 and WSA; see Response to Comment 17.r, 17.s., and 4.e (recycled water); see above (imported water); and 17.t and 4.i. (stormwater).

- 17.x The comment states that the WSA assumes the City will be entitled to 100 percent of the perennial yield for the Banning, Banning Bench and Banning Canyon basins (collectively, the “Banning Basins”). The comment also states that the WSA does not disclose the other users that will draw water from these basins, what the projected combined withdrawals are, or how that will affect the groundwater basins. This comment also cites the SGPWA 2010 UWMP.

As stated in the WSA (Draft EIR Appendix J, Section 6.1.6.1), the Geoscience 2011 *Maximum Perennial Yield Estimates* report represents the most-recent and comprehensive analysis of the three Banning basins. The WSA lists the data collection and compilation procedures employed by Geoscience to ensure data accuracy and thoroughness (refer to WSA Section 6.1.6.1 – 6.1.6.5). The WSA also evaluates the information provided in the SGPWA’s 2010 UWMP, including water level information in the Banning Basins (see, e.g., WSA Section 6.1.6.5, n.346.).

Geoscience’s 2011 Report calculates the maximum perennial yield of the three Banning Basins (as well as the Cabazon Basin), and projects the quantity of water available to be developed by the City in the future. Geoscience’s analysis and resulting estimates of maximum perennial yield for the three Banning Basins (and the Cabazon Basin) are described in detail in Section 7 of the 2011 Geoscience Report. The 2011 Geoscience Report concludes that none of the three Banning Basins are in overdraft, and further concludes that the City may continue to produce up to 7,160 AFY, on average during normal years from the three Banning Basins without causing undesirable effects on the basin or other uses.

SGPWA’s 2010 UWMP provides its own summary of planned local sources of water supply in the SGPWA service area. (SGPWA, 2010 UWMP, at 3-12.) SGPWA’s 2010 UWMP examines the Banning storage units by dividing them up into the East and West Basin, using Geoscience figures from 2003 showing the storage units to have a maximum perennial yield of 1,050 AFY in the East Banning Storage Unit and 350 AFY in the West Banning storage unit. (SGPWA’s 2010 UWMP, at 3-4.) The Geoscience 2011 *Maximum Perennial Yield Estimates* report updates these figures. SGPWA estimates the City of Banning will pump on average 1,400 AFY from the Banning Storage Unit.

In each of the three Banning Basins, the City is the only major pumper. The 2011 Geoscience Report indicates that other private users may have wells in the Banning Bench and Banning Canyon Basins; however, any groundwater production by these users is so small as to be considered immaterial. (See WSA Appendix D: 2011 Geoscience Report, Table 2 (providing historical production by the City and other producers for the period 1959-2009).)

- 17.y The comment states that the Beaumont Basin is in overdraft according to SGPWA's 2009 Report on Water Conditions. The comment also states that the SGPWA is the governmental body responsible for addressing overdraft of the Beaumont Basin.

As described in the WSA (Draft EIR Section 6.1.5.7,), the Beaumont Basin is managed pursuant to a court judgment (the Beaumont Basin Judgment) that was entered into for the purpose of redressing groundwater overdraft. The Beaumont Basin Watermaster is responsible for managing the Beaumont Basin and administering adjudicated water rights pursuant to the Court's continuing jurisdiction.

The WSA, Section 6.1.5.7, discusses the state of the Beaumont Basin today and projected for the study period in detail. The discussion includes description and analysis of the SGPWA's published reports on the Beaumont Basin. (See WSA, p. 75.) The most-recent analyses of the Watermaster, which are also presented in Section 6.1.5.7 of the WSA, conclude that the Beaumont Basin is being managed consistent with the terms of the Judgment and within the basin's safe yield, as defined by the Judgment. The Watermaster's analysis is not contradicted by SGPWA. In fact, SGPWA's own 2010 UWMP assumes that the basin's safe yield will continue to be 8,650 AFY (SGPWA, 2010 UWMP, p. 3-6), consistent with the Judgment and the Watermaster's own projections.

As described in WSA Section 6.1.5.9, the City's adjudication Production Right, which includes the City's allocation of water surplus to the demands of overlying producers and Stored Water Account credits) in the Beaumont Basin are limited by the Beaumont Basin Judgment. (See WSA Table 6.1.5.8.4. and Table 6.1.5.9.4B.) Any extractions from the Basin by the City not in accordance with the Judgment may be enjoined by order of the court. Further, the City's share of the basin's supply may be adjusted over time. The Judgment requires that the Watermaster adjust the basin's safe yield, and thus the rights of each user, including the City, every 10 years to ensure that the basin is managed within its safe yield. The WSA and EIR provide detailed analysis of the City's projected share of the operating yield and any unused overlying production in the Beaumont Basin over time. (See WSA Table 6.1.5.9.4B.) These projections are entirely consistent with the Watermaster's own projections. (See WSA Section 6.1.5.9.2.)

Further, no new wells are proposed to be constructed (in the Beaumont Basin or in any basin) to serve the Project and, to the extent operationally feasible, the City intends to maintain pumping from the Beaumont Basin within historical or "baseline" levels for the study period. (WSA, p. 85.) However, even if the City were to increase its production – as permitted by its adjudicated annual Production Right – the court's and Watermaster's ongoing management of the basin ensures that the City's production of its rights in the basin, including withdrawal of water from storage, does not result in adverse impacts on the basin or material interference with other basin right holders. The Watermaster has not yet adopted rules and regulations for the withdrawal of

groundwater held in a party's Stored Water Account and has not developed a methodology for estimating losses of water in storage, but may do so in the future to prevent harm to the basin or other users. (See Watermaster Memorandum No. 11-13: Presentation of the Draft Combined 7th and 8th Annual Report of the Watermaster, Section 3.4.)

For these reasons, the WSA and EIR reasonably conclude that the Project will not cause the City to exceed its rights in the Beaumont Basin and will not result in additional withdrawals of Beaumont Basin water beyond existing conditions. (See also *Cherry Valley Pass Acres & Neighbors v. City of Beaumont* (2010) 190 Cal.App.4th, 316, 334.) Accordingly, the EIR concludes that less than significant impacts to groundwater levels will occur as a result of the increased demand associated with the Project, together with all other projected demand.

- 17.z The comment identifies a discrepancy between the safe yield that was agreed upon in the Stipulated Adjudication of the Beaumont Basin and the safe yield that SGPWA determined. The comment argues that the WSA does not discuss whether there is any scientific basis for the safe yield in the Stipulated Adjudication and argues that the WSA inappropriately dismisses the safe yield that the SGPWA's studies determined.

Refer to Response 17.y, above. The Beaumont Basin's safe yield is established by judgment of a court. The Beaumont basin Judgment provides for the court's continuing jurisdiction over the basin. As such, the City reasonably relies on the court's determination. In addition, the WSA Section 6.1.5.7 provides a detailed analysis explaining how the Watermaster's most-recent analysis of the status of the Beaumont Basin (WSA Section 6.1.5.7).

The Judgment requires that the court examine the basin's safe yield every 10 years. As such, in 2014, the basin's safe yield may change – up or down. The Watermaster's latest report (Second Biennial Engineer's Report) concludes that the safe yield is at least 8,650 AFY, thereby providing substantial evidence that the basin's safe yield is conservatively 8,650 AFY. The Watermaster's report does not identify undesirable results associated with annual production of 10,290 AF, much less 8,650 AY, as presented in the WSA.

The WSA also discusses that while SGPWA's 2009 Report On Water Conditions concludes that the Beaumont Basin's safe yield may be as low as 5,000 to 6,100 AFY. Although SGPWA's 2010 UWMP notes that there are several estimates of long-term safe yield for the Beaumont Basin, it relies on the Watermaster's determination and assumes the basin's safe yield is 8,650 AFY. (SGPWA 2010 UWMP, at 3-6.) As stated in Table 3-1 of SGPWA's 2010 UWMP, prior estimates of safe yield have included 5,000 AFY, 6,100 AFY, and 3,800 AFY, developed in studies by the USGS in 2006 and by Boyle Engineering in 1988, 1995 and 2002. (SGPWA 2010 UWMP, at 3-4.) These prior estimates

are also discussed in SGPWA's 2009 *Report on Water Conditions*, at Section 4.2, which clarifies that the Beaumont Basin Judgment represents the sum of overlier water rights, although Boyle Engineering studies showed smaller estimates. It should be noted that studies in 1995 and 2002 by Boyle Engineering pre-date the adjudication of the basin.

As previously stated, given the fact that the basin has been under the active management of the court and Watermaster since the basin was adjudicated in 2004, the City reasonably relies on the Watermaster's most current analysis for its projection of safe yield for 2014 and beyond. Further, as described in detail in the WSA, while the City's share of the basin's operating yield are anticipated to decline over time, the City intends to import approximately 2,595 AFY and to store that water in the Beaumont Basin. Additionally, all return flows derived from the use of that water will be dedicated to redressing groundwater overdraft, which will also have the effect of increasing the basin's safe yield over time. (See WSA Section 6.3.6.3.)

- 17.aa The comment relates to the City's stored water supply in the Beaumont Basin. It also reiterates that the EIR's analysis of the underlying supplies is based on a number of assumptions for which there is no factual support in the EIR.

Refer to Responses 17.1 through 17.w for an explanation of the underlying assumptions and background data regarding this supply (i.e., SWP water). (See also WSA Section 6.3.)

As described in WSA Section 6.1.5.10, the City presently stores two sources of supply in its Beaumont Basin Stored Water Account: (1) imported water purchased from SGPWA and delivered to the City at the Noble Recharge Facility; and (2) any of the City's Beaumont Basin Production Right not used (i.e., pumped) in any prior year. To date, the City has already accumulated approximately 30,000 AF in storage. (Watermaster Memorandum No. 11-13: Presenting Draft Combined 7th and 8th Annual Report of the Beaumont Basin Watermaster, Table 7 (December 7, 2011).)

In the future, for the study period, the City plans to continue storing all purchased imported water (approximately 2,595 AFY, on average) and any unused rights in its Stored Water Account. The projected accumulation of these supplies over time is presented in Appendix C to the WSA. (See also WSA Section 6.1.5.10.) It is anticipated that the City may also store "new yield" in its Beaumont Basin Stored Water Account, including but not limited to: (1) new yield derived from recharge of Project stormwater into the Beaumont Basin (WSA Table 6.1.5.9.4A); (2) recycled water (see EIR Errata, p. 4.0-2); and (3) return flows from potable water and recycled water irrigation (see 2010 UWMP, Table 5-2). Further, the City's use of recycled water for irrigation water will reduce the City's demand, and thus may have the effect of reducing the City's production from the Beaumont Basin, which can have a positive effect on the City's

Stored Water Account balance/credit. However, for purposes of projecting the City's likely available supply for the study period during normal, single dry and multiple dry conditions, the WSA does not include these potential additional sources of supply or offsets to demand – a very conservative assumption. (See WSA Tables 1.7A-C.)

- 17.bb The comment states that the WSA predicts that the Beaumont Basin will have water in its storage account amounting to 86,633 AF, yet the EIR asserts that the City has the right to store only up to 80,000 AF.

The WSA does indeed state that given the projections presented in Table 6.1.5.10B of the WSA (see also WSA Appendix C); the City's Stored Water Account balance will exceed its authorized Stored Water Account of 80,000 AF by 2040. If that occurs, the City would be required to amend its agreement with the Watermaster to permit increased storage in the basin. However, no other environmental review or approvals are required (refer to WSA, Draft EIR Appendix J, Section 6.1.5.10).

The comment also states that there is no discussion of whether the Stored Water Account balance will actually be present in the Beaumont Basin or whether its extraction will exacerbate overdraft conditions in the Basin.

Refer to Response 16.d., 17.y and 17.z regarding the status of the Basin. The water credited to the City's Stored Water Account is in fact present in the Basin; the City began storing imported water purchased from SGPWA in 2004. Watermaster's most current accounting of the basin confirms this fact. Given that the City intends to maintain current levels of pumping from the Beaumont Basin (see WSA Appendix C), the City will pump both annual rights and water from its Stored Water Account over time. Presently, neither the Judgment nor the Watermaster's Rules and Regulations limit the quantity of water the City may withdraw from its Stored Water Account in any year. (Watermaster Rules 6.2, 6.4 and 6.7.) As noted above, the Watermaster has not developed rules for the extraction of water from storage or a methodology for estimating losses of water in storage, but may do so in the future. (Watermaster Memorandum No. 11-13, Section 3.4.)

As described in the WSA Section 6.1.5.6, the Watermaster initiated two studies to further understand the state of the Basin and the impacts from operation of the Basin: (1) the subsidence monitoring; and (2) groundwater level monitoring programs. The preliminary results of the program indicated very little, if any, subsidence has occurred as a result of historic pumping and overdraft. Annual ground level surveys are conducted to monitor future land subsidence. These studies support the conclusion that the Watermaster's management of the basin, on behalf of the court and pursuant to the court's continuing jurisdiction over the basin, has stabilized the basin such that

permitted uses may continue without undesirable effects (refer to the WSA, Section 6.1.5.6).

The comment also claims that there is only 200,000 AF of total storage capacity in the basin. The comment is accurate that the Beaumont Basin Judgment provides for the reservation of a minimum of 200,000 AF. The Watermaster's Memorandum No. 11-13: Presentation of Draft Combined 7th and 8th Annual Report of the Watermaster indicates that 260,000 AF of storage have been allocated. The City has the Watermaster's approval to store up to 80,000 AF in the basin. (Watermaster Memorandum No. 11-13, Section 2.4.) Based on the information presently available to the City, it is reasonably assumed that the City may safely store at least 80,000 AF of water in its Beaumont Basin Stored Water Account, and possibly more, for the duration of this study period.

In sum, the City has the right to pump its adjudicated Production Right, which includes the City's share of the operating yield plus any water banked in its Stored Water Account, from the Beaumont Basin. These supplies are adjudicated by a court as set forth in the Judgment. No other environmental review or approvals are required to exercise the City's production and storage rights in the Beaumont Basin. As noted above, to date, the Watermaster has not adopted rules and regulations for the withdrawal of water from storage or a methodology to estimate losses of water from storage, but may do so in the future.

- 17.cc The comment states that the WSA has failed to disclose the actual impacts that the Project will have on water resources, specifically as they relate to the use of recycled water, the Beaumont Basin storage account, and the phasing of the Project.

These particular topics are covered in the above analysis. Refer to Responses 17.k (phasing), 17.l through 17.s (recycled water), and 17.aa through 17.bb (Beaumont Basin storage account).

Within the comment, a chart is presented which compares the commenter's own calculations of the estimated demand and supply available. This chart omits the recycled water and Beaumont Basin storage account supplies available to the City. For justification regarding the inclusion of these supplies, refer to the Responses identified in the paragraph above. The chart also assumes that the entire Project will be constructed by year 2015 and that no conservation will occur in the future. Refer to Response 17.k for a response to this assumption. In sum, the omission of these supplies and the upfront inclusion of the entire Project water demand by year 2015 are inappropriate as described above.

- 17.dd The comment states that the chart presented in Comment No. 17cc indicates that the City's extractions from the Beaumont Basin will exceed SGPWA's safe yield for the Beaumont Basin by 2015.

Refer to Response 17.cc above. The omission of the recycled water and Stored Water Account supplies and the upfront inclusion of the entire gross Project water demand in year 2015 are inappropriate. Refer to Responses 17.k (phasing), 17.l through 17.s (recycled water), and 17.aa through 17.bb (Beaumont Basin storage account).

- 17.ee The comment states that the Draft EIR does not provide information on past, present, and future local and migrant species status with regard to Project construction.

The analysis provided within Draft EIR Section 4.4, *Biological Resources* includes a discussion of the habitat and the species observed onsite, based on the findings of the Biological Resources technical studies provided in the Draft EIR Appendix C. The discussion within this section identifies the existing conditions onsite, the federal, state, and local regulatory requirements governing biological resources, and both the project-related and cumulative impacts. In certain instances where there is a potential impact, mitigation measures have been proposed to reduce that impact to less than significant levels. Based on the results of the analysis, both project-related and cumulative impacts were found to be less than significant with mitigation incorporated.

One of the requirements for the Project will be to comply with all applicable regulations within the Western Riverside County Multi Species Habitat Conservation Plan (MSHCP). The MSHCP provides adequate conservation of habitat for sensitive species including those that occur at lower elevations. The very purpose of the MSHCP is to provide standards for compliance within the industry. The Butterfield Specific Plan is in compliance with the MSHCP and, as such, has mitigated for significant impacts to sensitive species.

Additionally, the comment states that cumulative impacts from other residential developments would include the removal of flat, low elevation land. Refer to Response 7.n for a discussion regarding this issue.

- 17.ff The comment asserts that there is no evidence that the sensitive wildlife observed on site will have habitat available in the general area or that populations will not be significantly affected. The MSHCP provides adequate conservation of habitat for these sensitive species. The Butterfield Specific Plan is in compliance with the MSHCP and, as such, has mitigated for significant impacts to sensitive species. The MSHCP conserves adequate grassland habitat for these species in the region and the Project site development does not conflict with any MSHCP conservation areas, core linkages, or wildlife corridors.

- 17.gg The comment states that the Draft EIR fails to disclose, analyze, and provide mitigation for impacts to the adjacent San Bernardino National Forest. Although portions of the San Bernardino Mountains are located to the north and northeast of the Project site, the Project will not have an impact on these properties as they are outside of the Specific Plan boundaries. The Planning Areas adjacent to these forest lands were created to provide a buffer between the developed portions of the site and the undeveloped forest lands. In addition, the Specific Plan has identified a series of trails that could tie into the existing trail network in these forest lands, providing recreational opportunities for residents. However, it is speculative to conclude how often and how many residents would utilize recreational opportunities within the San Bernardino National Forest. Increased demand on the San Bernardino National Forest is considered a regional issue, not a Project-specific issue.

The United States Department of Agriculture Forest Service (Forest Service) is responsible for regulating uses and maintaining the San Bernardino Mountains. The Forest Service published a Land Management Plan for the San Bernardino National Forest in September 2005⁷. The Land Management Plan identifies strategies for accommodating increased demand for recreation opportunities as growth occurs within the region. The Forest Service is responsible for providing sufficient law enforcement to protect resources and provide the level of service that is responsive to public need as levels of use increase over time.⁸ The Forest Service is also responsible for providing fire protection to the San Bernardino National Forest. Any increase in use of the San Bernardino National Forest would be assessed and appropriate measures would be taken to maintain and protect natural resources.

It is also important to note that the Planning Areas used to set the development back from the forest land areas adjacent to the site are also areas where fuel modification would occur, reducing urban-wildland interface issues associated with wildfires.

- 17.hh The comment states that many of the mitigation measures identified by California Attorney General appear to be feasible but were rejected without explanation or adequate consideration in the Draft EIR. The comment suggests that rooftop solar panels were not determined infeasible. The California Attorney General's recommendations comprehensively outline the various categories of reduction measures and provide a framework for the GHG analysis. The measures are not necessarily exhaustive, and are not utilized as thresholds. As noted by the Attorney General's Office, the measures are examples and may not be appropriate for every project. The

⁷http://www.fs.usda.gov/wps/portal/!ut/p/c4/04_SB8K8xLLM9MSSzPy8xBz9CP0os3gjAwhwtDDw9_AI8zPwhQoY6BdkOyoCAPkATIA/?ss=110512&navtype=BROWSEBYSUBJECT&cid=PSE_003756&navid=13010000000000&pnavid=13000000000000&position=BROWSBYSUBJECT&ttype=main&pname=San%20Bernardino%20National%20Forest-%20Planning

⁸ Land Management Plan for the San Bernardino National Forest, Part 1, page 12, September 2005

decision of whether to approve a project (as proposed or with required changes or mitigation) is for the lead agency, exercising its informed judgment in compliance with the law and balancing a variety of public objectives.

See Master Response #5. Mitigation Measure GHG-2 requires the Project to promote renewable energy resources, which includes allowing rooftop solar on all structures. This measure is intended to remove potential restrictions or limitations for rooftop solar facilities. The solar-ready roofs include providing a minimum of 300 square feet of unobstructed roof area facing within 30 degrees of south for future solar collector or photovoltaic panels. Rough-in penetrations through the roof surface within 24 inches of the boundary of the unobstructed roof area would also be provided for electrical conduit and water piping. It should be noted that inclusion of rooftop solar panels is not required by any local or State building code, and is more effectively addressed through the City of Banning Electric Department's renewable energy portfolio commitments and the State's ongoing building code revision process to achieve improved energy efficiency.

- 17.ii The comment states that the Draft EIR rejects the use of passive solar design and does not address why passive solar design could not be used in combination with shade trees. This comment is incorrect. The Draft EIR does not reject the use of passive solar design. Passive solar design entails orienting buildings and incorporating landscaping to maximize passive solar heating during cool seasons, minimize solar heat gain during hot seasons, and enhance natural ventilation. Passive solar design allows buildings to take advantage of sunlight. As stated in the Draft EIR, trees would be incorporated into the Project site design to enable passive solar design and provide shade throughout the site.
- 17.jj The comment lists additional potential mitigation measures from the Attorney General's list and states that the Draft EIR does not consider these measures including wind energy, solar water heaters, onsite energy storage and gray water systems. As stated above, the Attorney General's mitigation measures are examples and each one may not be appropriate for every project. The Draft EIR identifies numerous Project Design Features that would be consistent with several of the Attorney General's measures including transit, bicycle, and pedestrian connections, energy and water efficient buildings, and recycling and waste diversion services. Additionally, the Draft EIR provides various mitigation measures to reduce the Project's GHG emissions to the extent feasible (i.e., Mitigation Measures GHG-1 and GHG-2). These mitigation measures require the Project to incorporate green building practices that focus on water conservation, energy conservation, recycling (energy, water, and waste), and carbon sequestration. Therefore, measures to conserve energy through energy-efficient appliances such as water heaters and water conservation measures have been considered and included. The Project would also include transportation planning and efficiency measures that require ride sharing programs, bicycle parking, and

Neighborhood Electric Vehicle facilities, and expansion of public transit facilities. As the Project will be connected to the electrical grid, measures to produce renewable energy, such as wind energy, or to store energy are better addressed through the City of Banning Electric Department's renewable energy portfolio commitments and the State's ongoing building code revision process to achieve improved energy efficiency. See Master Response #5.

- 17.kk The comment points to additional potentially feasible measures that, according to the comment, should be discussed and analyzed in the Draft EIR. As noted in the CAPCOA *CEQA and Climate Change White Paper*, Appendix B identifies existing and potential mitigation measures that could be applied to projects during the CEQA process to reduce a project's GHG emissions. Appendix B of the *CEQA and Climate Change White Paper* is a resource provided by CAPCOA to determine specific emissions reductions that would be associated with individual GHG mitigation measures. In September 2010, CAPCOA released a document entitled *Quantifying Greenhouse Gas Mitigation Measures*, which provides additional detail and criteria for quantifying emissions reductions from mitigation measures. As a result, this document was utilized in the DEIR, and represents the most recent data and methodologies available.
- 17.ii The comment asserts that offsite mitigation was not considered. The Project includes a number of inherent Project Design Features and mitigation measures that reduce GHG emissions. In addition, existing regulatory programs administered by the City of Banning, SCAQMD, State of California (such as the Green Building Code), CARB and the EPA will further reduce future Project and cumulative GHG emissions. As described in Response 17.hh and 17.jj above, Project GHG emissions are reduced through a variety of mitigation measures aimed to reduce energy consumption and motor vehicle emissions, as well as indirect emissions associated with water supply and solid waste. Reducing energy consumption reduces indirect emissions occurring offsite where energy is generated. The City of Banning Electric Department's renewable energy portfolio commitments will ensure that electricity consumed by the Project will include an increasing percentage of renewable energy sources. Electricity rates in turn will reflect the cost of utilizing these new resources. Therefore the Project does indirectly provide for offsite mitigation. As identified in the analysis within the Draft EIR, the Project specific, on-site Project Design Features and mitigation measures are the most effective method to reduce GHG emissions.
- 17.mm The comment states that the Draft EIR should provide an analysis of potentially feasible mitigation measures prepared by an independent private or non-profit green building certification program. The Project would be required to comply with the 2010 California Green Building Code, which requires a 20 percent reduction in water usage and a 50 percent reduction of construction waste. It also requires the commissioning of energy systems to ensure the efficiency of heating, ventilation, and air conditioning (HVAC)

units, and other mechanical equipment. Additionally, Mitigation Measure GHG-1 includes energy efficiency measures to ensure compliance with voluntary Tier 1 measures of the 2010 California Green Building Standards, which results in a 15 percent overall reduction in energy consumption beyond the reductions already required in the 2010 California Green Building Code. As described in Response 17.hh and 17.jj above, the Draft EIR has also identified numerous Project Design Features and mitigation measures that would further reduce the Project's GHG emissions.

- 17.nn The comment asserts that it is not unreasonable for the Project to include additional measures to reduce its significant impacts, considering the Project's reliance on coal power and the low jobs-to-housing ratio in the area. As described in the Draft EIR, the City of Banning Electric Department provides electricity to the City and procures the majority of its electricity through contracts with the Southern California Public Power Authority. The power generation resource mix for the City is made up of 20 percent renewable (geothermal), 65 percent coal, 1 percent hydroelectric, and 13 percent nuclear. The Banning Electric Department also has commitments to increase their supply of electricity from renewable resources until a target portfolio level of 33 percent is reached by December 31, 2020, as required by California Senate Bill 107. Additionally, Draft EIR Section 4.5, *Climate Change*, considered the Project's energy usage from electricity, natural gas, and transportation. The Draft EIR also identifies various measures within Mitigation Measures GHG-1 and GHG-2 that would reduce the Project's energy and fuel consumption.
- 17.oo The comment asserts that many of the mitigation measures do not provide enforcement mechanisms or criteria regarding what actions are required. The mitigation measures identified in the comment do not defer to a report at a later date. The mitigation measures identify specific actions that must be taken, provide a timing mechanism, and provide a means for verification and enforcement. For example, the mitigation for construction impacts (Mitigation Measures AQ-1 through AQ-7) clearly states that the identified measures shall be included in all construction plans and specifications. Inclusion of these measures shall occur prior to the issuance of any grading permit, and shall be verified by the City's Director of Public Works. These mitigation measures specifically identify how and when the measures will be enforced.
- 17.pp The comment states that the Draft EIR assumes that SCAQMD will remedy the degraded air quality. The analysis on Draft EIR page 4.3-36, as cited in the comment, does not assume that solutions to degraded air quality will be remedied in the future by the SCAQMD. The purpose of this analysis is to determine whether the Project is consistent with the SCAQMD's 2007 Air Quality Management Plan (2007 AQMP). The 2007 AQMP is a planning document prepared by the SCAQMD to achieve the Federal and State Air Quality Standards. If a project is consistent with the 2007 AQMP, it means

that its emissions are accounted for in SCAQMD's regional emissions inventories and projections.

- 17.qq The comment recommends that the EIR mandate that the Project use current Best Available Control Technology (BACT) at each phase of development and implement more stringent air quality measures and policies which may be devised in the future. Mitigation Measure AQ-7 provides a timeline for the implementation of BACT for construction equipment, which would apply to each phase of the proposed Project. With the implementation of this mitigation measure, engines would be required to be cleaner and emissions controls would be more stringent as time goes on. Additionally, it should be noted that operational emissions calculations do not account for future reductions from current regulations that are already in place, such as the *Diesel Risk Reduction Plan* (DRRP) adopted by CARB and new vehicle fuel efficiency standards adopted by the U.S. Congress in 2007.
- 17.rr The comment states that Banning and nearby municipalities are already considered to be housing rich because of the low jobs-to-housing ratio. Refer to Response 17.vv for a detailed analysis of the Project's effect on the jobs-to-housing ratio in the City of Banning.
- 17.ss The comment states that the EIR provides no evidence that agricultural uses could not be designed in a way that would eliminate a nuisance to neighbors due to use of pesticides and generation of dust. Should the Project site remain utilized for agricultural purposes, there is no guarantee that the property would be used for organic farming. It is speculative to state that agricultural uses on the Project site would be conducted in a way that would eliminate potential nuisances to neighbors. Should the site be utilized for farming, all operations would be required to adhere to regulations adopted and implemented by the United States Department of Agriculture, which does not prohibit the use of pesticides and fertilizer.
- 17.tt The comment questions the use of determinations taken from the previously certified Deutsch Specific Plan EIR. As stated on page 4.2-8 of the Draft EIR, cultivation of the Project site ceased in 1988. The use of the Project site for agricultural purposes would be inconsistent with the designations of ultimate land use as planned by the City's General Plan and Zoning Map.
- 17.uu The comment states that the EIR fails to consider many potential feasible methods to avoid or reduce impacts to the proposed Project. The EIR did not include mitigation measures to address impacts to agricultural resources because the EIR concluded that no significant agricultural impacts would occur with implementation of the proposed Project. CEQA does not require mitigation measures where impacts are found to be less than significant.

- 17.vv The comment states that the Project will worsen the jobs to housing ratio in the region and will not locate new housing near existing jobs. The comment also asserts that the future residents of the Project will commute to Los Angeles or Orange County for existing jobs.

Jobs-Housing Balance

The comment cites the April 2001 Southern California Association of Governments (SCAG) report on the jobs-housing balance, titled *The New Economic and Jobs/Housing Balance in Southern California*. The underlying data for this report was obtained in 1997 (refer to pg. 21 of this report). For more recent data from SCAG related to the jobs-housing balance, the commenter is referred to the Adopted 2008 Regional Transportation (RTP) Growth Forecast.

According to the 2008 RTP Growth Forecast household and employment projections, the 2010 jobs-housing ratio for the City of Banning is 0.80. The ratio is estimated to trend upward from 0.88 in 2015 to 0.98 by 2035. The development of the RTP forecasts includes information from local general plans. This information gathering process for the RTP Growth Forecasts began in February 2005 and was completed by July 2007. Because the previous land use designations for the Project site were approved in 1985 (refer to Draft EIR Section 3.4) under the Deutsch Specific Plan (and later amended in 1993), these land use assumptions were utilized in the most-recent City of Banning General Plan and, in turn, were assumed in the development of the 2008 RTP Growth Forecast.

The proposed Project proposes slightly less housing units than the Deutsch Specific Plan and 44 percent more acres of commercial/office land uses. Therefore, the proposed Project would result in a slight improvement in the jobs-housing balances assumed by SCAG in the 2008 RTP. Because SCAG projects the City of Banning's jobs-housing balance to move upward in the direction of a "healthier" ratio and the proposed Project is consistent with or a slightly improvement over the existing 2008 RTP assumptions, the Project is not anticipated to result in an adverse effect to SCAG's goal of locating housing near jobs.

Consistency with SCAG Forecasts

In addition, the WSA (Draft EIR Appendix J, Section 5.2.4.1) demonstrates that the City's more current household projections, which it bases on a 2-percent population growth rate and a conversion factor of 2.7 persons-per-household (see WSA for basis of these assumptions), are consistent with the number of housing units currently in the planning phase of development, including the proposed Project. WSA noted that the City's 2008-2014 Draft Housing Element was used to obtain this 2-percent average growth rate.

These household projections would not exceed estimates presented by SCAG in its 2008 RTP Growth Forecast. Refer to Table 17.vv-1 below for a comparison of the City's anticipated housing growth versus SCAG's RTP forecasts. Thus, the additional household growth resulting from the proposed Project would be consistent with SCAG's forecasts and assumptions contained in the 2008-2014 Draft Housing Element.

**Table 17.vv-1
Comparison of SCAG 2008 RTP Growth Forecasts**

	2015	2020	2025	2030	2035	2040	2045
SCAG¹							
Population	42,121	47,683	53,713	59,392	63,787	-	-
Households	14,616	17,127	20,197	22,794	24,668	-	-
Employment	12,871	15,810	18,751	21,726	24,122	-	-
Jobs-Housing Balance	0.88	0.92	0.93	0.95	0.98	-	-
Department of Finance/City of Banning 2008-2014 Draft Housing Element²							
Population	32,684	36,086	39,842	43,989	48,567	53,622	59,203
Household	12,105	13,354	14,756	16,292	17,988	19,860	21,927
Source: ¹ Adopted 2008 RTP Growth Forecast, by City, accessed August 3, 2011, http://www.scag.ca.gov/forecast/index.htm . ² Draft EIR, Appendix J, pg. 37.							

The statement in the Draft EIR that the proposed Project would locate new housing near existing jobs is based on the mix of land uses contained in the Specific Plan, 36 acres for commercial/office, two 11-acre school sites, a 1.5-acre optional fire station, and alternative commercial uses (PAs 3, 4, 5, 26 and 27) of up to 797,365 square feet.

Lastly, the comment regarding the commute destination of residents in the proposed Project is speculative. The comment does not provide any technical analysis to support this claim.

17.ww The comment states that the EIR inaccurately categorizes the Project as infill development on pg. 4.10-17 and 4.10-18 of the Draft EIR. This phrase "as an infill project" has been removed from the Draft EIR. Refer to the Errata of this Final EIR.

The comment also suggests that the Project site is inconsistent with the policy to preserve rural and agricultural areas. While the site is designated as Farmland of Local Importance, the site was not zoned for agricultural or rural uses, under the approved Deutsch Specific Plan, and it not designated as such per the Banning General Plan and zoning. As stated in Impact Statement 4.2-1 of the Draft EIR, the issue of conversion of farmland was originally addressed in the EIR certified for the Deutsch Banning Specific

Plan and found to be a significant and unavoidable cumulative impact. Since this Project is an amendment and restatement of the original Deutsch Specific Plan, the analysis and findings of the original certified EIR are incorporated by reference.

17.xx The comment states that the Draft EIR includes no analysis of consistency with the County General Plan. In addition, the comment argues that no analysis of consistency with the adjacent National Forest's planning documents is provided. The Draft EIR does include consistency analysis with the County General Plan, where applicable. For instance, the County General Plan is discussed in regard to its planned alignment of Cherry Valley Boulevard and Brookside Avenue (*Traffic Impact Analysis*, Draft EIR Appendix I, Section 4.4). Further the Butterfield Specific Plan provides for land uses and densities very similar to those currently reflected in the General Plan pursuant to the existing Deutsch Specific Plan. In regard to the National Forest's planning documents, refer to Response 17.gg.

17.yy The comment states that no analysis was conducted regarding construction for additional public facilities. The Draft EIR fully analyzes the impacts of the proposed public facilities, including two school sites and a fire station site, that are proposed within the Project boundaries. Additional public facilities, including police services would be constructed via Facility Fees, which the Project Applicant is required to pay a fair share portion. Impacts to additional public facilities, including police services, is considered a cumulative impact resulting from development throughout the City, and not solely the proposed Project. Additionally, the General Plan analyzed impacts at full buildout, and the General Plan assumes the same type and density of development proposed on the Project site as what was analyzed in the Draft EIR. Therefore, impacts associated with the development of additional public facilities were already analyzed as part of the General Plan. In addition, any future additional public facilities would be required to conduct independent environmental review at the time of submittal of a project application.

The comment also states that no analysis was conducted for infrastructure projects. The Draft EIR fully analyzes impacts associated with Project-related infrastructure. Refer to Sections 4.1 through 4.14 of the Draft EIR. Infrastructure necessary for buildout of the General Plan was previously analyzed as part of the General Plan EIR. Additionally, improvements to infrastructure as a result of cumulative development would occur on an as needed basis, and independent environmental review would be conducted at the time of submittal of a project application.

The comment states that no landfill capacity would exist by the time the Project is completed. As stated in Impact Analysis 4.12-10 of Section 4.12, *Public Services and Utilities*, impacts to landfills were analyzed using Specific Plan buildout projections, and utilized the same generation factors that were used to analyze General Plan buildout.

Buildout of the proposed Project would contribute approximately 3 to 12 percent of the total City waste stream to any one of the landfills that serve it. All have existing unused capacity sufficient to accommodate the projected waste stream growth, assuming continued compliance with City and State mandated diversion rates.

The comment states that no discussion of impacts to the national forest were included in the EIR. Refer to Response 17.gg.

As stated in Section 4.12, *Public Resources and Utilities*, of the Draft EIR, the residential, commercial, and institutional uses to be developed as part of the Project will be designed and constructed pursuant to the applicable provisions of CCR Title 24, and the City's energy and lighting efficiency standards. In addition, Specific Plan Design Guidelines include provision for the use of photovoltaic panels integrated into the roofline of residential structures, consistent with General Plan Energy Policy 2. All new construction facilitated by the Specific Plan would be required to comply with *California's Energy Efficiency Standards for Residential and Nonresidential Buildings*, contained in Title 24, Part 6, of the California Code of Regulations as amended in 2008. These standards became effective on January 1, 2010 and have been incorporated into the City's Building Code. In addition, the Project would be required to comply with the lighting power requirements of the California Energy Code, CCR, Part 6 and Section 5.106.8 of California Green Code, which requires automatic exterior light control for nonresidential buildings. Further, the Project would reduce the number of street lights on interior streets by eliminating mid-block lights, subject to City review, and/or use of LED street lights, resulting in an energy savings. While not mandatory, the California Green Code encourages design that achieves at least a 15 percent reduction in energy usage when compared to the State's mandatory energy efficiency standards.

Homebuyers can have their homes constructed pursuant to Pardee's LivingSmart program to maximize energy efficiency (refer to Section 4.5, *Climate Change*, of the Draft EIR for a detailed discussion). The LivingSmart program is a voluntary program that the homeowner can decide to participate in for an additional cost to the homeowner. The Project Applicant does not require participation nor finance the additional costs of this program.

The comment states that the mitigation measure regarding waste management of the golf course is not sufficient. The criteria for the Operational Waste Management Plan incorporates the Best Management Practices for the management of green waste recommended by the Golf Course Superintendent Association of America (GCSAA), which is the standard guidelines used by many golf courses. In addition to GCSAA guidelines, waste reduction methods designated by the City and SCAQMD would be implemented. Therefore, impacts would be less than significant. The golf course clubhouse is expected to generate and dispose of a waste stream similar in content to a

typical commercial use; however, the primary waste generated by the golf course is green waste, which would be recycled and thus would not be directed to a landfill.

- 17.zz The comment is questioning the limited scope of the traffic analysis, indicating that it is not reasonable for the project. Since traffic impacts can be difficult to analyze, standard practice for preparation of these studies relies on the use of guidelines from the Agency overseeing the transportation infrastructure. In the case of the proposed Project, technical guidance from the City of Banning, Caltrans and Riverside County Transportation Department were used in the preparation of the Traffic Impact Analysis.

In accordance with the study area requirements identified in the “Traffic Impact Analysis Preparation Guide” prepared by the Riverside County Transportation Department, which the City uses as its own guidelines, Page 3 of this document requires the following:

In general, the minimum area to be studied shall include any intersection of “Collector” or higher classification street, with “Collector” or higher classification streets, at which the proposed project will add 50 or more peak hour trips, not exceeding a 5-mile radius from the project site. The Transportation Department may require deviation from these requirements based on area conditions.

The Consultant that prepared the study verified the study area requirements as part of the Project Scoping document approved by the City of Banning prior to initiating the traffic impact analysis for the proposed Project. The study also followed the County of Riverside Transportation Department TIA Preparation Guide to define the study area.

In addition, Freeway Segment analysis was conducted in conformance with the “Guide for Preparation of Traffic Impact Studies” prepared by the California Department of Transportation (Caltrans), which include the following requirements:

Boundaries of the Traffic Impact Study

All State highway facilities impacted in accordance with the criteria in Section II should be studied. Traffic impacts to local streets and roads can impact intersections with State highway facilities. In these cases, the TIS should include an analysis of adjacent local facilities, upstream and downstream, of the intersection (i.e., driveways, intersections, and interchanges) with the State highway.

Traffic Analysis Scenarios

Caltrans is interested in the effects of general plan updates and amendments as well as the effects of specific project entitlements (i.e., site plans, conditional use

permits, subdivisions, rezoning, etc.) that have the potential to impact a State highway facility. The complexity or magnitude of the impacts of a project will normally dictate the scenarios necessary to analyze the project. Consultation between the lead agency, Caltrans, and those preparing the TIS is recommended to determine the appropriate scenarios for the analysis.

Preparation of the Butterfield Traffic Impact Analysis was performed in consultation with the City of Banning, County of Riverside and Caltrans. The extent of analysis was consistent with the guidance documents referenced above as well as standard engineering practice. Accordingly, the Study Area identified in the analysis is the area where impacts are anticipated to occur as a result of the Project.

- 17.aaa The comment claims that the Traffic Impact Assessment does not adequately explain why growth projections in SCAG's Regional Transportation Plan were used for purposes of estimating when the City's General Plan buildout will occur. Growth projections from SCAG's Regional Transportation Plan were used as the basis for growth projections as recommended by the Riverside County Transportation Department. SCAG's RTP update process utilizes the General Plan buildout estimates for the Cities and Counties within their planning area. In essence, the City of Banning's buildout estimates were already incorporated into the 2008 RTP, along with the other jurisdictions located within the SCAG region. Although current conditions are below SCAG estimates from the RTP, the analysis results actually are considered conservative estimates, since it is overestimating population, which increases area wide traffic. The RTP is updated periodically, and will use more accurate population estimates and growth projections that more closely reflect current conditions.
- 17.bbb The comment questions the analysis performed regarding air traffic pattern impacts. Impact discussion 4.13-3 indicates that the proposed Project is located approximately 4 miles from the Banning Municipal Airport. Due to this distance, it is not anticipated that air traffic patterns over the project site would affect the proposed Project due to the distance to the airport facility. Typically projects that affect air traffic patterns are those that are located within close proximity to an airport runway and have the potential to erect structures that could interfere with airport operations (aircraft landing/ takeoff, visibility, etc...). Due to the proposed Project's proximity it is not anticipated to have any impact on air traffic patterns. If future expansion of the Banning Municipal Airport occurs, the Airport will be required to identify the new areas that may be impacted by this expansion.
- 17.ccc The comment questions the conclusion that the Project would not decrease the performance of public transit facilities. As indicated on page 4.13-32, Impact 4.13-6, addresses the projects potential to conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the

performance or safety of such facilities. As discussed in this analysis, the proposed Project includes a variety of alternative transportation modes, such as a pedestrian trail system, accommodation for Neighborhood Electric Vehicles, and bicycle lanes. Incorporation of these facilities would not conflict with existing transit policies and programs, are consistent with the Banning General Plan Circulation Element, and would provide opportunities for residents to travel throughout the Project area without using a car. As proposed, the Project would not hinder the Transit Agencies from providing current service to their riders. As development occurs within the Project, the Applicant would coordinate with these Agencies on the design and location of any transit facilities located within the Specific Plan area. Through this coordination, the Applicant can ensure that the expansion of new facilities/ services would remain consistent with Transit Master Plan goals and objectives.

17.ddd The comment asserts that maintenance of the proposed transportation system improvements was not discussed within Section 4.13, Traffic and Transportation. The California Environmental Quality Act requires a discussion and analysis of physical changes to the environment as a result of a project. A simple example of this would be the construction of a road in an area where no road existed before. The analysis will focus on the changes that occur from the existing condition (land that is undeveloped and does not have a road located on it) to the proposed condition (land that has a paved road constructed on it). Once the road is constructed, the maintenance of that road becomes a periodic service provided by a jurisdiction's public works department. This maintenance typically would not involve additional impacts above and beyond the initial impacts analyzed, therefore additional analysis and discussion was not provided.

In addition, Section 4.13.5 identifies the proposed intersection improvements – funding programs/ sources for the Project, which identify the various funding sources for project improvements based on their location and governing jurisdiction. For the improvements that are located within the Project study area a description of the anticipated impacts are identified in Section 4.13.6 Potential Impacts Due to Traffic Mitigation. These improvements are organized based on the level of anticipated impact from project improvements with no anticipated significant impacts, project improvements with relatively minor right of way requirements, and project improvements with potentially significant impacts and/or feasibility concerns. In all cases, the Project Applicant will prepare detailed construction plans for all traffic improvements, which will be submitted, reviewed, and approved by the Agency responsible for oversight of the respective facility. As part of this review, the Responsible Agency will review the improvement plans along with applicable mitigation requirements.

17.eee The comment states that the Project would not fully mitigate traffic related impacts, causing significant and unavoidable impacts. As indicated in Section 4.13, Traffic and

Circulation page 4.13-20, all study intersections can be fully mitigated resulting in operation at acceptable levels of service. However, there are two particular issues that affect the project's ability to achieve this:

1. Localized impacts: Improvements as proposed may cause significant impacts to existing land uses resulting from the use of portions of existing properties to construct right of way improvements. Under this condition existing uses along existing roadways where improvements are recommended may lose a portion of their property that could affect their ability to provide customer parking or require the removal or relocation of site improvements (walls, sidewalks, lights, etc...). Although traffic operations would function adequately with the improvement in place, an impact to the adjacent use may require additional improvements or result in impacts associated with construction activities that may be immitigable. If these conditions occur, there is a potential that the jurisdiction that oversees the improvements may opt to allow a significant traffic impact to occur instead of impacting the existing property owner/ business.
2. Timing of traffic improvements in relation to when the impact occurs: This condition involves an increase in traffic at a location outside of the City of Banning (Riverside County, Beaumont, Caltrans), where the proposed improvement to mitigate the increased traffic has not been completed. Even though the Project Applicant has paid their portion of the mitigation cost for the improvement (prior to the impact occurring), the jurisdiction responsible for the improvement has not completed construction. In this case there is a period of time between when the impact occurs and when the improvement is completed, during which traffic will operate at a deficient LOS standard.

To ensure that adequate mitigation is provided commensurate with the buildout of the Project site, the Project Applicant will be required to comply with Mitigation Measure TRF-2, which requires the preparation of a Traffic Impact Assessment Validation Report as part of the Final Tract Map process. This report will identify the required traffic improvements necessary to ensure adequate emergency access and satisfactory levels of service are maintained. The identified improvements shall become conditions of approval for the Final Tract Map approval. Through this mechanism the City can track the necessary improvements and guarantee that they will be planned, designed, and constructed within the City of Banning. Mitigation measures required to be implemented by the Project Applicant have been identified in Table 4.13-9 of the Draft EIR. The Traffic Impact Assessment Validation Report would require implementation of all mitigation measures identified in Table 4.13-9 of the Draft EIR. However, the Traffic Impact Assessment Validation Report would clarify which measures are necessary when individual tract maps are approved. Therefore, the Traffic Impact Assessment

Validation report functions as a timing mechanism to ensure that improvements are completed ahead of Project impacts.

- 17.fff The comment states that it was not appropriate to evaluate the 1993 Deutsch Specific Plan as a No Project Alternative. As identified in Section 15126.6(e)(3)(A) of the State CEQA Guidelines, “when the project is the revision of an existing land use or regulatory plan, policy, or ongoing operation, the ‘no project’ alternative will be the continuation of the existing plan.” The approved land use for the Project site is the existing Deutsch Specific Plan, and therefore, the No Project Alternative analyzed the existing land use plan, as required in Section 15126.6(e)(3)(A). Furthermore, as part of the previous entitlement process with the Deutsch Specific Plan, a development agreement was entered into between the City and the property owner and its successors, which committed both parties to the development program described in the Deutsch Specific Plan. The agreement is binding, and exempts the Specific Plan from changes to codes, plans, resolutions, or voter approved initiatives that might yield a different development scenario. The approved and executed Development Agreement outlines the City responsibilities as well as the construction requirements for specified public improvements, facilities and services. On November 9, 1993, the Banning City Council adopted Ordinance No. 1134, which approved the Deutsch Specific Plan Development Agreement No.1992-02.

The comment states that the Draft EIR provides insufficient explanations as to why the environmentally superior Reduced Density Alternative was rejected. This alternative was not rejected. As required by CEQA, the alternative was compared to the proposed Project with regards to environmental effects and its ability to meet Project objectives. As stated on page 6.0-33 of the Draft EIR, the Reduced Density Alternative would have the same types of significant and unavoidable impacts when compared to the proposed Project. Additionally, the Reduced Density Alternative would not fulfill certain project objectives to the same degree as the proposed Project. The objectives that would not be fully achieved include:

1. **Master Planned Community:** This alternative conflicts with the City’s vision of its future as articulated in the City’s 2008 Draft Housing Element based on the reduction in household unit growth;
4. **Provide a Wide Range of Housing Opportunities:** This alternative allows less flexibility to respond to changing market demand and the developing economic profile of the community, because it would restrict the level of development (by 20%) that could occur within those Planning Areas proposed under the current Project as High Density Residential (HDR), Medium Density Residential (MDR), and Low Density Residential (LDR).

Each of the alternatives were carefully selected to be compliant and consistent with the requirements of Section 15126.6 of the *CEQA Guidelines*. Section 15126.6 of the *CEQA Guidelines* states that the alternatives chosen to be analyzed shall feasibly attain most of the basic project objectives but would avoid or substantially lessen any of the significant effects of the project. Section 15126.6 also states that an EIR need not consider every conceivable alternative to the project. Rather, it must consider a reasonable range of potentially feasible alternatives that would foster informed decision making and public participation.

- 17.ggg The comment states that the reliance and incorporation of planning documents which considered the 1993 Deutsch Specific Plan are not appropriate. The 1993 Deutsch Specific Plan is the approved land use document for the Project site, and therefore, was used as the baseline for analysis for the Butterfield Specific Plan. Furthermore, as part of the previous entitlement process with the Deutsch Specific Plan, a development agreement was entered into between the City and the property owner and its successors, which committed both parties to the development program described in the Deutsch Specific Plan. The agreement is binding, and exempts the Specific Plan from changes to codes, plans, resolutions, or voter approved initiatives that might yield a different development scenario. The approved and executed Development Agreement outlines the City responsibilities as well as the construction requirements for specified public improvements, facilities and services. On November 9, 1993, the Banning City Council adopted Ordinance No. 1134, which approved the Deutsch Specific Plan Development Agreement No.1992-02.

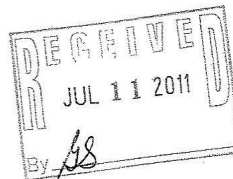
In addition to conducting a full environmental review of impacts associated with the Butterfield Specific Plan, a multitude of technical studies were conducted that assess current conditions of the site and the surrounding area. Therefore, the Draft EIR did not rely on 18 year old technical studies to assess environmental conditions. Please refer to the Draft EIR appendices for the technical studies used in the preparation of the EIR.

The comment asserts that the list of related projects used for cumulative analysis is legally inadequate. As stated in Section 4.0, *Environmental Impact Analysis* of the Draft EIR, the cumulative impacts analyses uses a blended approach to ensure adequate analysis. A cumulative projects list (Table 4-1 of the Draft EIR) identifies a list of known major development projects in the City of Banning, Beaumont, and unincorporated County of Riverside. In addition, the cumulative impacts analysis also incorporates the adopted plan method, which includes development associated with buildout of the General Plan.

The proposed Project is considered to be consistent with the City of Banning General Plan, and the Project's overall density and nature of development would be consistent with regional growth projections reflected in the Riverside County General Plan and

those of applicable regional, State and federal agencies. Therefore, on both a local and regional level, the Project's cumulative impacts have been accounted for in the City of Banning General Plan Final EIR (2006), and the Riverside County Integrated Project Final EIR (2003) as well as in the various population-dependent regional plans adopted by such agencies as the Southern California Association of Governments (SCAG), the Colorado River Basin RWQCB, and the South Coast AQMD. Additional projects in the region (i.e., Palm Desert, Palm Springs, etc as suggested by the comment) were analyzed within these associated planning documents.

Public Comment Letter
No. 18



City of Banning
99 E. Ransey Street
Banning, CA. 92220

Attn: Zai Abu Bakar, Community Development Director

Re: Draft EIR Butterfield Spec. Plan
Public Meeting June 21, 2011

Gentlemen:

I am representing Cherry Valley Acres & Neighbors and the Cherry Valley Environmental Planning Group. The following are some of our concerns, more are to follow, also in written communication.

} 18.a

TRAFFIC

This project adds more than 5,000 homes to an already crowded area, with heavy traffic and lack of alternate roadways and other means of transportation. We are concerned that the houses will be built before the traffic problems are corrected and the EIR does not provide enough information for the City to tell whether that will happen, and how bad the traffic will be while we all wait for these improvements to be built.

} 18.b

Another oversight in your EIR (See page 4.12-5 Public Services) I call your attention to the fact that Beaumont Unified School District serves the Project Site. The High School currently exceeds its design capacity, but worse yet, your traffic mitigation measures mainly focus on Highland Springs Road and vicinity.

} 18.c

Unfortunately, the traffic that will be poured into Cherry Valley and parts of Beaumont as hundreds of students are driven to middle and High School in the City of Beaumont and rural Cherry Valley is not even mentioned. Existing two lane country roads such as Brookside, Cherry Valley Blvd. and all adjoining streets cannot handle this influx, not to mention the already dangerous rickety two lane Freeway #10 on and off ramp at Cherry Valley Blvd. and the Oak Valley Community and Golf Course.

} 18.d

Also of concern to our organizations, the project puts over 5,000 homes next to the San Bernardino National Forest. The EIR needs to discuss what the effects will be on the National Forest, for animals, for plants, and for the people who use the Forest.

} 18.e

These areas need much further study to adequately address their impact and remedy.

Very truly yours,
Luwana Ryan
Luwana Ryan
9574 Mtn. View Ave.
Cherry Valley, CA 92223

951-769-0074

**Cherry Valley Acres and Neighbors and
Cherry Valley Environmental Planning Group
(submitted by Luwana Ryan)**

Response No. 18

- 18.a The comment states that they have concerns pertaining to the Project.
- 18.b The comment states that houses may be built before traffic problems are corrected. Refer to Response 16.i. In terms of timing of traffic mitigation, for the Existing plus Project traffic improvements within the City of Banning, the Applicant will be required to construct or fund the improvements on a phased schedule as determined necessary with each Final Tract Map submittal (see Mitigation Measure TRF-1 and TRF-2). The preparation of Traffic Impact Analysis Validation Reports (TVR) coincides with the number of new p.m. peak hour trips generated from development under the Final Tract Map(s). The process will ensure that improvements will be funded and constructed in a timely manner to mitigate for interim traffic impacts. See Mitigation Measure TRF-2.
- However, Draft EIR Section 4.13.8 also states that due to the speculative nature of the timing of implementation and availability of funding to implement the planned improvements outside of the control of the City of Banning, less than significant levels cannot be guaranteed. As such, impacts remain potentially significant and unavoidable.
- 18.c The comment states that Beaumont High School currently exceeds its design capacity. Refer to Response 16.j.
- 18.d The comment states that traffic generated by additional students attending middle school and high school in the area was not analyzed, and Brookside, Cherry Valley Boulevard, adjoining streets cannot handle the influx of traffic. At build-out, the Project is expected to generate 62,263 average daily trips. The model used to analyze these additional trips assumed increased traffic to school sites within the Project's vicinity. The Project's trip distribution patterns were developed for the *Traffic Impact Assessment* (Draft EIR Appendix I) and it was determined that with mitigation all study intersections would function at acceptable levels of service (refer to Table 4.13-8). However, as addressed in the Draft EIR (Section 4.13, *Traffic and Transportation*), mitigation of certain Project-related traffic impacts in other jurisdictions (besides Banning) are outside the control of the Applicant and the City of Banning, and/or would require substantial right-of-way or otherwise may not be feasible to construct. Therefore, these locations may have unavoidable significant impacts associated with either Project or cumulative traffic levels. Refer to Response 5.a.

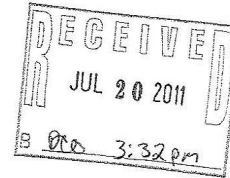
- 18.e The comment states that the EIR needs to address effects on the National Forest. Refer to Response 17.gg.

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Public Comment Letter
No. 19

ATTORNEYS SERVING
COMMUNITY ASSOCIATIONS

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PLEASE REFER TO FILE: 90-187

July 20, 2011

HAND DELIVERED ON JULY 20, 2011

City of Banning
Community Development Department
Attn: Zai Abu Bakar, Community Development Director
99 East Ramsey Street
Banning, CA 92220

Re: Opposition to the Butterfield Specific Plan Proposed by Pardee Homes; Written Comments to the Draft Environmental Impact Report for the Proposed Butterfield Specific Plan Project; State Clearinghouse No. 2007091149 ("Project")

Dear Mr. Bakar:

This office is corporate counsel for Highland Springs Country Club Owners' Association, a California nonprofit mutual benefit corporation ("Association"). The Association submits the following opposition to the Proposed Butterfield Specific Plan, as well as written comments to the Draft Environmental Impact Report, all as indicated below:

A. Specific Plan.

1. Background.

The Association consists of 289 single family residential homes, a nine hole golf course, as well as other recreational amenities enclosed within a gated community ("Community"). The Community is bisected by Highland Springs Avenue, with the western side of the Community consisting of the 289 residential lots, five (5) golf holes and other recreational amenities and the eastern side of Highland Springs Avenue consisting of four golf holes, a driving range, as well as other Association improvements ("East Side Golf Course Area"). A portion of the East Side Golf Course Area is denominated within the Butterfield Specific Plan as Planning Area 43B.

2. THE ASSOCIATION, AS THE OWNER OF THE EAST SIDE GOLF COURSE AREA AND PLANNING AREA 43B, DOES NOT WISH TO ANNEX A PORTION OF ITS

19.a

19.b

GURALNICK & GILLILAND, LLP
ATTORNEYS AT LAW

City of Banning
Community Development Department
Page 2

GOLF COURSE INTO THE CITY OF BANNING AND OPPOSE THIS SPECIFIC PLAN AND ANY PORTION OF IT THAT WOULD INCLUDE PLANNING AREA 43B.

As the owner of Planning Area 43B (which again consists of four of the Association's nine golf holes, as well as its driving range), the Association opposes any annexation into the City of Banning and/or any inclusion of Planning Area 43B in and to the Butterfield Specific Plan. Specifically, the Community is now within the unincorporated area of the County of Riverside and does not wish to have a portion of its property within the City of Banning and another portion within the County of Riverside. Presently, the residents of the Community prefer to remain within the unincorporated portion of the County of Riverside. For the foregoing reasons, we do not believe that the Butterfield Specific Plan can include any portion of the Association's property, including, but not limited to, Planning Area 43B.

19.b
cont.

3. EXTENSION OF BROOKSIDE AVENUE, ALSO KNOWN AS HIGHLAND HOME ROAD, WILL BISECT THE ASSOCIATION'S EAST SIDE GOLF COURSE AREA.

Pursuant to Section 3.2.1.3 of the Specific Plan, Brookside Avenue is proposed to be a major highway known as Highland Home Road. Specifically, the Circulation Plan indicates that the extension of Brookside Avenue will be changed to the name of Highland Home Road and is proposed to be a 100 foot (100') right of way, including a median area, two through lanes on each side and a parking lane ("Major Highway"). This Major Highway is proposed to be installed on the northern portion of Planning Area 43B, bisecting the Association's East Side Golf Course Area and destroying the integrity and layout of its golf course. The land needed for this road would include the area presently owned by the Association and the Association has no intent of selling its recreational and common areas to any entity (nor does it believe that Planning Area 43B is subject to any public necessity requirement). Accordingly, the Association believes that the Specific Plans needs to be denied based on the fact that Highland Home Road cannot bisect the Association's golf course and a new circulation plan must be resubmitted to take into consideration the Association's concerns as identified herein.

19.c

B. Draft Environmental Impact Report.

1. THE ASSOCIATION INCORPORATES ITS COMMENTS UNDER PARAGRAPH A ABOVE RELATED TO THE SPECIFIC PLAN AS WRITTEN COMMENTS TO THE DRAFT ENVIRONMENTAL IMPACT REPORT WHICH NEED TO BE ADDRESSED.

The Association herein incorporates by reference all of its comments under A 1-3, inclusive, as though set forth herein as written comments related to the Draft Environmental Impact Report.

19.d

2. SECTION 4.10.3 OF THE DRAFT ENVIRONMENTAL IMPACT REPORT IDENTIFIES A SIGNIFICANT THRESHOLD CRITERIA IF A PROJECT WOULD PHYSICALLY DIVIDE AN ESTABLISHED COMMUNITY.

19.e

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As indicated in paragraph A above, the Specific Plan proposes to divide the Highland Springs Country Club Community by annexing a Planning Area 43B into the City of Banning and leaving the remaining portion of Highland Springs Country Club Community within the unincorporated area of the County of Riverside. Furthermore, the Specific Plan proposes to install a major highway that would bisect the Highland Springs Country Club Community as more particularly identified in Exhibit A, attached hereto and made a part hereof by this reference. Accordingly, we believe there is a significant threshold criteria which has not been mitigated nor addressed in the Environmental Impact Report and, in fact, contains inaccurate factual statements particularly when referencing Impact Analysis and Mitigation Measures, Section 4.10.1, where its stated, "*Would the project physically divide an established community?*" and the answer "No impact," an incorrect statement that needs to be revised accordingly. Similarly, the impact analysis and mitigation measures, Section 4.10.2 related to Conflict with Land Use Policy Regulations did not take into consideration the existing land uses from the Highland Springs Country Club as established under the Land Use Plan and General Plan for the County of Riverside.

19.e
cont.

3. SECTION 4.13.6, POTENTIAL IMPACTS DUE TO TRAFFIC MITIGATION, DRAFT ENVIRONMENTAL IMPACT REPORT, SECTION 4.13.6, DOES NOT IDENTIFY PROJECT IMPROVEMENTS THAT REQUIRE A SIGNIFICANT AMOUNT OF RIGHT OF WAY.

The major highway of Highland Home Road is proposed to bisect the Association's East Side Golf Course Area with a 100 foot (100') right of way on both sides of the Association's property. This information was not addressed within any portion of Section 4.13 along with the fact that the Association has no intention of selling the property nor does it believe that the area is subject to a public necessity. Similarly, on page 4.13-52, Section 20 related to the Highland Springs/Brookside Evaluation of Cumulative Improvements with Potentially Significant Impacts and/or Feasibility Concerns, there is no mitigation nor evaluation of the impact of the proposed major highway of Highland Home Road on the Highland Springs Country Club Community, its golf course, the residents and the existing homes located therein. Such evaluation is necessary to comply with the requirements of CEQA.

19.f

4. TABLE 4.10-1 ON PAGE 4.10-12, LAND USE ELEMENTS, RESIDENTIAL GOALS, POLICIES AND PROGRAMS; POLICY ITEM 2 INDICATES THAT PROJECTS ADJACENT TO EXISTING NEIGHBORHOODS SHALL BE CAREFULLY REVIEWED TO ASSURE THAT NEIGHBORHOOD CHARACTER IS PROTECTED.

The consistency analysis did not include an analysis of the impact of the Specific Plan on Highland Springs Country Club, the bisecting of the East Side Golf Course Area with the proposed major highway of 100 foot (100') right of way of Highland Home Road, as well as the impact of dividing the Association's golf course recreational amenity in half. We believe there is a significant impact which has not been mitigated or otherwise identified within the Draft Environmental Impact Report.

19.g

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5. SECTION 4.11 RELATED TO NOISE ELEMENT DOES NOT IDENTIFY THE LONG TERM IMPACT OF TRAFFIC NOISE INCREASES ALONG BROOKSIDE AVENUE AND THE EXTENSION OF HIGHLAND HOME ROAD AS A MAJOR HIGHWAY ON THE ADJACENT HIGHLAND SPRINGS COUNTRY CLUB COMMUNITY.

It is believed that a significant increase in noise will be generated from the four lane highway and the Draft Environmental Impact Report does not address either the long term or cumulative impact of noise created by the project on the Highland Springs Country Club Community.

6. **Water Supply.** The Association is also concerned with the water supply issues identified by the Sun Lakes Country Club Homeowners Association and hereby incorporates by reference all of the concerns identified by Sun Lakes Country Club Homeowners Association in both oral and written comments to the Draft Environmental Impact Report and Specific Plan as though more fully set forth herein.

Sincerely,

GURALNICK & GILLILAND, LLP



Wayne Guralnick

/la

cc: State of California, Governor's Office of Planning & Research
State Clearinghouse and Planning Unit
Attn: Scott Morgan, Project Analyst

Enclosures

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}
} 19.i

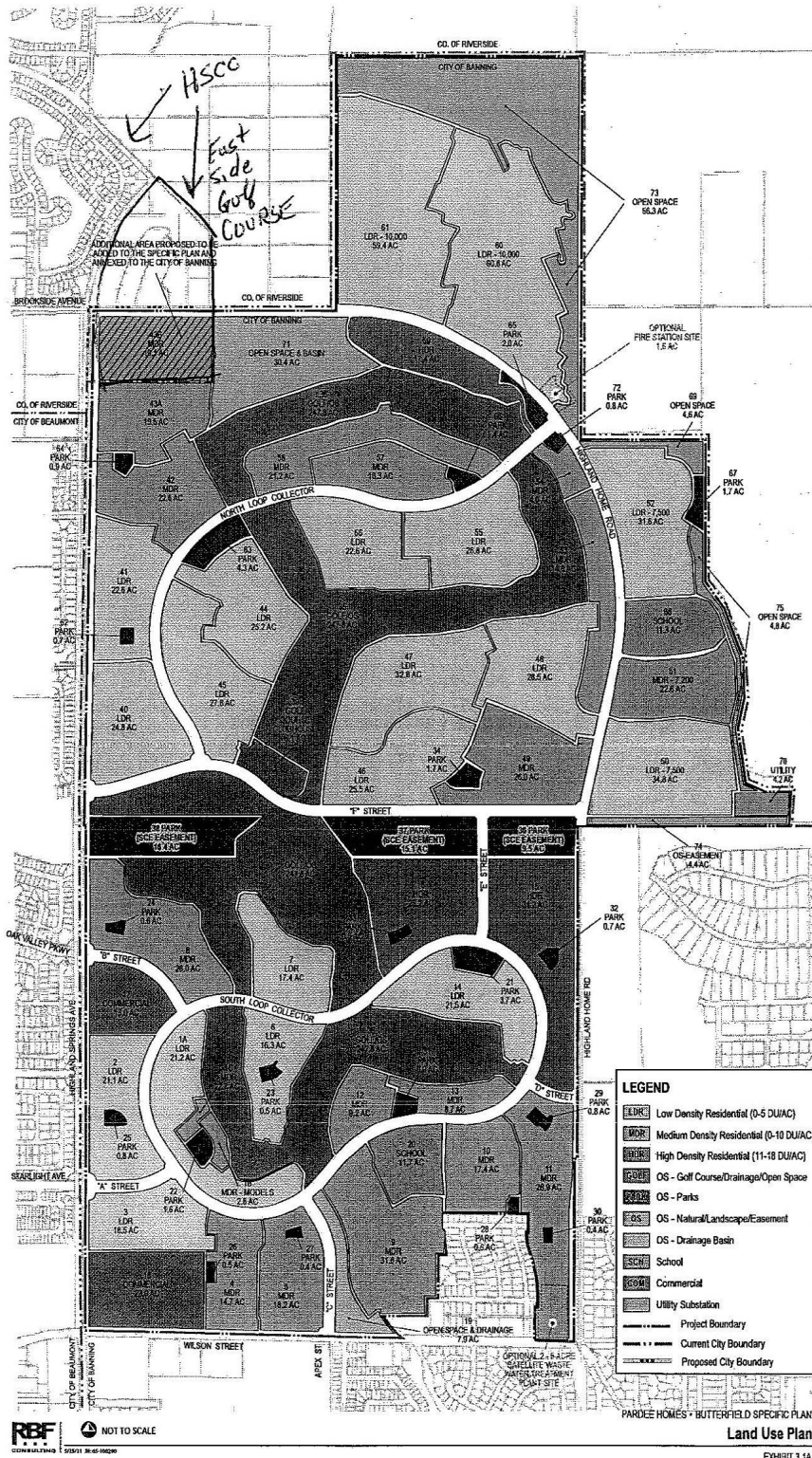


EXHIBIT "A"

Highland Springs Country Club Owners' Association (submitted by Guralnick and Gilliland, LLP)

Response No. 19

- 19.a This comment states that the Highland Springs Country Club Owners Association (Association) is the non-profit organization that oversees the Highland Springs Country Club (HSCC) development, which contains 289 single family residences, a nine hole golf course and other amenities, located north of the proposed Project. A portion of the golf course is located within Planning Area 43B of the proposed Butterfield Specific Plan. This comment does not identify a specific deficiency in the environmental analysis presented in the Draft EIR.
- 19.b This comment states that Planning Area 43B is currently located within the County of Riverside and contains a portion of the HSCCs golf course and driving range. The comment identifies the Association's opposition to the proposed annexation of this area into the City of Banning. It should be clarified that at this time no annexation is being proposed. If at a later date the property is proposed for annexation by the City or property owners, a separate annexation process will be required. This comment does not identify a specific deficiency in the environmental analysis presented in the Draft EIR.
- 19.c The comment identifies the extension of Brookside Avenue and proposed connection to Highland Home Road, which is proposed as a Major Highway. A Major Highway or Arterial Street is defined under the General Plan as a 100 to 134 foot wide roadway, with 4 or 6 lanes which has a maximum ADT of 30,400 to 47,200 at LOS C with limited access points. To be compatible with County standards, the width would be limited to 100' wide. The DEIR (4.13-2) identifies Highland Springs Avenue (from Wilson to Brookside), Highland Home Road (from Wilson to Brookside) and Wilson Street as Major highways or arterial streets.
- 19.d This comment states that the previous comments are incorporated by reference as comments to the Draft EIR. This comment does not identify a specific deficiency in the environmental analysis presented in the Draft EIR.
- 19.e This comment indicates that land use impacts associated with the division of an established community were not adequately addressed, since Planning Area 43B would impact the Eastside Golf Course Area of the HSCC. The City's contemplated roadway expansion under the general plan is not a physical division of a community constituting a significant impact. (*E.g., Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1419-20 [rejecting petitioner's notion that an expanded roadway cutting through existing

residential neighborhoods constituted a significant impact].) Here, the potential Brookside road extension would bisect three fairways of the Eastside Golf Course Area that in its existing condition is already cut off from similar fairways northwest of Highland Springs Avenue. The Eastside Golf Course Area is not integrated into the fairways to the northwest and, unlike the northwest fairways, is not surrounded by residential development. Therefore, the Eastside Golf Course Area is not part of a “community” as contemplated under the Guidelines. Despite this, the City has not committed itself to a particular road extension in the future. And the road extension will serve both residents of the Country club as well as other City residents.

Planning Area 43B is currently within the County of Riverside and subject to the County’s current General Plan and Land Use Plan. If Planning Area 43B is annexed to the City of Banning, it will need to conform to the City’s own General Plan, not the County’s. However, City Staff has stated there are no plans to do so. See June 2, 2011 City Transcript of Hearing. If the City determined to annex the area in the future, the suggested land use designation for Planning Area 43B, “MDR”, would conform to the City’s General Plan. The existing plan’s objectives include maintaining and designing a community that embodies the City’s vision of its future, providing a livable community, etc. The City’s vision of its future is to approve land uses compatible with existing surrounding residential neighborhoods. The suggested land use designation is compatible with the surrounding City neighborhood and would conform to the City’s General Plan.

- 19.f The comment indicates that the impacts associated with the extension of Highland Home Road through the Eastside Golf Course Area of the HSCC were not adequately addressed. Since this proposed roadway is identified in the Banning General Plan Circulation Element, the impacts associated with the extension of this roadway were already analyzed and addressed in the 2005 Banning General Plan Update (Traffic Study), which was incorporated by reference in Section 2.0, Introduction and Purpose. The 2005 study recommended an engineering feasibility study be accomplished before determining alignments and then stated it will be determined later. The Brookside extension would be a separate project and undergo additional environmental review and approval. The extension is not part of the Pardee project and is not needed to meet the LOS standards of the City and County at full build of the project. For further discussion on the potential Highland Home Road north extension see Master Response #2, Traffic and Circulation.
- 19.g The comment indicates that HSCC believes a significant impact has occurred with regarding to land use consistency. The analysis provided in this table was conducted to verify the proposed Specific Plan’s consistency with the Banning General Plan. As proposed the Project is considered consistent with the Banning General Plan as well as any future development that would occur within the Specific Plan area. The general

plan sets forth the long-range planning vision of the City which is an evolving process that is updated and based upon development proposals that reflect the city's changing needs and priorities. Precise conformity of a proposed project with the land use designation for a site, or an exact match between the project and the applicable general plan is not required. (*See San Franciscans Upholding the Downtown Plan v. City & County of San Francisco* (2002) 102 Cal.App.4th 656, 678.) To be consistent, the various land uses authorized by the SP zoning are consistent if compatible with the objectives, policies, general land uses, and programs specified in the general plan. Government C §65860(a); *Leshar Communications, Inc. v City of Walnut Creek* (1990) 52 Cal.3d 531 For example, Policy 1, land use provides a range of housing densities while considering land use compatibility with non-residential land uses and found it consistent because the new Specific Plan integrates residential and open spaces, as well as providing buffers. Land use Policy 2 provides review of existing neighborhoods to assure neighborhood character is protected. Accordingly, the project is consistent because the residential uses are similar in type and density to those proposed.

- 19.h The comment indicates that the long term and cumulative noise impacts associated with the extension of Highland Home Road through the Eastside Golf Course Area of the HSCC were not adequately addressed. Since this proposed roadway is identified in the Banning General Plan Circulation Element, the noise impacts associated with the extension of this roadway were already analyzed and addressed in the 2005 Banning General Plan, which was incorporated by reference in Section 2.0, Introduction and Purpose. The Brookside extension would be a separate project and undergo additional environmental review and approval. The extension is not part of the Pardee project. For further discussion on the potential Highland Home Road north extension see Master Response #2, Traffic and Circulation. In addition, other segments of Highland Home Road much closer to planned residential development were modeled for anticipated traffic related noise and were found to be less than significant.
- 19.i The City has not received a comment letter from the Sun Lakes Country Club regarding water supply. This comment does not identify a specific deficiency in the environmental analysis presented in the Draft EIR.

**Public Comment Letter
No. 20**

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July 21, 2011



Zai Abu Bakar
Community Development Director
City of Banning
99 E. Ramsey Street
Banning, CA 92220

Re: Butterfield Specific Plan Draft Environmental Impact Report
SCH No. 2007091149

Dear Ms. Zai Abu Bakar:

On behalf of the Highland Springs Resort (“the Resort”), we submit these comments on the draft environmental impact report for the Butterfield Specific Plan. The Butterfield Specific Plan would permit development of what is essentially a whole new town southeast of the Resort on 1,543 acres of rural land currently used for grazing in northwestern Banning. Up to 5,387 homes could be built under the Butterfield Specific Plan, representing a 50 percent increase in size for Banning, which currently has only 10,800 households and 29,000 people. Construction of an elongated golf course running through the development is included in the Specific Plan. The Specific Plan also includes provisions for, but does not make a commitment to, construction of commercial centers, schools, parklands, and offsite roads to serve the development. The Resort is particularly concerned with the Specific Plan’s proposition of new roads that might pass through its property.

Because of the development’s magnitude, its orientation around flood-prone Smith Creek, its placement against the seismically active San Bernardino Mountains, and the dearth of potable water in the desert, the Specific Plan requires a massive infusion of infrastructure to be viable. This infrastructure includes relocating Smith Creek, 12.4 million cubic feet of grading to flatten the San Bernardino Mountain foothills, and the construction of multiple detention basins, silting reservoirs, water tanks, and a sewage treatment plant. The Specific Plan would also require power substations, relocation of a high pressure natural gas line, and the associated piping and power lines. The EIR includes inadequate discussion of how this dramatic growth would be handled by on and off-site infrastructure of all types.

07-32-11 P03:23- ARNV

07-21-11-92912- ARNV

20.a

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SUMMARY

The California Environmental Quality Act (CEQA) serves two basic, interrelated functions: ensuring environmental protection and encouraging governmental transparency. (*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal. 3d 553, 564.) CEQA requires full disclosure of a project's significant environmental effects so that decision-makers and the public are informed of these consequences before the project is approved, to ensure that government officials are held accountable for these consequences. (*Laurel Heights Improvement Ass'n of San Francisco v. Regents of the University of California* (1988) 47 Cal.3d 376, 392.) The environmental impact report (EIR) process is the "heart of CEQA" and is the chief mechanism to effectuate its statutory purposes. (*In Re Bay-Delta Programmatic EIR Coordinated Proceedings* (2008) 43 Cal. 4th 1143, 1162.) The Resort is concerned that the draft environmental impact report ("DEIR") fails to adequately disclose, analyze, and mitigate many of the Butterfield Specific Plan's significant adverse environmental impacts.

The DEIR admits the Specific Plan would have significant adverse impacts with regard to Banning's nighttime light pollution, air quality, greenhouse gas production, noise, and traffic and circulation. Additionally, the Specific Plan would likely have significant adverse impacts related to biological resources, land use, hydrology, and water supply, although these impacts are neither disclosed, nor mitigated in the DEIR. Furthermore, the DEIR's analysis is infected by a vague project description, and many of its mitigation measures are inadequate, unenforceable or improperly deferred until after the close of the CEQA process. For these reasons, the Resort urges consideration of additional mitigation that would reduce the impacts of this Specific Plan upon the City of Banning, and that would retain treasured views across the lavender fields of the San Jacinto Mountains, the darkness of the night sky, and the solitude and serenity of Old Banning.

One possible alternative or mitigation measure is the Resort's acquisition of adjacent lands currently owned and scheduled for development by Pardee Homes under the Specific Plan. If the Resort acquires this property, it would increase open space in the Specific Plan area and dramatically reduce impacts related to traffic and circulation, aesthetics, air quality, greenhouse gas production, safety and land use.

The Resort has already approached Pardee Homes about acquisition. Two maps are attached showing different acquisitions scenarios, one for 157.754 acres and the other for 271.748 acres. (Exhibit A.) The Resort hopes that acquisition will eliminate the intrusion of new roads to: protect the safety of the children and other members of the public that enjoy the Resort; retain views behind the oak tree and the feeling of the old

20.b

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west; maintain the integrity of its certified organic farm; and preserve the history of the Highland Springs Resort.

} 20.b
cont.

The Resort also urges the City to revise the DEIR to include a very low density, rural development that would be more consistent with the location of the proposed development and the history of the land. The revised DEIR must then be recirculated for public comment.

} 20.c

Due to the length of this letter, we provide this table of contents:

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ANALYSIS

I. Implementation of the Specific Plan Would Affect the Safety, Serenity, and Views of the Highland Springs Resort.

The Resort has played a unique role in the history of the San Geronio Pass area. Originally it was a ranch established by Dr. Isaac Smith, the first Caucasian to settle permanently in the San Geronio Pass area. The ranch was dubbed Smith's Station in 1862 and became a stagecoach stop. Many historic figures, including Wyatt Earp and Albert Einstein, have visited or stayed in Highland Springs, which has provided lodging on and off since 1886. It was renamed the Highland Springs Resort in 1927, and has served countless families, churches and businesses since that time. Currently, the Resort is used by approximately 2,500 fourth to sixth grade school children each year, who come to the Resort for a week at a time for science education and to experience the Resort's serenity and surrounding wilderness. It also works with the nonprofit Bear Family Green Club to host monthly nature and health educational activities for the public (adults and children). (See <http://bearfamilygreenclub.org/> for more information.) In June, the Resort hosts the annual Lavender Festival during which 8,000 visitors enjoy and learn the health benefits of lavender and organic food.

20.d

Highland Springs serves as a nature reserve that preserves, displays, and teaches students and its patrons who visit the site (i.e. the public) about nature, wildlife, and the environment. Additionally, almost all of Highland Springs Resort's property is certified organic for farming and grazing purposes and therefore needs protection from chemicals and pollution that Specific Plan development operations could release.

While the Resort has a conference center, all of its buildings are low-rise and maintain the feeling of a rustic and rural Resort. The Resort boasts miles of hiking and equestrian trails on its 2,400 acres, which are home to many species of wildlife, including mountain lions, black bears, deer, and species of birds and raptors. Children and adults who visit the Resort enjoy the trail network and treasure the clean air, quiet, wild animals, safety, and the spectacular night time sky. These visitors also enjoy unobstructed views that span from the San Bernardino Mountains to the San Jacinto Mountains. All of these qualities would be threatened by the massive Butterfield Specific Plan development. For more information about the Resort, you can visit www.hsresort.com.

20.e

The Butterfield Specific Plan would likely force new roads and infrastructure through Resort property, destroying its habitat value for wildlife and the roadlessness that is so important to the safety of roaming and hiking children. One of the proposed roads would also run near or through an ancient oak tree, estimated at over 1,000 years old.

20.f

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Offsite grading north of Brookside Avenue could destroy the lavender fields that are home to the annual Lavender Festival. In addition to the impacts of its roads, the Specific Plan itself would diminish the experience for hikers as views of relatively densely packed homes would replace rolling hills, the Black Bench, and majestic snow-capped mountains. The EIR admits that light pollution from the development would diminish views of the stars at night (DEIR p. 4.1-26) and that noise would mar the sense of wilderness during the day. The biological richness of the area would also be reduced. Further, Pardee Homes has advertised this development as having access to Highland Springs Resort's network of trails. (DEIR p. 3.0-19 ["the Specific Plan proposes the construction and/or extension of recreational trails..."].) Pardee Homes has not requested access to the Resort's trails, and the Resort has not granted access to its private property. The Resort hosts many children, especially for its summer day camp, and is required to monitor its guests to maintain their safety. Public access to its trails would undermine the Resort's ability to provide a safe environment for its guests.

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The Resort believes the proposed project is far too large and dense, and is too close to the San Bernardino National Forest and other natural areas, including the vast majority of the Resort, to be a compatible land use. The Resort also urges the City to maintain parts of the community that retain the rural feeling for which Banning is known, despite its planned growth.

20.i

II. The Butterfield Specific Plan is Not Well-Suited to Banning's Current Needs.

A. The City of Banning Should Look Anew at the Plan for Pardee Homes' Land.

First, we note that the footers and headers for the DEIR refer to a subsequent EIR, although the rest of the DEIR does not mention the Deutsch Specific Plan EIR. If this DEIR is subsequent to any other environmental analysis, it would be to the Deutsch Specific Plan EIR. The Butterfield DEIR's treatment as a free-standing EIR is appropriate since the Deutsch Plan EIR has not been made available and is furthermore extremely outdated. We therefore assume that the reference to this being a "Subsequent EIR" was inadvertent.

20.j

Second, the EIR compares the impacts of implementation of the Butterfield Specific Plan to the development authorized in 1985 under the Deutsch Specific Plan even though that Plan was initially approved over 25 years ago. Since then, our understanding of the implications of massive developments has changed dramatically. Two examples are the impacts of greenhouse gases and the societal costs of placing development in the urban/wildlands interface where wildfires have occurred before and are likely to occur again in the future. This Specific Plan affords an opportunity for the

20.k

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City to rethink the extent of development that is appropriate for the health and welfare of its residents, and the environment of Banning and its surroundings. Pardee Homes has no vested right to development of a development of the same density as the Deutsch Specific Plan, nor a right to restatement of that Plan. (*Avco Comm. Developers, Inc. v. South Coast Reg'l Comm.* (1976) 17 Cal.3d 785, 796.)

20.k
cont.

B. The Alternatives of Very Low Density Residential Development and of Preservation of the Northwest Parcel of the Property as Open Space Must Be Analyzed.

The City has a duty under CEQA to evaluate a reasonable range of alternatives to the Specific Plan, especially in light of its significant acknowledged and unacknowledged adverse impacts. "One of [an EIR's] major functions . . . is to ensure that *all reasonable alternatives* to proposed projects are thoroughly assessed by the responsible official." (*Laurel Heights I, supra*, 47 Cal.3d at 400, quoting *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 197; emphasis in original.) Further, "Under CEQA, the public agency bears the burden of *affirmatively demonstrating* that . . . the agency's approval of the proposed project *followed meaningful consideration of alternatives* and mitigation measures." (*Mountain Lion Foundation v. Fish and Game Commission* (1997) 16 Cal.4th 105, 134, emphasis added.) In order to achieve CEQA's substantive mandate to avoid or reduce adverse environmental impacts, *potentially feasible* alternatives must be analyzed so that the decisionmaking process regarding feasibility can be subject to public review. "If an alternative is identified as at least potentially feasible, an in-depth discussion is required." (*Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal. App. 4th 1437, 1457.)

20.l

Because of the significant adverse impacts of the proposed development, a very low, rural development should be considered as an alternative to the proposed Specific Plan. Attached, is an article about the Arlington Heights neighborhood in Riverside that demonstrates a type of development that would be both economically feasible and environmentally superior. (Exhibit B.) The Resort also requests that the alternative of preservation of the open space in the northwest corner of the Specific Plan be analyzed. It is certainly economically feasible because the Resort is willing to purchase either 157.754 acres or 271.748 acres it for preservation purposes. As it stands now, the DEIR does not consider a "reasonable range" of alternatives.

CEQA applies a "rule of reason" that the EIR should "permit a reasoned choice" among alternatives "that would avoid or substantially lessen any of the significant effects of the project." (Guidelines §15126.6(f).) The existing alternatives do not provide a reasonable range because none of them substantially reduce all the Specific Plan's adverse impacts. It is true that the two alternatives referenced above would not meet the

20.m

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objective to “update and restate the prior approved” Deutsch Specific Plan. But that is not a reasonable objective for the City, and it is the City’s objectives, not those of the applicant’s, that are relevant under CEQA. In any case, there are sixteen different project objectives listed, most of which have to do with constructing a sustainable development. Either of the rural, low-density alternatives would easily meet fifteen of the sixteen objectives. A project need only feasibly attain “most” of the project objectives, not all of them, to require analysis. (CEQA Guidelines §15126.6(a)(f).)

} 20.m
cont.

III. The Impact Analysis is Inadequate.

The below impacts are listed in alphabetical order, as they appear in the DEIR, rather than in order of significance or the importance to the Resort.

A. The Aesthetics Analysis is Insufficient.

1. The Specific Plan Could Destroy Treasured Views of the San Jacinto Mountains.

Every year, thousands of children and adults visit the Banning area and are treated to spectacular views spanning from the San Bernardino foothills across the Black Bench to the San Jacinto Mountains. These views are often dominated by the snow capped peaks of Mount San Gorgonio and Mount San Jacinto, but the beauty of the panorama depends in part on the lavender fields and rolling grasslands in the foreground.

Views of San Gorgonio Pass are so important that they are protected by Banning’s General Plan and by mandatory mitigation measures contained in its municipal code. According to the DEIR:

In its undeveloped state, the site provides panoramic views of the San Bernardino Mountains and its foothills to the north and northeast from Wilson Street and from Highland Springs Avenue. Scenic vistas of Mt. San Jacinto to the southeast are also available from Highland Springs Avenue and from the higher on-site elevations. These prominent ridgelines form the visual backdrop not only of the site, but of the City of Banning, and are identified in the City’s General Plan as the City’s *most significant visual feature(s)*.

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(DEIR p. 4.1-2, emphasis added.) The General Plan mandates protection of the overall visual quality of these areas (DEIR p. 4.1-5), areas that include views of the San Jacinto Mountains and Mount San Jacinto across the Black Bench and views to the north and south from the top of Highland Springs Avenue. Visual Resource Mitigation Measure H, incorporated in the General Plan’s Open Space Element, requires that all grading and development “shall be regulated to minimize adverse impacts to these viewsheds.”

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(DEIR p. 4.1-7.) Similarly, Policy 3 of the General Plan's Open Space Element states that the "City shall protect the peaks and ridgelines within the City...to protect the historic visual quality of the hillside areas and natural features of the Pass area." (DEIR p. 4.1-5.) Banning's zoning code encourages "preservation of natural landforms." (Chapter 17.08.240.)

As proposed, the Butterfield Specific Plan defies City regulations and fails to protect treasured views. The Specific Plan permits mass grading of the rolling hills. Over 15 million cubic feet of grading would flatten rolling hills into suitable pads for houses. (Exhibit 3.0-10; see also DEIR p. 3.0-31 [3.14 million cubic feet of additional grading may be needed].) Development extending into the foothills "will result in a change in the site's topographic relief." (DEIR p. 4.1-17.) Natural features, such as the desert stream, Smith Creek, will be channelized and landscaped, or altogether replaced by greenbelts and a golf course, among the most artificial of landscapes. They will not be revegetated or restored to natural appearance, as claimed by the DEIR. (DEIR p. 4.1-12.) As a result, implementation of the Specific Plan will have substantial adverse effects on a scenic vista, an impact which must be analyzed and mitigated under CEQA.

Despite the General Plan's provisions for protection of views, the DEIR fails to recognize impacts to the scenic vista spanning between the San Bernardino and San Jacinto Mountains. The DEIR justifies its conclusion that impacts would not be significant because the mountain views would not be blocked. (DEIR p. 4.1-14.) While the mountains would still be visible, the rural, rolling character of the vista would be fundamentally altered. This change must be analyzed.

The DEIR dismisses a number of the Specific Plan's impacts to views and scenic vistas and ignores others. For example, the DEIR states that views from Highland Home Road and Highland Springs Avenue may be impacted but need not be analyzed under CEQA because they are private views. (DEIR p. 4.1-22.) This is not true. Views from the City's roads are public and require protection under the City's General Plan and municipal code. Even so, impacts to these views are not analyzed. The photographs included in the DEIR show views to the west from the current terminus of Brookside Avenue at Highland Springs Avenue, but fail to show views to the south of the San Jacinto Mountains. (DEIR Exhibit 4.1-1C.) As views explicitly singled out earlier in the aesthetics analysis (*supra*, at DEIR p. 4.1-7), these views should have been included. The DEIR also fails to include view simulations of Specific Plan implementation. From the photograph showing the view to the north from the intersection of Highland Home and Wilson Street (DEIR Exhibit 4.1-1D), it is clear that foreground views of the foothills will be lost as they rise in front of the San Bernardino Mountains and the Black Bench. The DEIR should include appropriate view simulations and be recirculated for public

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The aesthetics analysis also fails to analyze and mitigate impacts to views from the Highland Springs Resort property and its network of trails. Presently, the view from the Resort and the farm's fields goes straight to the San Jacinto Mountains, and has been touted by Pardee Homes in its advertising for the project, which seeks to connect to these trails. Pristine views over the Black Bench to Mount San Jacinto will be interrupted by suburban development that destroys the rolling hills and grasslands in the foreground. While some of these views do occur on private property, they are publicly accessible. The Resort allows hikers free access to its trails if they sign in at the Resort. Thousands of public schoolchildren visit the resort and enjoy its views each year. Additionally, if the Specific Plan's trail network is constructed (DEIR p. 3.0-19), public views from its high elevations to the San Jacinto Mountains will be affected by suburban development in the foreground.

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The DEIR additionally claims that aesthetic impacts of development in the foothills were analyzed in the EIR for the City's General Plan, which included the Deutsch Specific Plan. Impacts in the General Plan EIR were found to be significant, but could be reduced below levels of significant with mandatory mitigation measures. At least some of these mitigation measures were later incorporated into the City's municipal code, but the DEIR does not demonstrate that the Butterfield Specific Plan will comply with them.

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Fortunately, impacts to views from the San Bernardino Mountains and foothills can be dramatically reduced if development is clustered in the southern portion of the Specific Plan area and removed from the foreground of these views. Incorporation of mitigation that reduces or eliminates development at the higher elevations of the property, or at its north and west sides, would reduce or eliminate impacts to the public views from Highland Springs Avenue, Brookside Avenue, and the Highland Springs Resort. Permanent mitigation of these impacts could be accomplished through the Resort's purchase of the land nearest to its property. Such mitigation would also preserve views from publicly accessible trails and the project's future trail network and should be incorporated.

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2. The Project Would Dim Views of the Night Sky.

The DEIR for the Butterfield Specific Plan properly admits that project implementation would have significant direct and cumulative impacts on nighttime lighting and glare, but it does not implement all feasible mitigation for these impacts. (DEIR p. 4.1-26 and p. 4.1-29.)

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Currently, “[i]n its undeveloped condition, the Project site does not generate light or glare.” (DEIR p. 4.1-3.) The San Gorgonio Pass night sky is dark, enabling views of the stars that are unattainable in light-polluted Southern California. Thousands of school children take advantage of these views during visits to the Highland Springs Resort and learn astronomy. The DEIR discloses that construction of over 5,000 homes would destroy the value of the San Gorgonio Pass night because “[l]ight pollution can substantially limit visual access to the night sky.” (DEIR p. 4.1-26.) The Specific Plan would “permanently alter the lighting levels of the existing environment” and create substantial new sources of light and glare via the installation of streetlights, residential and commercial lighting, security lighting, and safety lighting for the project’s commercial facilities, schools, parks, golf course, and other infrastructure. (DEIR p. 4.1-26.)

Since the DEIR finds the project’s light pollution impacts significant and unavoidable, CEQA requires that the project adopt all feasible mitigation to reduce these impacts. This mitigation must be enforceable. Mitigation measure AES-7 provides too many “if feasible” loopholes that allow compliance without any reduction in project light sources. Enforceable standards must be developed and enforced and included in the Specific Plan’s lighting plan, which should have been presented for public review and comment with DEIR – not deferred until after project approval. AES-7 does not contain adequate performance standards, which are required if mitigation is to be deferred. Additionally, more mitigation for light pollution must be adopted. The DEIR opines that because a City ordinance requires ending nighttime lighting for parks and the golf course at 10:00 p.m. (DEIR p. 4.1-27), that lighting impacts from these sources cannot be further reduced. However, the City ordinance allows for extension of nighttime lighting with “prior approval” (DEIR p. 4.1-27) and the DEIR contemplates use of the golf course’s driving range at night. (DEIR p. 3.0-20.) The DEIR should include mitigation measures that prohibit later operation of nighttime lighting in these areas. Additional lighting, on Specific Plan trails, should be turned off at nightfall to protect biological resources in the area, because, as the DEIR notes, “Light pollution can ...adversely affect nocturnal environments.” (DEIR p. 4.1-26.)

Additional mitigation for direct impacts to stargazing from the San Bernardino foothills could be attained though the further reduction of density in the northern, higher elevations portions of the project, or through clustering of residential development in the southern, lower elevation portions of the project. The greatest reductions to direct and cumulative skyglow could be achieved by eliminating northern residential development and lighting altogether. Direct impacts to the Highland Springs Resort could be mitigated if the Resort purchases the land adjacent to its property. Following development of the project’s lighting plan and of additional mitigation for impacts to the night sky, the DEIR

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should be recirculated.

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3. The Mitigation Measure Requiring Preservation of the Oak Tree Must Actually Require Preservation of the Oak Tree.

The Resort appreciates that the DEIR recognizes the importance of the oak tree along Highland Springs Avenue that has been used as a Veteran’s memorial. (DEIR p. 4.1-2.) Unfortunately, mitigation measure AES-6, which purports to preserve the tree while widening Highland Springs Avenue, does not actually require preservation or even relocation of the tree. The tree should be preserved in place and any street re-routed and the mitigation measure should be revised to require design of the road in such a way that the tree is preserved. There is no reason to believe that re-routing the road would be infeasible, and such a finding would have to be supported by substantial evidence.

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Given the size of the tree and of oak tree root systems generally, it is unlikely that relocation of the tree will be found feasible. Tree relocations often result in the death of the tree. In the event that preservation in place or relocation of the oak are infeasible, mitigation measure AES-6 allows for replacement of the tree “at suitable size,” yet no size is specified. (DEIR p. 4.1-20.) If the measure does provide for removal of the tree, the mitigation measure should require that any replacement oak tree be of the same or greater size than the existing oak.

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In light of the DEIR’s understanding of the importance of the Veteran’s memorial tree, the Highland Springs Resort seeks analysis of impacts to its enormous 1,100 year old oak tree, located at the southeastern corner of its property near the alignment of the proposed Brookside Avenue extension and one of the proposed State Water Project pipelines. (Exhibit C.) Like the oak on Highland Springs Avenue, the Resort’s heritage oak tree is an important part of the region’s skyline as well as a popular destination. Children often remember the tree as their favorite part of a visit to Banning, and many couples have taken their marriage vows under its generous canopy. Given its impact on the area’s skyline, the DEIR should analyze impacts of its removal, and should include strict mitigation measures requiring its preservation.

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B. Air Quality Impacts, Including Greenhouse Gas Emissions, Would Be Significant and Must Be Mitigated More Effectively.

The DEIR states that during construction air emissions of criteria pollutants ROG, CO, NOX, and PM10 would be significant, even with implementation of Mitigation Measures AQ-1 through AQ-7. The DEIR further notes there would be similar significant emissions from mobile and stationary sources during the operation of the project, and also significant emissions of PM 2.5. (DEIR, p 4.3-26 and 4.3-41.) The

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DEIR concludes that greenhouse gas emissions would be a significant, unavoidable impact. (DEIR, 1.0-92.) However, many of these impacts are not unavoidable. The less dense residential development the Resort recommends as an alternative would dramatically reduce impacts. Further, every feasible mitigation measure for mitigating air pollution impacts must be imposed before the City may conclude that these impacts are unavoidable or have been reduced to the extent possible. At page 4.3-38, the DEIR incorrectly asserts that the project implements all feasible air quality mitigation measures.

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More mitigation must be implemented. For example, because VOC users are already required to use coatings and solvents consistent with applicable South Coast Air Quality Management District (SCAQMD) rules and regulations, the Specific Plan's mitigation measures should be revised to require Pardee Homes's contractors to use coatings with a lower VOC-content than already required by applicable SCAQMD rules and regulations; to require the use of water-based coatings or other low-emitting alternatives such as "super compliant" paint that exceeds minimum standards; to restrict the number of gallons of coatings applied per day; and to require paint contractors to use hand applications instead of spray guns.

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Aside from construction emissions, operational emissions must be reduced. According to the DEIR, the proposed Project would have an electric energy demand of approximately 53,092 megawatt hours per year. Of that, residential dwelling units would represent approximately 66 percent, commercial uses would represent 29 percent, the elementary school would represent 1 percent, the wastewater treatment plant would represent 3 percent, and the golf course would represent 1 percent. Water demand for the proposed uses would be approximately 4,224 acre-feet per year, based on estimations from the Water Supply Assessment prepared for the Project for the proposed Specific Plan land uses. Emissions from indirect energy impacts due to water supply, treatment, distribution, and wastewater treatment would result in 9,671.93 metric tons of carbon dioxide equivalent gasses (MTCO₂eq) per year.

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The proposed Project would also generate approximately 13,502 tons of solid waste per year. Emissions from indirect solid waste disposal and off-gassing would result in 3,125.21 MTCO₂eq/year. All of these emissions must be controlled to the maximum extent feasible.

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The emissions from providing electricity to the development would be exceptionally high because the Banning Electric Utility Department obtains 65 percent of its energy from coal. That makes "distributed" solar power and other clean fueled electricity for the development particularly attractive. Photovoltaic solar and solar water heating is economically feasible now, and is being included in many new developments

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around the state. In addition, fuel cells are certainly feasible for the commercial developments and concentrated recreational facilities. While the applicant says that it is committed to building “Smart Homes” to reduce residential operational emissions and will include renewable energy uses, the DEIR merely acknowledges renewable energy as “conditionally permitted uses” in the Specific Plan. Passive solar heating and cooling and utilizing natural daylight should be part of every element of the Specific Plan. Ultra low-flush toilet should be required. If a green grass is essential, a native grass that requires no fertilizer and very little water should be used. An example of a grass product is Pearl’s Premium Ultra-low Maintenance Grass.

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Geothermal heat exchangers, heat pumps, and other similar energy supplies and conservation strategies should be discussed not just as part of a laundry list of possible features, but as design features that will be included in the development. Incorporation of solar, electric and/or hydrogen power stations into the Specific Plan to accommodate “clean vehicles” should be included to reduce mobile source emissions of criteria pollutants. Energy Star appliances should be required. The DEIR references the City’s Clean and Green Report and Recommendations (4.5-34), but does not commit to implementation of its recommendations with any specificity. The DEIR says that many of these strategies would be incorporated at the tract map stage (1.0-18-19), but a commitment to specific strategies—not just a laundry list of possible strategies—must be made now. Further, because of the 30-year development period, the DEIR should include (and any project approval contain) a commitment to use of either these technologies or more effective technologies as they emerge.

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Use of public transit rather than single-occupant vehicles should be encouraged as much as possible. The DEIR states that at the tract map stage bus stops will be identified through consultation with the City Engineer and Banning Pass Transit and will include stops on Highland Springs Road, Wilson Street, Highland Home Road, and F Street as determined appropriate. A commitment should be made to fund construction (or at least pay the fair share for such funding) for shading devices and benches for those stops and a set number of other stops. Pardee Homes should participate in funding bus operations for the occupants of project area homes, at least for a transition period.

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With regard to solid waste, the DEIR claims it would comply with the California Green Building Code requirement for a 50 percent reduction of construction wastes. Cities like the City of San Diego require a 75 percent reduction of construction waste. More than 50% waste reduction can readily be achieved. (See, <http://www.sandiego.gov/environmental-services/geninfo/pdf/1section50.pdf>.) Also, removal of organics (and composting of them) from solid waste can dramatically reduce methane emission. This is already being done extensively in Europe, and San Francisco

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and other cities in California are transitioning to such programs.

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In addition to the above mentioned mitigation measures, and the measures contained below in our discussion of mitigation, the Attorney General has posted an 18-page list of various actions that must be taken to reduce greenhouse gas (GHG) emissions. The list includes measures to reduce air emissions, conserve water, reduce solid waste disposal, and other measures.

(http://ag.ca.gov/globalwarming/pdf/GW_mitigation_measures.pdf.) We hereby incorporate the Attorney General's list by reference and request that each measure be required of the Specific Plan, or that an adequate explanation be given of why an unincorporated measure is not feasible. The DEIR (4.5-32) states that it incorporates *several* of these measures, but does not fully disclose which ones.

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Additionally, the South Coast Air Quality Management District (SCAQMD) has recommended numerous mitigation measures to reduce operational mobile and stationary source emissions for commercial projects. Measures endorsed by SCAQMD include:

- Use light-colored roofing materials to deflect heat from buildings.
- Install central water heating systems to reduce energy consumption.
- Install energy-efficient appliances, such as water heaters, furnaces and boiler units.
- Install solar panels on roofs to supply electricity for air conditioning.
- Install automatic lighting on/off controls and energy-efficient lighting and air conditions.
- Use double-paned windows to reduce thermal loss in buildings.
- Use solar or low-emission water heaters.
- Provide shade trees to reduce building heating/cooling needs.
- Use energy-efficient low-sodium parking lot lights.
- Increase walls and attic insulation beyond Title 24 requirements.
- Orient buildings to the north for natural cooling and include passive solar design (e.g., daylighting)

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These mitigation measures must be incorporated in the project, and if not incorporated, the revised DEIR must explain why they are infeasible. In order to reduce impacts to the maximum extent feasible, the City must also require the Project developer to comply with regulatory requirements, such as SCAQMD regulations, that are in effect at the time *building permits are approved*.

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The Specific Plan provides that 40 trees per acre should be planted. Requiring extensive tree planting as a mitigation measure has the potential for reducing many of the

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impacts, not just to air quality, but also to aesthetics, and noise. Trees also provide visual relief from traffic congestion for pedestrians and travelers around the Project site. These and other mitigation measures must be adopted in order to reduce the Project's significant operational impacts on air quality. While trees are highly desirable for air quality, aesthetics, noise, and to provide habitat, they can consume large quantities of water, which in turn uses a lot of energy. The Specific Plan should provide that the types of trees that are planted will be drought tolerant, and fire retardant.

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The golf course included in the Specific Plan also would require a great deal of water to maintain. A natural golf course, as is common in Scotland, where golfing originated, should be considered. The Kabi Golf Course at Boreen Point in Australia is a one hundred percent organic property that abstains from using fertilizers, pesticides, and chemicals. (<http://www.treehugger.com/files/2009/08/5-golf-courses-up-to-environmental-par.php>.) The facility uses compost toilets. (*Ibid.*) The Machrihanish Dunes Golf Club in Scotland was designed around the natural ebb and flow of the land to minimize grading, and it uses roaming sheep instead of lawn mowers to control the greens. (<http://www.treehugger.com/files/2009/08/5-golf-courses-up-to-environmental-par.php?page=2>.) Like the Kabi Golf Course, Machrihanish Dunes prohibits pesticides, chemicals, artificial irrigation systems, and heavy machinery. (*Ibid.*) The DEIR should also require the golf course to seek environmental certification, such as the "Certified Audubon Cooperative Sanctuary" designation bestowed upon qualified golf courses by Audubon International. This certification, which must be renewed every two years, is based upon a course's design, water quality and conservation strategies, wildlife management, and chemical use reduction and safety. (<http://www.auduboninternational.org/PDFs/Golf%20Certification%20Overview.pdf>.) Also, the DEIR should examine whether the use of artificial turf which, now made of recycled material and far more natural looking than in the past, would reduce the impacts of the development.

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The DEIR contends that no sensitive populations would be exposed to air pollution as a result of the project. (DEIR p. 1.0-19) However, many children participate in camp programs at the Resort, and those children may be adversely impacted by construction projects, especially those that are done off-site, and certainly any that are conducted on the Resort property, as is threatened by the Specific Plan. The Resort is listed as 1,880 feet from the Project in the table on Sensitive Receptors (DEIR p. 4.3-2) but it is listed under hotels/motels, which does not fairly disclose the large population of children who are often present for a week or longer.

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C. Biological Resources Would Be Negatively Impacted by the Specific Plan.

According to the DEIR, “The proposed project will result in the permanent removal of approximately 1,500 acres of existing vegetation.” (DEIR p. 4.4-33.) It would also permit up to 15.74 million cubic feet of grading and the full realignment of an existing creek. If implemented, the impacts of the Specific Plan would be severe, particularly given the size and scope of the development as well as its location within a critical regional wildlife corridor. The DEIR touts the Specific Plan’s green qualifications and downplays its impacts because nearly 500 acres – 27 percent of the project area – will be preserved as open space. This “open space” will neither preserve existing habitat nor provide new habitat for sensitive or resident native plants and animals. On the contrary, this open space will be transformed into artificial nonnative landscapes, massive infrastructure projects, or its value will otherwise be reduced by edge effects. Further, while the project may conserve nearly 500 acres of open space, the entire 1,500 acres is currently open space. Build out of the project would eliminate 1,000 acres of land that presently supports a wide variety of plants and animals, in addition to acreage that would be degraded by edge effects.

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According to the DEIR, the project site includes 1,271 acres of grassland (51 acres of which are not grazed), 12 acres of chaparral, 1.4 acres of coastal sage scrub half an acre of southern willow scrub, and 28 acres of sandy wash. (DEIR p. 4.4-4) Of over 1,500 acres, the DEIR considers only 226 acres to be “disturbed.” (DEIR p. 4.4-4.) Pairs of burrowing owls, species of special concern, have been observed on the project site, as have six other special status wildlife species. (DEIR, p. 4.4-6.) Despite the presence of species of special concern, and despite the DEIR’s wholesale failure to engage in any analysis of the project site’s biological function, the DEIR finds that biological impacts are mitigated below a level of significance with the imposition of several mitigation measures. However, formulation of these mitigations measures is deferred until the future, or are so vague as to be unenforceable. Thus, the finding of no significant impact cannot stand.

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Additionally, the DEIR neglects information that decisionmakers and the public would need to properly evaluate the Specific Plan’s environmental impacts. For example, Exhibit 4.4-1 of the DEIR depicts a large portion of the northern project site as a burn area from September 2006. The area is contiguous with annual grasslands, but its current composition is not disclosed, even though the area has surely been recolonized in the last 5 years. What was this plant community prior to the burn and what is it now? This information is required for a proper evaluation of the project’s impacts and must be included in a recirculated DEIR.

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1. The Applicant Should Not Be Rewarded for Agricultural Activities that have Reduced the Site's Biodiversity.

The DEIR implies that the project site's biological significance has been reduced through its use for intermittent agriculture. Perhaps not coincidentally, the density of cows grazing in the Specific Plan area appears to have increased over the last few years. Overgrazing may have contributed to dust storms in recent years and has likely reduced the site's use by wildlife as vegetative cover disappears. Even so, local residents observed that the northern portion of the property recovered and was covered in wildflowers and grasses until June of this year, when grazing on the northern portion of the property resumed. To the extent that the project site's biological value has been reduced by the overgrazing and other activities of the applicant, the site's capacity for restoration, and as habitat for quail, foxes, and other wildlife, must be taken into account in the analysis.

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2. Environmental Analysis is Deferred Until After Project Approval.

The biological resources analysis is nearly devoid of any actual "analysis" and must be revised. The document jumps straight from a description of the applicable regulatory framework to a discussion of project design features and mitigation. The discussion of biological resources on the project site and the impacts that would be caused by Specific Plan implementation is curiously absent. The DEIR contains no detailed, quantitative analysis of the project's potential impacts on wildlife and populations of special species or habitats. The DEIR fails to provide this environmental price tag.

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The DEIR defers much of the biological analysis to permitting processes that would occur after project approval and defers the rest to the Multi-Species Habitat Conservation Plan (MSHCP). For example, the DEIR provides that the impacts of completely rechanneling and realigning Smith Creek would be less than significant because the applicant would comply with all conditions imposed by the California Department of Fish and Game (CDFG) during the Streambed Alteration Agreement permitting process, the Army Corps of Engineers' process for obtaining a fill permit, and any conditions imposed by the Regional Water Quality Control Board. While the necessary biological analysis *may* occur during these processes, there is no guarantee that the analysis would adequately cover what is required by CEQA. More importantly, if it occurs at all, this deferred analysis would *not* be subject to public review, and would not have been read by City decisionmakers *prior* to project approval, as required by CEQA.

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Deferred analysis also occurs with the project's impacts on wildlife, which would presumably be analyzed in the future pursuant to an MSHCP consistency document. The

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project design features and mitigation measures provide for submission of a MSHCP consistency study “prior to the issuance of grading permits” (1.0-24) but after certification of the EIR. This is too late. If the DEIR plans to rely upon the analysis and findings of the MSHCP, this consistency analysis must occur now, and the City must consult with CDFG, the Army Corps of Engineers, and U.S. Fish and Wildlife Services now, so that their input and analysis can be included the in DEIR and appropriate mitigation can be incorporated into the Specific Plan. Despite this improper deferral, the DEIR claims, “the Project design features and proposed mitigation measures are consistent with the MSHCP.” (DEIR p. 4.4-18.) No evidence supports this statement. As it stands now, decisionmakers and the public cannot know if the Specific Plan conflicts with an adopted conservation plan, which is a significant environmental impact under CEQA that would require mitigation. The environmental analysis that would come out of that consistency analysis is necessary to City decisionmakers, and to other regulatory bodies who may issue project approvals in the future. Without this analysis, these decisionmakers do not actually know what environmental impacts they would be permitting with this project.

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The DEIR also inappropriately defers to the MSHCP for its analysis of covered species and assumes that compliance with the MSCHP (which will be determined after public processes have ended) would reduce all project environmental impacts below significance. The analysis of environmental impacts under the MSHCP was programmatic and cannot eliminate the requirement under CEQA to conduct and disclose project-level, species-specific analyses in the DEIR. MSHCPs exist to streamline development approvals pursuant to the Endangered Species Act. The Endangered Species Act and CEQA are not analogous, for CEQA requires public disclosure, analysis of alternatives, and the analysis of both direct and cumulative impacts. An MSHCP cannot substitute for an adequate EIR. Regardless of a project’s potential compliance with an existing MSHCP, the project must comply with CEQA and present a full and thorough analysis of a project site’s biological resources and of any adverse impacts that a project approval might cause to those resources.

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3. Wildlife Corridors are Located On-Site.

The biological section of the DEIR claims that its limited on-site biological surveys have not found evidence of wildlife movement or habitat linkages (DEIR p. 4.4-7) and notes that wildlife movement would occur to the north and east of the site. Based upon inadequate surveys, it wrongly concludes that Specific Plan implementation would not have significant impacts on wildlife corridors or movement.

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The DEIR’s conclusion about the importance of the Specific Plan area to wildlife movement contradicts the findings of the EIR for the Black Bench project, which states

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that animals travel to and from the San Bernardino Mountains using the path of least resistance, those areas with a slope of less than 20 degrees. According to that EIR, prepared for a site adjacent to the Butterfield Specific Plan, areas suitable for wildlife movement include Smith Creek and the gentler slopes of the project site, as opposed to Black Bench and steeper areas to the north and east of the site. (Black Bench DEIR p. 4.5-14, incorporated by reference.) Other studies have also concluded that the Specific Plan area is a critical regional wildlife corridor connecting the San Bernardino and San Jacinto Mountains. (Penrod et al. 2005, http://www.scwildlands.org/reports/SCML_SanBernardino_SanJacinto.pdf, herein incorporated by reference.) Area residents describe the daily movements of coyotes southwest across the project site from the San Bernardino Mountain foothills and across Highland Springs Avenue.

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It is likely that the DEIR's conclusion would change if additional biological surveys were performed during times of seasonal migrations, or for longer periods of time. Coyote movement, for example, often occurs at night and has to be tracked by sound. Three short biological surveys over several years do not provide the quantity or quality of data needed to determine that the project site is not a wildlife corridor, especially when all evidence points to the contrary conclusion. The DEIR must be supplemented with additional, comprehensive biological analysis of the project site's function as a wildlife corridor for daily and migratory movements. If impacts are found, they must be disclosed, analyzed, and properly mitigated in a recirculated DEIR.

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4. Impacts to Smith Creek and Riparian Habitat are Not Analyzed.

Smith Creek, a tributary of the San Geronio and Whitewater Rivers, flows out of the San Bernardino Mountains, travelling 11,429 linear feet through the project site. (DEIR p. 4.4-8) While the creek is an ephemeral stream, typical of those in Southern California, its channel reaches 62 feet wide in places (DEIR Exhibit 4.4-2) and hosts diverse plant communities, wetlands, and species of special concern. Western burrowing owls locate their burrows around Smith Creek. (DEIR p. 4.4-6.) Smith Creek retains its natural form and earthen bottom across the project site. (DEIR p. 3.0-6.)

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The Butterfield Specific Plan proposes to reroute Smith Creek, to widen its channel, and to reinforce its sides and floor so that it can become the "primary drainage facility" in the Specific Plan area. (DEIR p. 3.0-27.) In addition to being re-dug and moved, the creek would be surrounded by a golf course and fitted with drainage facilities to capture urban runoff. Several siltation ponds, reservoirs, and other large-scale water works would also be connected to the creek. Smith Creek would be transformed from a natural ephemeral stream to a grass-lined urban storm sewer.

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Despite the magnitude of this conversion, which would require mass grading on and off the project site, and which would exceed even the creek's length with 530 linear feet of off-site improvements (DEIR p. 4.4-8), the DEIR concludes that no adverse biological impacts would occur. (DEIR pp. 4.4-20, 21.) It provides zero analysis of the Creek's existing biological functions or of the project's potential impacts on those functions. Aside from an unsupported statement that the creek does not host sensitive species (DEIR p. 4.4-22) which is contradicted by the admission that active owl burrows have been found near the creek, the DEIR contains no information about species that might use the creek, either seasonally or year-round. The DEIR does not analyze disturbances that will be caused by digging, grading, or channelizing activities, except to conclude that they will be insignificant because they will be temporary. (DEIR p. 4.4-22, 33.) No before and after comparison of the creek or its biological value is included, even though Smith Creek would change drastically with Specific Plan implementation.

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Instead of analyzing impacts to the creek, the biological resources analysis attempts to quantify the amount of wetlands and waters that would be impacted, according to jurisdiction only. (DEIR p. 4.4-29, 30.) Drainages and wetlands deemed outside of agency jurisdiction were dismissed, even though some of these drainages are up to five feet wide and likely support habitat during at least the wet season. (DEIR Exhibit 4.4-2.) The jurisdictional status of a wetland does not impact its biological function. Regardless of jurisdiction, even ephemeral streams are important habitats that must be analyzed. Few of the site's wetlands are described, and their biological role is ignored.

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Although the formulation and incorporation of adequate mitigation measures is impossible in light of the DEIR's lack of analysis of the Creek, it is clear that the mitigation measures included in the DEIR are insufficient. BIO-3 provides that mitigation habitat at a ratio of 1:1 shall be provided, and only for vegetated, riparian habitat. A mitigation ratio of 1:1 is insufficient. Replacement vegetation and replacement wetlands often fail. A larger ratio of 3:1 or 4:1 would better ensure that at least 1:1 mitigation is ultimately provided. Higher values of 2:1 or 3:1 are generally required by the CDFG, depending upon the value of the habitat being eliminated. Since the DEIR fails to analyze the quality of this habitat, the highest and most conservative value of 3:1 should be used. As defined in the DEIR, riparian habitat does not include habitat that is characteristic of ephemeral streams, and compensatory mitigation is limited to only 2.47 acres of land. (DEIR p. 4.4-31.) These amounts of mitigation are also insufficient because far more than 2.47 streamside acres would be disturbed. Moreover, all of the plant communities found in the Creek and other project drainages are sensitive plant communities. The impacts to these communities must be analyzed and properly mitigated. The project must be required to compensate for all Creek and drainage-

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associated habitat that would be destroyed.

In lieu of any actual analysis of the Specific Plan's impacts to Smith Creek, the DEIR includes project design features that would purportedly reduce biological impacts below a level of significance. For example, the DEIR states:

The golf course open space will incorporate native plant materials into its plant palette, particularly in those areas occupied by the Smith Creek alignment, for mitigation of biological impacts occasioned by the realignment of Smith Creek. The plant palette and re-vegetation associated with Smith Creek is designed to replicate natural conditions and to preserve and enhance biological values.

(DEIR p. 3.0-40.) The realignment of Smith Creek is never discussed, but a reader is apparently supposed to believe that revegetation would eliminate all undisclosed impacts, even though no support is provided for the DEIR's claim of mitigation. This claim is even more dubious because the DEIR barely described the "natural conditions" that revegetation would replicate, and no detailed or enforceable mitigation to this effect has been implemented.

The DEIR also claims implementation of the Specific Plan would "preserve/enhance downstream water quality within the Smith Creek drainage, indirectly protecting the biological resources and functions of the drainage." (DEIR p. 3.0-40.) The stream's water quality is never discussed in the biological section of the DEIR, nor are any impacts of that water quality on wildlife, so the claimed improvements are speculative. Furthermore, the reference to the Creek as a "drainage" clarifies the project's treatment of the Creek as a stormwater and urban runoff conveyance system, not as part of a functioning ecosystem. Inclusion of filtration devices and other Best Management Practices (BMPs) might reduce contamination from urban runoff that would reduce the Creek's biological value, but they would not eliminate oil, pesticides, or fertilizers. Any reduction in siltation of the Creek would not likely benefit native species. Many San Bernardino Mountain species evolved and have adapted to highly erodible streams and drainages. Cleaner, slower waterflow may inhibit, rather than promote growth and survival of these species.

The conversion of Smith Creek into an urban conveyance facility also conflicts with policies contained in Banning's General Plan. Open Space and Conservation Element Policy 4 states, "The City shall *preserve* all watercourses and washes necessary for regional flood control." (Emphasis added.) Policy 4 of the Biological Resources Element mandates the preservation of drainage channels "in *natural* open spaces to the

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greatest extent possible.” (Emphasis added.)

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5. The DEIR Downplays the Importance of Grasslands.

Grasslands dominate the Specific Plan area, covering 1,271 acres. (DEIR p. 4.4-4.) Development has reduced California grassland range to only 36 percent of its historical extent (MSHCP EIS/EIR at 4.1-13), and the remaining acreage is often fragmented by development. Despite the presence of over one thousand acres of grassland, the DEIR provides no disclosure of the ecological role of grasslands on the project site, and fails entirely to list or quantify the plant or animal species or populations present. Instead, the DEIR concludes without analysis that elimination of 1,271 acres of grassland would have no significant impact because the project site grasslands are dominated by nonnative grasses and because grasslands are available elsewhere. (DEIR, p. 4.4-22.) These conclusions miss the point. Nonnative grasslands support sensitive species and are frequently the only habitats available to these species after their native habitats are eliminated by encroaching development. Sensitive species documented onsite include the double-crested cormorant, northern harrier, California horned lark, loggerhead shrike, coyote, and San Diego black-tailed jackrabbit. (DEIR p. 4.4-21, 22.) While the DEIR admits that nonnative grassland can support these sensitive species (DEIR, p. 4.4-22), the DEIR concludes, without support, that these species would effortlessly relocate to other available grasslands. However, the DEIR contains no analysis of the six sensitive species, their populations, health, or their ability to relocate. It also fails to identify other available grasslands and whether these species would face barriers to migration. Since the DEIR’s conclusion relies upon allegedly available grasslands, alternative grasslands in the area should be identified and their suitability discussed in the DEIR. Build-out of the Specific Plan would complete the urbanization of lands in Banning between Interstate 10 and the San Bernardino Mountains. Will species have to cross the Interstate? Will they be required to traverse already-developed neighborhoods or the San Bernardino and San Jacinto Mountains to find these grasslands? How do these available grasslands compare in size to the 1,271 acres being eliminated?

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6. Habitat for Burrowing Owls Would be Destroyed.

The Butterfield Specific Plan may have a significant adverse impact through the modification of habitat of a special status species. The DEIR lists the western burrowing owl as a California Bird Species of Special Concern (DEIR p. 4.4-6) and notes that five active burrows were located during focused surveys in 2010. Burrowing owls were also observed in 2007. (DEIR p. 4.4-6.) Instead of properly analyzing the project’s potential impacts on this special status species and on its continued existence, the DEIR assumes that compliance with mitigation measures that are allegedly consistent with the Riverside

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County MSHCP, the Specific Plan's impacts would be reduced below significance. The potential impacts of development under the Specific Plan on the known pair of burrowing owls or upon the owls that used five known burrows last year are never disclosed. An EIR cannot rely on unsupported conclusions; a thoughtful analysis that discloses a project's impacts must be provided. Furthermore, the mitigation measure provided to protect burrowing owls does no such thing. Mitigation measure BIO-2 provides for "passive relocation" defined as "collapse of burrows" to rid the project area of owls prior to grading. While such a mitigation measure may prevent owls from being killed in their burrows during grading, the mitigation measure would hinder nesting efforts when owls return. The potential adverse impacts of burrow collapse on the persistence of burrowing owls in the area must be analyzed in the EIR. Mitigation measures encouraging burrow avoidance or clustering of development away from burrowing owl sites would better protect this species. Furthermore, City-endorsed destruction of burrows conflicts with the Biological Resources Element of Banning's General Plan, Policy 1, which reads, "The City shall continue to participate in the preservation of habitat for endangered, threatened and sensitive species." The DEIR must fully analyze the impacts of Specific Plan implementation on burrowing owls and develop feasible and enforceable mitigation measures that protect the species.

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7. Other Sensitive Species Live in the Specific Plan Area.

Six sensitive wildlife species were observed during the surveys performed for the DEIR, so more such species are likely present. Species the DEIR acknowledges are present in the Specific Plan area include the double-crested cormorant, northern harrier, California horned lark, loggerhead shrike, coyote, and San Diego black-tailed jackrabbit. (DEIR p. 4.4-21, 22.) Despite the confirmation that these species inhabit the project site, the DEIR fails to analyze the impacts that reduction of 1,500 acres of habitat would have.

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Surveys are only the first step in a proper analysis of biological impacts. In addition to determining *what* biological resources are affected, the DEIR must disclose *how* these resources are affected by the Project, and *why* particular effects are or are not significant. By only conducting surveys and not analyzing the impacts of the Specific Plan on the resources identified in those surveys, the DEIR does not provide any legitimate basis for its conclusion that biological impacts are less than significant. (*Californians for Alternative to Toxics v. Dept. of Food & Agriculture* (2005) 136 Cal.App.4th 1, 19 ["an EIR must present facts and analysis, not simply the bare conclusions or opinions of the agency"].) The DEIR's biological resources analysis must be expanded to include such analysis. Only then can the DEIR properly conclude whether or not impacts to these species would be significant. CEQA does not countenance unsupported conclusions.

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Additionally, residents have reported seeing many species including:

Birds: great egrets, cattle egrets, great blue herons, killdeers, roadrunners, California quail, ground doves, rock doves, mourning doves, ringed turtle doves, black swifts, hairy woodpeckers, ladder backed woodpeckers, Gila flickers, Anna's hummingbirds, Allen's hummingbirds, American goldfinches, yellowbreasted chats, lesser goldfinches, western meadowlarks, western tanagers, bullocks orioles, hooded orioles (migratory), house finches, purple finches, scrub jays, assorted wrens, flycatchers, and sparrows, blackbirds;
Raptors: Great horned owls, black vultures, Swainson's hawks, red tailed hawks, Coopers hawks, American kestrels, Golden eagles;
Mammals: mule deer, golden ferrets, coyotes, bobcats; and
Snakes: western diamondback rattlesnake, lyre snake, gopher snake, red racer, California king snake, garter snake, San Bernardino mountain king snake.

A revised DEIR should include analysis of these species and the project's potential impacts upon them.

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8. Impacts on Biological Resources in the San Bernardino National Forest and to Preserved Habitat at the Highland Springs Resort Must Be Analyzed.

Despite the Specific Plan area's location adjacent to the San Bernardino National Forest and to preserved wildlife reserve acreage at the Highland Springs Resort, the DEIR fails to disclose, analyze, or mitigate its off-site impacts. The DEIR mentions edge effects as a general threat that "may result in changes in the behavioral patterns of wildlife and reduced wildlife diversity and abundance in habitats adjacent to project sites" but includes no site-specific analysis. (DEIR p. 4.4-18.) Through edge effects, urban development can diminish the functionality of wildlife habitat hundreds of feet or yards past the edge of development. Edge effects result from habitat destruction and associated microclimate changes, light intrusion, noise pollution, and the invasion of domestic pets and nonnative plant species, among others. The Specific Plan would place residential development on the border of open space and preserved habitat. Planning areas 43, 71, 61, 73, 75, and 51 border the Highland Springs resort's 2,400 acres of preserved open space, the San Bernardino National Forest, and steep foothill slopes that support increasingly rare chaparral habitat. The DEIR must include an analysis of specific edge

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effects on the functionality of adjacent preserved acreage and upon the sensitive species that reside within. To eliminate possible edge effects, development in these planning areas should be eliminated and instead clustered closer to the already developed areas south of the property or greater buffers should be provided.

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One of the greatest threats to sensitive bird and rodent species is presented by outdoor and feral cats that accompany residential development. According to a recent United States Fish and Wildlife Service report, "Domestic and feral cats kill hundreds of millions of birds each year." (Exhibit D, p. 31.) A study analyzing the impact of domestic cats on scrub breeding birds in Southern California (including the gnatcatcher, cactus wren, and greater roadrunner, all found on-site) found that cats bring home an average of 15 birds per year. (Exhibit E, p. 565.) Scrub breeding birds are easy prey, given their proximity to the ground. The authors found that the presence of domestic cats is correlated with decreases in both the absolute number and diversity of scrub dwelling birds. (*Id.*) Given the already disturbed nature of the existing habitat and the fact that only one pair of burrowing owls and five active burrows were identified during 2010 surveys, domestic cats present a large threat to the population's continued viability. They also threaten scrub-dwelling birds that reside in the remaining creek-side vegetation and in the chaparral to the north. The study authors warned, "This level of bird predation appears to be unsustainable...even modest increases in predation pressure from [cats], in conjunction with other fragmentation effects, may quickly drive native prey species, especially rare ones, to extinction. Extinctions of scrub-breeding birds are frequent and rapid." (*Id.*) Birds living in preserved areas might also visit backyards, exposing themselves to increased pet predation; or, birds attracted to backyards might compete with reserve birds, to their detriment. Pests, such as rats, that accompany human habitation are also great threats to scrub birds.

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Invasive plants are also a threat to the viability of surrounding preserved areas in the national forest and at the Resort. Even if the project implements mitigation measures requiring the use of native plants in its greenbelts, slopes, and fuel modification areas, seeds and spores from individual homes and other areas could be carried into preserved areas by birds and the wind. The results could be devastating. The DEIR must be revised to include a thorough analysis of the Specific Plan's potential impacts on off-site preserved areas and must include adequate and enforceable mitigation. Conditions that should be incorporated in the Specific Plan's mitigation include:

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- Minimum 300-foot setbacks between developed areas, including roads, and preserved habitat (wholly undeveloped) areas;
- Conditions prohibiting non-leashed outdoor pets, including cats;
- Techniques to control non-native invasive plant and animal species;

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Prohibitions on the use of pesticides and other toxic chemicals around the project's homes, parks, fuel modification zones, greenbelts, and golf course;
Requiring the use of native landscaping for all vegetated areas in the Specific Plan area, including individual homes, greenbelts, parks, and the golf course.

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9. Biological Mitigation is Inadequate, Deferred, or Both.

Perhaps due to its inappropriate deferral of any environmental analysis to future regulatory processes, the DEIR relies on deferred mitigation of environmental impacts. The limited mitigation presented in the DEIR is vague, unenforceable, or grossly inadequate.

The DEIR boasts:

The proposed Project has been planned to avoid all significant indirect impacts associated with drainage, toxics, lighting, noise, barriers, invasive species and brush management that could potentially occur on the Project site. Mitigation measures and best management practices *will be* implemented in compliance with MSHCP Wildlands/Urban Interface policies, thus reducing all indirect impacts on the Project site to a level that is less than significant.

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(DEIR p. 4.4-19, emphasis added.) Despite these grand claims, the DEIR fails to describe any enforceable mitigation for biological impacts and defers development of mitigation until after project approval without performance standards, in violation of CEQA. To compensate for the destruction of wetlands along Smith Creek, mitigation measure BIO-4 requires preparation of a Determination of Biologically Equivalent or Superior Preservation Report (DBESP) to comply with the MSHCP "following approval of all required permits." (DEIR 1.0-24.) This report, which appears to be the only means for ensuring that whatever replaces the wetlands would be sufficient, would not be developed until far in the future. The DEIR fails to provide analysis of the project's impacts on riparian corridors, a description of what the mitigation would be, or the impacts of these mitigation measures.

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Other mitigation for habitat destruction is similarly deferred. Mitigation BIO-3 provides that the "applicant shall provide compensatory mitigation" but defers any determination of this mitigation's content, providing, "The mitigation requirements will be determined through applicable regulatory permitting programs." (DEIR, p. 1.0-23;

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4.4-30.) Instead of providing performance standards, the DEIR allows this mitigation to consist of golf course development or of “alternatives uses within these PAs [Planning Areas], including various combinations of parks, trails, native habitat, drainage facilities, water quality improvements, groundwater recharge areas, and wetland mitigation areas.” (DEIR, p. 1.0-23; 4.4-30.) Apparently this mitigation can consist of anything. The public and decisionmakers will not be able to evaluate the mitigation’s effectiveness or desirability prior to project approval.

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Mitigation measure BIO-1 requires an “adequate construction buffer around active nests” but does not identify the size of this buffer. At least 500 feet should be provided to minimize disturbances. BIO-1 also provides that construction would comply with Migratory Bird Treaty Act requirements. The DEIR must describe how it would comply with the Migratory Bird Treaty Act and incorporate specific measures into the project. Perhaps most distressing, mitigation measure BIO-2 requires the destruction of nesting areas of burrowing owls. Avoidance of nesting areas would actually protect the birds and contribute positively to the preservation of the species.

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Several of the Specific Plan’s claims, project design features, and mitigation measures are misleading and might actually increase the project’s impacts on biological resources. One example is presented by the Specific Plan’s open space, purportedly provided to “reduce, avoid, or offset potentially adverse biological resource impacts.” (DEIR p. 4.4-19.) The “Project includes 428.8 acres of open space, including the 253.9 acre golf course through which Smith Creek flows in addition to 66.5 acres of active recreation...and 38.3 acres of drainage channel and basin areas.” (DEIR p. 4.4-19.) Most golf courses consist almost entirely of a single species of nonnative grass, interspersed with artificial watercourses. Golf courses are typically heavy users of fertilizers, pesticides, and other landscape chemicals. They have been likened to ecological dead zones, leaving additional dead zones in the wake of their chemical-laden runoff. (<http://www.suite101.com/content/golf-course-buffer-zones-and-water-runoff-a299548>.) The active recreation areas of the project would likely also consist of grass-covered sports fields and similar vegetation. Any claim that these areas would serve as replacement habitat or that they would reduce the impacts the project would cause by eliminating 1,500 acres of open space habitat is absurd. It is more likely that the Specific Plan’s proposed open space would increase the project’s biological impacts, unless the golf course pledges to be chemical-free, and unless the golf course, recreation areas, and all project landscaping commit to using only native plants of San Bernardino Mountain foothill ecosystems. Prohibitions on nonnative plants and chemicals must be included as enforceable mitigation measures.

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For the same reasons, the DEIR's claim that the golf course would serve as habitat mitigation and native plant mitigation is similarly suspect. (DEIR p. 3.0-20.) Also, while the DEIR may be correct in its assertion that "landscaping of active recreational areas will increase the availability of plant cover and trees on the site, providing habitat for birds and forage for birds of prey," (DEIR p. 3.0-40) this is not necessarily a project benefit. Mowed, grassy areas would reduce the suitability of the landscape for small native mammals and rodents, and trees will increase the advantage held by raptors. Other animals that inhabit the golf course will likely include those that accompany humans: raccoons, rats, and the like. Furthermore, the birds often attracted to human-adjacent landscaped areas: crows, mockingbirds, and the like, often drive out sensitive and less common species that are located on-site now.

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10. Cumulative Biological Impacts.

Although the DEIR admits that project will remove 1,500 acres of vegetation and contribute to "overall reduction of open grassland available in the region," (DEIR p. 4.4-33) it concludes without substantiation that open grassland habitat is not sensitive and is widely available in the area. Consequently, the DEIR concludes that by complying with mitigation measures – measures which permit the destruction of 1,500 acres of habitat – the Specific Plan's impacts on biological resources would not be cumulatively considerable. (DEIR p. 4.4-34.) This conclusion defies reason. The DEIR should admit that Specific Plan implementation would cumulatively impact available habitat in the region, and it should further analyze the cumulative impacts to sensitive species observed on-site, including to the burrowing owl.

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D. Cultural Resources Impacts Would be Great.

1. The DEIR Fails to Analyze the Specific Plan's Impacts on the Bradshaw Trail.

The Bradshaw Trail is historically significant due to its use as the primary thoroughfare for stagecoaches traveling between coastal southern California and the gold fields near present-day Ehrenberg, Arizona. (General Plan p. IV-59.) The trail later became part of the U.S. Mail route between Los Angeles and Santa Fe, New Mexico. The Highland Springs and Gilman Ranch stagecoach stops in the vicinity of the Specific Plan site have been determined to be historically significant. (*Ibid.*) Highland Springs is listed as a California Point of Historical Interest and Riverside County Historical Landmark. Gilman Ranch is listed on the National Register of Historic Places. (General Plan p. IV-64.) The County of Riverside already has restored the Gilman Ranch stagecoach stop and reconstructed a museum on that site, providing educational and interpretive programs for the time period that the Gilman Ranch operated. The County has expressed an interest in reconstructing the Bradshaw Trail and reconnecting the

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Gilman’s Ranch and Highland Springs stops for additional educational purposes. Specifically, the County has proposed reconstructing the Bradshaw Trail along the Edison easement that traverses the central portion of the Specific Plan site from east to west, following the foothills from Cherry Valley to Banning, which was the approximate location of the Bradshaw Trail.

The Cultural Resources Study acknowledges it is likely the Bradshaw Trail cuts through the Specific Plan site. (DEIR Appendix D, Cultural Resources Study, Figure 2.) The DEIR eliminates any analysis of the plan’s impacts to the Bradshaw Trail and its restoration by claiming a field survey of the site did not identify any remains of the Bradshaw Trail. The development proposed in the Specific Plan would eliminate a portion of this important historic resource and would also eliminate the County’s ability to reconnect the trail between the Gilman’s Ranch and Highland Springs stops. The EIR must disclose this significant impact, and more thoroughly attempt to ascertain the location of the Bradshaw Trail, so that it can be avoided. In light of the significance of the Bradshaw Trail, the DEIR must include a mitigation measure requiring the avoidance of destruction of the Trail if it is discovered during development of the site. The DEIR should also analyze mitigating impacts to this important historic resource by allowing the use of the Edison easement as a reconstructed Bradshaw trail and by preserving a buffer zone of several hundred feet around the Edison easement. This would allow the County to achieve its goal of connecting the Highland Springs and Gilman Ranch stage coach stops. It would also preserve historic views and grasslands alongside a reconstructed Bradshaw Trail to give an historic feel to stagecoach rides or other uses of the Trail.

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2. The DEIR Fails to Apply the Proper Standard to its Determination of Historic Significance.

In evaluating the historic significance of an historic transmission corridor (LSA-PDH0601-H-3), the DEIR analyzes only whether this resource is eligible for listing on the National Register of Historic Places or the California Register of Historic Places. (DEIR P. 4.6-5.) CEQA provides that even if a resource has not been determined to be eligible for listing on the National or California Registers, and even if it has not been listed in a local register of historic places or determined to be eligible by a qualified historic resources survey, the resource may still be considered historically significant. The DEIR fails to analyze the potential historic significance of the historic transmission line under the standard laid out by CEQA.

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Additionally, without any legal basis, the DEIR dismisses the possibility the historic transmission corridor could be determined eligible for listing on the National or California Registers “because the resource only contains a small segment within the current Project.” (DEIR p. 4.6-5.) The cultural resources report prepared by LSA

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Associates (Appendix D) admits the resource has not been thoroughly studied: “A thorough examination of the entire alignment might result in National Register and/or California Register significance findings but because the resource only contains a small segment within the current project, it is deemed not eligible for the National or California Registers.” (DEIR Appendix D, Cultural Resources Study p. 16-17.) The DEIR should include a more thorough analysis of this resource, including an assessment of whether the entire historic transmission corridor alignment is an historic resource, so that the true impacts to this resource, which would be eliminated by the development, can be disclosed.

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E. Hydrology and Water Analysis Section Ignores Potential Impacts on Channel Stability and the Potential for Hydromodification Both On-Site and Off-Site.

Most of the Specific Plan site lies within the Smith Creek Watershed. (DEIR p. 4.9-10.) The site and immediate off site areas of the watershed are subject to flash flooding hazards (4.9-11), and the Creek bed exhibits a high degree of scouring. (DEIR p. 4.9-10.) The DEIR should have thus included analysis of the potential for changes in channel stability of Smith Creek, and the potential for hydromodification, particularly in areas downstream from the project site. Large residential developments can produce impacts on channel stability and hydromodification many miles downstream from the project site. Without this analysis, the conclusion in the DEIR that drainage impacts would be “less than significant with mitigation incorporated” (DEIR p. 4.9-30) lacks substantial evidence.

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The issues of channel stability and hydromodification were raised during the review of the Black Bench Specific Plan EIR in 2006. The Black Bench project was a 1,500 unit proposed residential development in the same area of Banning, and expert comments addressed the potential for changes in channel stability and hydromodification. (Exhibit F, September 18, 2006 letter from Balance Hydrologics.) The issues present an even greater concern for this much larger proposed project. The channel stability and hydromodification issues raised during the review of the Black Bench project are thus relevant here as well, and we incorporate those earlier comments by reference. The Final EIR should fully respond to these issues.

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F. Land Use Would be Negatively Impacted.

1. The Proposed General Plan Amendment Would Create an Internally Inconsistent General Plan.

The land use designation map contained in the City’s General Plan includes the following designations on specific portions of the Specific Plan site: open space parks;

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low density residential; high density residential; general commercial; and school. The General Plan Amendment proposed for approval with the Specific Plan would amend the General Plan's land use designation map. (DEIR, Exhibit 4.10-3.) The proposed General Plan Amendment would remove all of the existing specific land use designations for the Specific Plan site and change the entire site to the designation "Butterfield Specific Plan."

By amending the General Plan's land use map to remove specific land use designations from the Specific Plan area, the amendment would create an internally inconsistent General Plan for the City, in violation of Government Code section 65300.5. The City's General Plan expressly prohibits the use of "Specific Plan" as a land use designation:

In Banning, Specific Plans have previously been considered a land use designation. With adoption of this General Plan, this is no longer the case. Existing approved Specific Plans are shown on the land use map with their approved land use plan, and the Specific Plan overlay....Once a new Specific Plan is approved by the City Council, the Land Use Map will be amended to place the Specific Plan overlay on that area.

(General Plan III-8.) The "Butterfield Specific Plan" designation could be adopted as a land use overlay for the General Plan land use designation map, but the specific land use designations being approved as part of the plan must also be included on the General Plan's land use designation map.

The proposal to eliminate any specific land use designations for the Specific Plan site would also be inconsistent with the General Plan's Land Use Element Citywide Policy 1, which requires the City to "maintain a land use map which assures a balance of residential, commercial, industrial, open space and public lands." (General Plan p. III-12.) By failing to include any specific land use designations for the site, the General Plan Amendment does not assure there will be an appropriate balance of uses. The proposed General Plan Amendment further conflicts with the Land Use Element's Residential Policy 1, which states: "The land use map shall provide a range of housing densities while considering land use compatibility with non-residential land uses." (General Plan III-16.) The General Plan Amendment would include only one land use for the Specific Plan site, thus failing to provide a range of uses on the General Plan's land use map.

If the City's General Plan is amended as proposed, the General Plan would also violate Government Code section 65302. This section requires a general plan's land use element to include standards of population density (measured in numbers of persons) and

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building intensity (using measures such as site coverage, floor-to-area ratio, building type and size, or units per acre). Without specific land use designations for the Specific Plan site, the General Plan would no longer include the density and intensity standards required by the Government Code.

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2. The Specific Plan is Inconsistent with Numerous General Plan Policies.

“No specific plan may be adopted or amended unless the proposed plan or amendment is consistent with the general plan.” (Gov't Code § 65454.) The Specific Plan fails to comply with this requirement, as it is inconsistent with numerous General Plan policies and programs.

By deferring decisions regarding public services to be provided by the Specific Plan as proposed in the DEIR, the City would fail to assure there would be adequate public facilities as a condition of approval, in violation of the following policies:

Land Use Element Public Services Policy 1: “The City shall take a leadership role with all providers of public services in the community to assure they provide adequate and quality levels of service based on future demands.”

Land Use Element Public Services Policy 2: “The City shall review projects, particularly those which propose master planned communities, to assure that public facilities are provided to meet the needs of the project and the surrounding area.”

Program 2.A: “The City shall, where appropriate, regulate the location of public facilities through conditions of approval.”

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As discussed below in Section II.I, the Specific Plan fails to adequately mitigate traffic impacts (which could be done by reducing the density of the Specific Plan area) and fails to consistently implement the City’s circulation plan. These failures would result in an inconsistency with the Circulation Element.

Policy 5: “Consider amendments to the Highland Home/Highland Springs/18th Street/Brookside street configurations based on public safety, design feasibility and area needs.”

Policy 6: “The City shall maintain peak hour Level of Service C or better on all local intersections, except those on Ramsey Street and at I-10 interchanges, where Level of Service D or better shall be maintained.”

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The Specific Plan would also be inconsistent with the following policies:

Air Quality Element Policy 4: "Development proposals brought before the City shall be reviewed for their potential to adversely impact local and regional air quality and shall be required to mitigate any significant impacts." The Specific Plan would include significant air quality impacts that have not been mitigated to a less than significant level, in violation of this policy.

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Flooding and Hydrology Element Policy 6: "All new development shall be required to incorporate adequate flood mitigation measures..." The Specific Plan is inconsistent with this requirement because the flood mitigation measures have been improperly deferred.

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Noise Element Policy 1: "The City shall protect noise sensitive land uses, including residential neighborhoods, schools, hospitals, libraries, churches, resorts and community open space, from potentially significant sources of community noise." The Specific Plan would result in cumulatively significant noise impacts in violation of this policy.

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Water Resources Element Policy 1: "New development projects proposing 50 units on property whose General Plan Land Use designation would allow 50 units, and/or 10 acres of commercial/industrial/other development, or more, whether through a tract map, Specific Plan or other planning application, shall be required to fund the provision of its entire water supply, either through SWP, recycled water or other means, as a condition of approval." The Specific Plan fails to comply with this requirement by improperly relying on "paper water" from the State Water Project, water which may not exist.

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Water Resources Element Policy 7: "The City shall ensure that no development proceeds that has potential to create groundwater hazards from point and non-point sources, and shall confer with other appropriate agencies, as necessary, to assure adequate review and mitigation." The Specific Plan would violate this policy by locating detention basins, filtration, and spreading grounds to recharge the groundwater basin in the golf course. (DEIR p. 3.0-26.) The heavy use of chemicals that is common for golf course maintenance would likely result in groundwater hazards.

Open Space and Conservation Element Policy 2: "The City shall protect natural hillsides above the toe of slope in perpetuity as undeveloped open space...For purposes of this General Plan, the toe of slope is defined as the dividing line between rock formations where there is a noticeable break in the angle of slope from steep to shallow." While the Specific Plan proposes open space development for the hillside area of the site, the EIR discloses that 12.4 – 15.71 million cubic feet of grading would occur, some of which is planned for the hillside areas.

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(DEIR, Exh. 3.0-10.) Grading of these hillside areas would conflict with the General Plan's requirement to preserve them as undeveloped open space. Biological Resources Element Policy 2: "As part of the development review process, the City shall evaluate projects based on their impact on existing habitat and wildlife, and for the land's value as viable open space." The EIR improperly defers this evaluation until after approval of the Specific Plan.

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3. The Specific Plan Fails to Comply with the Requirements of the Government Code.

State planning law requires specific plans to include detailed information, including:

(1) The distribution, location, and extent of the uses of land, including open space, within the area covered by the plan. (2) The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan. (3) Standards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable. (4) A program of implementation measures including regulations, programs, public works projects, and financing measures necessary to carry out paragraphs (1), (2), and (3).

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(Gov't Code § 65451(a).) As discussed under Project Description issues (Section IV. A), the Specific Plan provides various options regarding commercial versus residential development that makes the type of development that would ultimately be undertaken extremely uncertain. By failing to include definitive and detailed information regarding the type of development that would occur, the Specific Plan fails to meet these requirements.

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4. The Specific Plan is Inconsistent with SCAG's Blueprint Compass.

CEQA Guidelines section 15126 subdivision (d) requires that an EIR discuss any inconsistencies between the proposed project and applicable . . . regional plans . . . includ[ing] regional transportation plans, regional housing allocation plans [and] regional blueprint plans..." Among these regional plans is the Southern California Association of Government's (SCAG) Compass Blueprint Growth Vision, a regional vision defining a more sustainable pattern of regional growth—primarily by encouraging the location of

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more jobs in housing-rich areas and more housing in jobs-rich areas in an effort to reduce commutes and associated adverse impacts on infrastructure and the environment.

In its 2001 report entitled “The New Economy and Jobs/Housing Balance in Southern California”, SCAG specifically noted Banning as an area with a low jobs-housing ratio. (<http://www.scag.ca.gov/Housing/pdfs/balancenomaps.pdf>, incorporated by reference, p. 27.) While 1.5 jobs per dwelling unit (d/u) is considered to be a “standard” balance in the Inland Empire, the City of Banning had only .87 jobs-housing ratio in 1997. (<http://www.scag.ca.gov/Housing/pdfs/balancenomaps.pdf>, incorporated by reference, p. 93.) Due to the lack of certainty regarding the amount of commercial development to be provided by the Specific Plan, we are unable to calculate the exact figure for the jobs-housing balance after implementation of the plan. However, using the estimate of 549,000 square feet of commercial use (relied upon for the air quality and traffic analysis), along with the allowed 5,387 housing units, the Specific Plan would result in 102 square feet of commercial space per dwelling unit. Using a standard assumption of one new primary job for every 250 square feet of commercial use, the Specific Plan would result in 2,196 new primary jobs. Thus, the Specific Plan would result in a dismal jobs-housing ratio of .41 jobs per dwelling unit. By worsening the existing significant jobs-housing imbalance, the Specific Plan is inconsistent with the SCAG Compass Blueprint Vision.

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5. The Specific Plan Does Not Satisfy SCAG’s Goals for the Regional Transportation Plan.

SCAG’s Goals for the Regional Transportation Plan include:

RTPG3: “Preserve and ensure a sustainable regional transportation system.”

RTPG5: “Protect the environment, improve air quality, and promote energy efficiency.” (Table 4.10-2.)

While the DEIR claims the Circulation Plan is consistent with these policies and refers to the availability of transit because of the location of the Specific Plan, it should include greater incentives to promote and use transit. There does not appear to be any enforceable effort to incorporate transit into the project, and posting a bulletin board to encourage carpooling is insufficient. There are no bus-lanes, lines or stops designated yet, and additional train lines are not encouraged. The analysis is based on individual traffic, which causes many problems and would contribute to regional traffic congestion. Projects such as the Specific Plan will require widening of Interstate 10 in the future, which would cause additional cumulative noise and air pollution impacts. Without

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greater emphasis on transit, the Specific Plan is not consistent with regional transportation goals.

As described above, the DEIR admits that the Specific Plan would exceed air quality standards and cause a significant impact. This is not consistent with the SCAG Goal to improve air quality.

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6. The Specific Plan Fails to Provide Affordable Housing.

The Specific Plan neglects to incorporate affordable housing units and would, therefore, contribute to regional affordable housing shortages. The 2007 SCAG Regional Housing Needs Assessment forecasted that Banning will need to construct 873 very low income units, 618 low income units, and 705 moderate income housing units by 2014. (DEIR p. 5.0-16.) Even though the Specific Plan does not require the provision of any affordable housing units, the DEIR claims the mix of housing densities allowed under the Specific Plan would provide housing in accordance with the Regional Housing Needs Assessment. (DEIR, p. 4.10-14.) There is no support for this claim. By failing to require any of the 5,387 housing units allowed under the Specific Plan to be affordable housing, the Specific Plan is also inconsistent with General Plan Housing Element Policy 1, which requires the provision of a range of residential units in accordance with the Regional Housing Needs Assessment.

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7. The Specific Plan is Incompatible with Adjacent Land Uses.

The property directly north of the Specific Plan site, referred to as “Black Bench”, was recently purchased by the Highland Springs Resort. While residential development was previously contemplated for the Black Bench site, the site is now used as natural open space with hiking trails. Highland Springs Resort has had the Black Bench site approved as 100 percent certified organic land (for farming and grazing purposes) and the Resort is in the process of getting the land approved as an agricultural preserve. The DEIR improperly refers to the Specific Plan as an infill project, when in actuality it abuts the Black Bench preserved open space and the San Bernardino National Forest on two sides. By improperly considering the Specific Plan to be an infill project, and by failing to acknowledge the Black Bench site will no longer be used for residential development, the DEIR fails to accurately analyze the compatibility of the Specific Plan with surrounding uses.

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8. The Specific Plan Creates Conflicts With Adjacent Jurisdictions' Circulation Plans.

As described in the traffic/circulation portion of this letter, the Specific Plan fails to account for, and in some ways creates conflicts with, the General Plan Circulation Element of the County of Riverside and the General Plan of the City of Banning, as discussed under transportation. It is not possible to evaluate the compatibility of the Circulation Element with planned roads in the City of Beaumont because the EIR provides no information about Beaumont's plans. With respect to the County of Riverside, the Specific Plan DEIR deletes the connection of Highland Home Road to Cherry Valley Boulevard but does not explicitly state that no such connection would be made in the future. The DEIR should discuss how its transportation plans implement, conform with, or are inconsistent with the Cities of Banning, Beaumont, and the County.

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9. The Specific Plan Does Not Provide True Open Space.

Although the Specific Plan repeatedly touts as a project benefit that 27.8 percent of its area and 428 acres will be "open space," (DEIR p. 3.0-8) much of this space is either unsafe for development or will be off-limits to the public. Over half of the Specific Plan's open space – 253 acres – consists of the project's golf course, which would be privately owned and operated. (DEIR p. 3.0-20) While the DEIR claims that the golf course may be open to the public (DEIR p. 3.0-18), a public golf course is "assumed," not guaranteed (DEIR p. 3.0-20), and even a public golf course would not be free to the residents of Banning or even of the project site. The rest of the Specific Plan's "open space" is undevelopable or would be developed as necessary infrastructure and would lack public access. For example, the 70 acres of land preserved in planning areas 73, 69, and 75 are located on steep slopes of the San Bernardino Mountains. (DEIR p. 1.0-89; Exhibit 3.0-4.) Development of these slopes is prohibited by the City and would be unsafe due to the location of several earthquake fault zones. (DEIR Exhibit 4.7-5.) The 25 acres of proposed park in planning areas 36 and 37 are unsafe for development, as well, due to a high voltage electrical line passing aboveground and a high-pressure natural gas line passing belowground. Another 38 acres of "open space" in areas 71 and 19 consist of hydrological infrastructure – detention basins, siltation facilities, and drainage canals. While this space may remain open or undeveloped, it is not as publicly accessible as claimed in the DEIR and cannot compensate for the project's significant adverse impacts.

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G. Noise Impacts Must Be Reduced.

The DEIR reports noise impacts as unmitigable. However, noise impacts could be mitigated by simply reducing the amount of allowable development in the Specific Plan area. The DEIR states:

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At build out the Project would exceed both the combined and incremental effects criteria for mobile noise impacts. The proposed Project, in combination with cumulative background traffic noise levels, would result in a cumulatively significant impact that cannot be mitigated to a level of insignificance due to the project's size and scale.

(DEIR, 5.0-3.) The DEIR reports three segments of roads (two segments of Highland Springs Avenue and one segment of Highland Home Road) where noise levels would exceed allowable thresholds set by the General Plan. (DEIR, 4.11-36.) The violation of these thresholds is caused by the enormous increase in traffic on these roads since the project increases annual daily trips along them by more than 50 percent. (DEIR, p. 4.11-35.) Therefore, to mitigate these significant impacts, as required by CEQA and the Banning General Plan, the residential density of the areas north of these road segments must be significantly reduced. The mitigation proposed in the DEIR, to conduct a future noise analysis and adhere to its recommendations, is inadequate because it is impermissibly deferred and reduction of approved density may no longer be possible after the Specific Plan is approved. Also, the purchase of land as buffers along the rights of way should be further analyzed now to avoid future impacts that will be much harder to avoid in future review.

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The DEIR incorrectly asserts "the project cannot reasonably or feasibly mitigate for cumulative mobile noise impacts." (EIR, p. 4.11-46.) Development density in the Specific Plan area can feasibly be reduced. There are families with children living in the Sundance area on the opposite side of Highland Springs Avenue from the Specific Plan area. Most of them have gardens, living, and sleeping rooms in back of their houses, which are thus facing Highlands Springs Avenue and the Specific Plan area. Therefore, in the interest of public safety and welfare, the density of the Specific Plan must be reduced to decrease or eliminate the unacceptable significant cumulative noise impacts.

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H. Public Services Would Be Impacted.

1. Police Services.

The DEIR states that with 5,387 additional housing units, it anticipates the Butterfield Specific Plan would result in a population increase of roughly 14,168 persons. (DEIR, p. 4.12-37.) This is an extraordinary increase over the existing City of Banning population, which was 29,603 at the 2010 census. Build-out under the Specific Plan would be responsible for a 50 percent increase in Banning's population. However, the plan for mitigation of this impact is merely to contribute \$4 million in City police fees through Project build-out. Since the DEIR reports that 28 additional officers would be

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needed at build-out (DEIR, p. 4.12-37) and that likely an expansion of police facilities would be required, the Specific Plan should set aside land and construct such a facility.

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2. Recreational Impacts and Public Safety.

The DEIR claims that approximately 27.8 percent of the Project footprint would be park, open space, and recreational uses. (DEIR, p. 4.12-48.) Nonetheless, as discussed above, we have been informed that project applicant Pardee Homes has advertised that that homeowners would have access to Highland Springs Resort trails. In addition to the safety of its guests, the fire danger and potential for littering and destruction of Resort property is grave. Hunters, shooters, or gatherers could easily access Resort property from the Specific Plan area without authorization. Therefore, to address these security concerns, Pardee Homes should commit to building a fence between the Specific Plan area and the Resort to keep people from trespassing on the Resort. It is possible that the Resort might develop a system where Pardee Homes or residents of its Specific Plan area can buy annual passes from the Resort so that it can finance a ranger/trail maintenance crew that cares for the area. Still a fence would be needed, with designated entry points and closures to prohibit access at night. Without the Pardee Homes' consultation with the Resort, however, none of these measures can be assumed.

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3. Fire Safety Should be Ensured by Creating a Larger Open Space Buffer in the Northern and Eastern Portions of the Specific Plan Area.

Housing density in the northern and eastern part of the Specific Plan should be significantly reduced or eliminated altogether because of the wildfire hazards associated with construction of housing in wildfire prone areas. Planning Areas 59, 60, and 61 on the northern portion should be reserved as open space to increase the buffer between the rest of the Specific Plan area and the high fire hazard zones of the San Bernardino Mountain foothills and the San Bernardino National Forest. Planning Areas 50, 51, and 52 on the eastern side should also be preserved as open space as well.

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The DEIR reports that that northern and eastern parts of the Specific Plan areas have burned before and are at risk for burning again:

According to records maintained by the California Department of Forestry and Fire Protection, a large portion of the Banning area has burned, often repeatedly, since the early 1900's, including the area adjacent to the north and east of the Project site and the northern and eastern portions of the Project site itself. Many of the historical fires that have been recorded in this area burned

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thousands to hundreds of thousands of acres and these same areas are at risk of burning again.

(DEIR, p. 4.8-11.) With climate change, the risks of wildfires are likely to increase in the future because “summers would likely be drier, and vegetation would also be more likely to dry out, resulting in increasingly larger areas of flammable forests and wild lands” and “warmer temperatures could lead to the expansion of pests that kill and weaken trees, leading to increases in the amount of highly flammable dead trees, also increasing the risk of large forest fires.” (DEIR, pp. 4.5-8 to 4.5-9.)

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The DEIR claims the project proponent would pay over \$7 million in potential City fire facility impact fees and future Specific Plan area residents would support fire services with their taxes. (DEIR, p. 4.12-33.) However, studies show that firefighting services for residents in wild-fire prone areas are subsidized by people who do not live in high fire hazard areas. (Berg and Boyarsky, “Losing Ground, How Taxpayer Subsidies and Balkanized Governance Prop Up Home Building in Wildfire and Flood Zones,” Center for Governmental Studies, 2004, available online at http://www.cgs.org/images/publications/Losing_Ground_Complete_Rev.pdf, herein incorporated by reference.) It has been recognized that people who choose to live in high fire hazard areas should be assessed higher fees for fire services that serve them disproportionately compared to people who do not live in high fire hazard areas. (Los Angeles Times, “Gov. Jerry Brown, Legislature require rural homeowners to pay fire fee”. July 18, 2011, <http://www.latimes.com/news/local/la-me-fire-fee-20110718,0,7442157.story>, herein incorporated by reference.) Better yet, homes should not be built in high fire hazard areas in the first place. “At a meeting in Riverside County in 2007, Richard Halsey, director of the California Chaparral Institute, a conservation group, suggested to fire officials that ‘no-build’ zones be created in the most dangerous areas. . . . ‘There are certain areas you just shouldn’t build in. They are going to burn no matter what,’ Halsey said.” (*Ibid.*) The northern and eastern portions of the Specific Plan area should be such “no-build” zones.

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In addition to the routine fire facility fees that are paid by all developers in the City, because this Specific Plan is in an especially fire prone area, if homebuilding is allowed in the northern and eastern parts of the Specific Plan area, an additional hazard tax should be assessed, or a community facility standards district should be formed to fund fire prevention activities such as brush clearance, training, and community outreach. (See Berg and Boyarsky, “Losing Ground,” p. 76.)

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A report prepared by the Sierra Nevada Alliance recently reported:

Costs of fire prevention have increased exponentially in recent years as state and federal firefighters spend more time and money protecting new homes in wildland areas. The vast majority of these costs are shouldered not by the affected homeowners, but by state and federal taxpayers. A recent federal audit found that the US Forest Service is spending up to \$1 billion annually to protect private homes adjacent to national forest land (USDA Office of Inspector General, 2006).

(Dangerous Development: Wildfire and Rural Sprawl in the Sierra Nevada, Sierra Nevada Alliance, September 2007, p. iii, also at

http://www.sierranevadaalliance.org/publications/db/pics/1190122868_27040.f_pdf.pdf.)

Although this report was prepared for the rugged terrain of the Sierra Nevada Mountains, the lessons learned apply equally to the San Bernardino Mountains and their foothills. The Sierra Nevada Alliance report found “community design can play a large role in minimizing exposure and reducing losses. Infill and clustered development, aka ‘fire-smart growth,’ has numerous advantages over low-density ranchette development when it comes to fire safety.”

Contrary to these hard-learned lessons, the Specific Plan proposes low-density ranchette development in the northern and eastern areas of the project site that has burned before and are likely to burn again.

I. The Transportation/Traffic Analysis is Inadequate.

1. There is Insufficient Information about Roads and Their Impacts in the Northern Portion of the Specific Plan Area.

The DEIR reports that “The Project creates additional regional access by extending and widening existing Highland Home Road to connect to existing Brookside Avenue.” (DEIR, p. 4.13-32.) Insufficient information is provided about Brookside Avenue as it currently exists, or the impact on it that would be caused by the connection with Highland Home Road. The extension of Brookside Avenue is shown as a major highway in the project description. (DEIR, Exhibit 3.0-5.) Brookside Avenue does not presently exist east of Highland Springs Avenue. (DEIR, Exhibit 3.0-5.) West of Highland Springs Avenue, Brookside is currently two lanes and there are houses in close proximity on the right and left sides of the road. Thus, all the houses in the corridor shown on the map would have to be purchased by the County of Riverside, or the County would need to exercise its power of eminent domain to widen Brookside Avenue to a four lane road, as shown in the project description. Instead of planning to cause such impacts, the Specific Plan should be revised because the developer owns enough land east and west of

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Highland Springs Avenue to solve most of the traffic problems created by the Specific Plan using its own land. In this way, the Specific Plan could avoid impacts to neighboring land users and condemnation of their private property.

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Additionally, insufficient information is provided about future roads that would likely be required to serve the development. Without such information, it is impossible to analyze ways to avoid the impacts these planned roads would have. The attached maps of potential future roads that serve the northern portions of the Specific Plan Area were obtained from the County of Riverside in May 2011. They show streets, including Lincoln Place, Grand Place, Hillside Place, Cherry Valley Boulevard, and Black Bench Road whose alignments and future traffic would have significant impacts as they connect with roads exiting from the Specific Plan area. (Exhibit G.) However, no information about these likely future roads is provided in the DEIR. Many questions exist that must be answered, including: Would they be used by the development? Can the development be fully built out without them? Would they be built before the last phase of the Specific Plan development? What would their impacts be?

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The Cherry Valley Boulevard extension is shown in the existing City of Banning and County of Riverside general plans. We have been informed that Riverside County personnel have tried to require the Highland Springs Resort to dedicate a public right of way for the road during their permit application process for a recent event. The Resort believes that the need for the road is more related to the proposed Specific Plan than any legitimate need by the Resort for additional roads to accommodate traffic to the Resort for events. Even though the Resort is now operating an outstanding restaurant, the amount of traffic it will generate is minimal, and the Resort treasures the rural feel of its largely roadless existing property. Requiring such a dedication from Highland Spring Resort for a road that is necessitated by development in the Specific Plan area is unfair and poor planning. Therefore, more information must be provided about future plans for roads at the northwest portion of the Specific Plan area and how they relate to current plans in the existing General Plan and the Circulation Elements in the General Plans of adjacent jurisdictions.

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Although it is omitted from the DEIR, it is likely Cherry Valley Boulevard would ultimately be extended east of Highland Springs Avenue to handle the traffic generated by Specific Plan development. Any extension of Cherry Valley Boulevard would transect Resort property, having dramatic unmitigated and unmitigatable impacts. An alternative to Cherry Valley Avenue extension, the extension of Brookside Avenue to meet the northern portion of Highland Home Road, would have similar adverse impacts. Either of the proposed roads would destroy the wilderness experience for hikers. In addition to the dramatic visual impact, a new road would bring noise, vibrations, and air pollution, and

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would adversely impact the many species of plants and wildlife on the Resort property. Because many of the hikers are young children, they are especially sensitive to air pollution. Their safety may also be compromised if a public road serving a development with 5,387 households runs through the areas they hike and play. No mitigation is provided for safety impacts from the new roads that are proposed.

Alternatives to completion of Cherry Valley Boulevard and other roads serving the northern portion of the Specific Plan area must be analyzed in the EIR to mitigate the significant impacts they would have. For example, the Banning General Plan shows an extension of Highland Springs Avenue to the northeast which County of Riverside maps show as "Black Bench Road." (Banning General Plan, Exhibit III-4.) Since the time of the City of Banning General Plan, the Black Bench area has been acquired for preservation purposes so it will not be developed for housing, commercial, or other high intensity uses. Therefore, there is a reduced need for this and other northern Banning roads shown in the General Plan.

The Specific Plan proposal is inconsistent with the existing City of Banning General Plan Circulation Element and the County's General Plan because the DEIR does not show Cherry Valley Boulevard connecting to Highland Home Road. Although the Resort would like to see the City's and County's Circulation Elements amended to delete the extension of Cherry Valley Blvd, CEQA requires an explanation of any inconsistency with existing regional plans. (CEQA Guidelines section 15125.) The DEIR states "If approved by the City, the Specific Plan provisions would supersede the respective General Plan maps for the Project site." (DEIR, p. 4.13-26.) The DEIR includes a map of the General Plan Circulation Element. (DEIR Exhibit 4.13-1). The existing General Plan shows the extension of Cherry Valley Boulevard running diagonally through the Specific Plan area and exiting at the northwest corner after crossing Brookside Avenue. (Circulation Element Exhibit III-4). The Butterfield Specific Plan Vehicular Circulation Plan shows Highland Home Road connecting with Brookside Avenue, and does not show any connection to Cherry Valley Boulevard to the north. Will this connection be completed in the future? If it is the City's intention to delete the future alignment of Cherry Valley Boulevard through the Specific Plan area and continuing northward, that must be explicitly stated. Also, the City must coordinate deletion of this road alignment with Riverside County, since it is in the County General Plan.

The DEIR states, based on the General Plan, "it is clear that the connection of Highland Home Road to Brookside Avenue or Cherry Valley Boulevard does not have notable effect on traffic in the area. Hence this study analyzes future traffic/circulation impacts using . . . the northerly extension of Highland Home Road connected to Brookside Avenue instead of Cherry Valley Boulevard." (DEIR, p. 4.13-42.) If there is

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little difference in traffic impacts, Cougar Way should be used as the northerly connection to Highland Home Road. Cougar Way already exists and extending it east of Highland Springs Avenue would have fewer impacts than connecting Highland Home Road to Brookside or Cherry Valley Boulevard.

The County of Riverside planning maps show Cougar Way south of 17th Street connecting with Highland Springs Avenue from the west. The DEIR should, but does not, show where Cougar Way corresponds to the roadways set forth in the Vehicular Circulation Plan (DEIR Exhibit 3.0-5). Cougar Way already exists as a four-lane road that could provide for vehicular access without the significant impacts that new construction of roads such as Brookside Avenue or Cherry Valley Boulevard would require. Why is Cougar Way not shown on maps or disclosed by the EIR?

Cougar Way east of Highland Springs Avenue should be used as the northern access road for the Specific Plan area. Use of Cougar Way would eliminate the need to expand Brookside Avenue or Cherry Valley Boulevard. Additionally, the four-lane Oak Valley Parkway travels directly to Interstate 10, just south Cougar Way. It could connect to "F" Street in the Specific Plan area and provide necessary circulation, also avoiding a northern extension of Highland Home Road connecting to Brookside Avenue.

The current plans for *new* roads rather than extensions of existing roads like Oak Valley and Cougar Way would disturb the land of many owners. Currently Cherry Valley Boulevard travels eastward between Interstate 10 and terminates at Noble Street. The road does not exist between Noble Street and Bellflower. Horse properties and homes lie between Noble and Bellflower. The County of Riverside would have to purchase all of these homes and disturb the lands between them in order to extend Cherry Valley Boulevard as shown on current general plans. Instead, Banning should require modifications to the Specific Plan Circulation Plan to avoid these future problems.

The DEIR claims that recommended improvements located in jurisdictions outside the City of Banning "can and should be implemented by those other agencies." However, the necessity for such improvements should not be imposed on these other jurisdictions through the Specific Plan, especially when the impacts can be resolved or avoided through better planning of the Specific Plan area.

The Vehicular Circulation Plan (Exhibit 3.0-5) is uninformative because it does not show the planned roads in surrounding jurisdictions that would connect with Specific Plan Area roadways. The County of Riverside maps show a road called "Hillside Place" running directly north from Brookside Avenue along the northern portion of the Specific Plan area. Why is Hillside Place not shown as a future road on the Vehicular Circulation

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Plan? Roads called Lincoln Place and Grand Place are shown on the Riverside County planning maps connecting with the northern extension of the Specific Plan area. Why are these roads not shown or labeled on the Vehicular Circulation Plan? What would their impacts be?

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The County of Riverside planning maps show a road labeled "S4078B" connecting with Brookside Avenue from the west. A golf course currently exists where the alignment of Brookside Avenue is shown connecting to Highland Springs Avenue. What would the impact of Brookside Avenue be on this golf course?

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2. The Land Use Element of the Banning General Plan is Not Correlated with the Circulation Element to Provide for Sufficient Future Infrastructure.

The Banning General Plan requires that all roads operate as Level of Service (LOS) C. (DEIR, p. 4.13-4.) The General Plan states that at General Plan Buildout, the 23 intersections that were analyzed would operate at LOS C, except for Ramsey. (General Plan Circulation Element, p. III-62.) Contrary to this analysis and the LOS C standard required by the General Plan, the DEIR predicts that 18 intersections would be at LOS D even after mitigation. (DEIR Table 4.13-13 on page 4.13-46.) The DEIR determines these to be significant unavoidable impacts. (DEIR, p. 4.13-55.) However, the City cannot use a statement of overriding considerations to override the General Plan policy requiring LOS C at City intersections. The DEIR reports that even without the project, most intersections would be at LOS F in the future. (DEIR, p. 4.13-44.) Therefore, the City has failed to correlate its Circulation Element with the Land Use Element in planning for future growth. The DEIR reveals that the City has allowed more growth under the general plan than City roads can handle and still operate at LOS C. Therefore, the Specific Plan cannot be approved until the Land Use Element and Circulation Element are properly correlated.

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3. Development of New Roads Should Not Be Allowed to Destroy Heritage Oaks.

New roads would affect trees and wildlife that now exist on the Resort property. One of the oak trees on the Highland Springs Resort property is over 1,000 years old. A four to six lane road extending Cherry Valley Boulevard, proposed in the County of Riverside's General Plan and shown in the City of Banning General Plan, would pass within 200 to 300 feet of this oak tree. Impacts from road construction and air pollution from traffic could adversely affect this precious oak tree's root zone and leaves. (Management Guide for Woodlands prepared by University of California Davis Agricultural and Natural Resources Department located online at:

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<http://anrcatalog.ucdavis.edu/pdf/21538.pdf>, incorporated by reference.)

Tree preservation is not guaranteed –mitigation measure AES-6 provides “the applicant shall design plans to preserve the existing oak tree along Highland Springs Avenue (or in the event preservation is not feasible, relocate or replace at suitable size).” (DEIR p. 1.0-6-7.) The grading plans should be designed to require preservation of heritage oaks tree and the circulation plan should be redesigned to avoid potential impacts to the oaks, which may ultimately die by being too close to roads, even if they are not actually taken as part of construction. (<http://anrcatalog.ucdavis.edu/pdf/21538.pdf>.)

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J. Water Supply Analysis is Inadequate.

As a result of limitations imposed upon the area’s adjudicated groundwater basin, the Specific Plan will likely rely upon the State Water Project for a large portion of its water supply. The DEIR contemplates multiple locations for a pipeline extension that connects to the state system (DEIR Exhibit 3.0-9) and is explicit that any recycled water used for project operations would require dilution with State Water Project supplies to meet water quality standards. (DEIR p. 3.0-30, 32.) The DEIR also describes multiple water tanks and reservoirs, some of which might require the use of State Water Project supplies during the dry season, if they are to double as golf course or recreational water features as proposed by the Specific Plan. Given the inconsistent nature of rainfall in the State of California, reliance upon State Water Project deliveries, and especially upon *increased* State Water Project deliveries is inadequate. California Courts prohibit reliance upon “paper water.” “[T]he future water supplies identified and analyzed must bear a likelihood of actually proving available; speculative sources and unrealistic allocations (‘paper water’) are insufficient bases for decisionmaking under CEQA. [Citation.] An EIR for a land use project must address the impacts of *likely* future water sources, and the EIR’s discussion must include a reasoned analysis of the circumstances affecting the likelihood of the water’s availability. [Citation.]” (*Id.* at 432.)

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The Specific Plan DEIR’s water conservation mitigation measures must be made stronger and more enforceable. In addition to the mitigation measures suggested in the greenhouse gas discussion, *supra*, the project should ensure that drought-tolerant vegetation is required, not just “emphasized.” Mitigation measure WS-1, which is charged with preventing basin overdrafts or impacts to area water supply, does not actually prevent impacts to the water supply or to the basin. Rather, it requires future monitoring and modeling. No action is required. This must be modified to include performance standards to require appropriate action if the monitoring reveals adverse impacts to area water supply. It must also be noted that runoff from the proposed golf course would drain directly into the aquifer beneath. (DEIR p. 3.0-26.) The DEIR must address the impacts of landscape chemicals in the water supply and mitigate them as

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necessary.

In addition to the direct impacts to local water supplies, which are scarcer than the DEIR would care to admit, the Specific Plan's water supply improvements would affect and possibly take property of the Highland Springs Resort. Exhibit 3.0-9 shows Brookside Avenue as a possible alignment for the proposed State Water Project pipeline, and upstream improvements to Smith Creek and associated reservoir construction would occur north of Brookside Avenue in the Resort's 70-acre field, currently used for organic grazing. If the project will require additional infrastructure to support its future water use, it should use ample project land to provide this infrastructure. If necessary, additional land owned by Pardee Homes lies to the south and west of the Specific Plan area. Impacts to other property owners are unnecessary and would require compensation.

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IV. Other Aspects of the Draft EIR Are Inadequate Under CEQA.

A. The Specific Plan Description is Too Vague to Enable Adequate Analysis of Impacts.

1. The Planning Areas are Unstable.

CEQA requires that every EIR contain a project description that gives a "general description of the project's technical, economic, and environmental characteristics." (CEQA Guidelines § 15124(c)). It must also "include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project." (*Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1390.)

To provide for changing community needs during the 30-year implementation of the Butterfield Specific Plan, the project provides flexibility in the land use designations for certain planning areas (PAs). Unfortunately, the Specific Plan provides so much flexibility that it is unclear what will ultimately be built in many of the specific plan's planning areas. For example, commercial planning areas are allowed to be converted to residential use and vice-versa. (DEIR p. 3.0-17.) Parks, school sites, and even the fire station may be converted to residential uses. (DEIR p. 3.0-17.) If the central golf course is not built, park space, sports fields, and other open space uses could result, but so also could administrative offices, nurseries, and agricultural uses. (DEIR p. 3.0-20.)

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The DEIR is clear that no more than 5,387 residential units may be constructed, including any other land uses that are later "converted" to residential. The DEIR provides no such limitation on commercial use, however. Although the DEIR's analysis only assumes 549,000 square feet of commercial development on 36 acres (DEIR p. 4.3-18), the Specific Plan permits the development of 797,365 square feet of commercial

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development on an *additional* 52.3 acres:

Although PAs 3, 4, 5, 26, and 27 are designated for residential and associated development, the Specific Plan allows alternative development of these PAs with commercial land uses. If developed entirely pursuant to this alternative, 339 residential units would be eliminated or allocated to other PAs and up to 797,365 square feet of additional commercial development would replace them

(DEIR p. 3.0-17; see also p. 3.0-15 [“the Specific Plan allows commercial or mixed use residential and commercial as an alternate use for all portions of residential planning areas 3, 4, and 5 (51.4 acres combined), and Park planning areas 26 and 27 (0.9 acres combined)”].) Unlike conversions of other uses to residential, for which the Specific Plan requires a reduction in density so that the planning area does not exceed 5,387 residences, conversions of residential uses to commercial only require “allocation to other PAs.” In effect, there is no way of knowing which land uses would be approved under the Butterfield Specific Plan. As a result, the DEIR’s project description is vague and unstable and hinders adequate analysis of all Specific Plan impacts based on land use designations – land use, traffic, greenhouse gas emissions, air quality, among others.

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2. Key Infrastructure Decisions are Deferred Until After Project Approval.

The Specific Plan DEIR defers decisions about development infrastructure until after project approval, resulting in an inadequate project description and possibly impermissible project segmentation. Instead of describing all aspects of the project and their impacts, as required by CEQA, the DEIR lists alternatives that may be chosen by the city, but notes that these alternatives are contingent upon future environmental review. The project description cannot fail to describe key elements of the Project. (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730-35.) Decisions that should have been made prior to DEIR release include, but are not limited to, whether culverts south of the project need to be expanded to accommodate increased flows in the Smith Creek channel (DEIR p. 3.0-34, 27) and whether wastewater treatment would be provided through an on-site treatment plant or a satellite facility (DEIR p. 3.0-29). As with all major decisions for a project of this size, the infrastructure plan and its analysis must be included in the DEIR so that the whole project undergoes environmental review.

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B. Mitigation for the Specific Plan’s Impacts Are Less Effective Than is Feasible, and Are Vague, Unenforceable, and Deferred.

1. The DEIR Repeatedly States That it Will Require Certain Actions When More Effective Measures Would Reduce Impacts.

CEQA requires that a project not be approved when there are significant adverse impacts if there are feasible alternatives or mitigation measures that can reduce those impacts. (Publ. Resources Code § 21002; 21002.1(b); CEQA Guidelines 15091(a); 15092(b).) Despite this mandate, the DEIR repeatedly requires that certain measures be taken where more effective mitigation measures are available. For example, the DEIR refers to implementing the Smart Homes program, but does not explain how that would be done. For example, the DEIR provides:

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“The Specific Plan shall also *allow for* rooftop solar on all structures, electric vehicle charging stations at commercial, park, golf course, multifamily residential and school areas, and hydrogen vehicle fueling stations within the Commercial zones.” (1.0-19, emphasis added.) Instead, it should *require* use of solar unless better technology has developed.

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“The builder shall be conditioned to provide the following: Energy efficient appliances; Energy efficient indoor lighting.” (1.0-28.) Stating appliances and lighting should be “efficient” is meaningless. Instead, the DEIR should be more specific and require at least 60 or 80 percent Energy Star appliances and fluorescent or LED lighting, or products of equivalent efficiency.

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“All common area irrigation areas *shall be capable of being operated* by a computerized irrigation system which includes an on-site weather station/ET gage capable of reading current weather data and making automatic adjustments to independent run times for each irrigation valve based on changes in temperature, solar radiation, relative humidity, rain and wind. In addition, the computerized irrigation system shall be equipped with flow sensing capabilities, thus automatically shutting down the irrigation system in the event of a mainline break or broken head.” (1.0-27, emphasis added.) Being capable of being so operated is not sufficient. Irrigation systems should be required to be operated in such a manner since Banning is subject to extremes in temperature.

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“Common-area landscaping shall emphasize drought-tolerant vegetation.” (1.0-28.) The DEIR should require use of drought-tolerant vegetation.

The DIER requires “water efficient plumbing in all buildings.” (1.0-29.) It should be more specific, and require use of dual flush toilets, etc.

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“Community Center or Recreational Facilities with a pool amenity shall be conditioned to install energy-efficient pumps and motors, such as variable speed

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motors.” (1.0-30.) The DEIR should require all pools to have covers when not in use and require solar water heating.

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“The Butterfield Specific Plan shall be conditioned to allow the following uses (as reflected on future tract maps and commercial site plans), to further promote renewable energy resources, including: a) Allowing rooftop solar on all structures, subject to City Municipal Code and related building permit provisions; b) Allowing electric vehicle charging stations at all commercial, park, golf course, multi-family residential, and school areas, subject to a Conditional Use Permit; and c) Allowing hydrogen vehicle fueling stations within the Commercial zone, subject to a Conditional Use Permit.” (1.0-31.) With the possible exception of the hydrogen fueling stations, all of these things should be required, unless fuel cells or geothermal or other energy generating devices are required.

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Indeed, all the homes and commercial buildings should include photovoltaic panels for energy production and solar water heaters. For a list of other feasible measures to reduce energy, reduce GHGs, and conserve water, see the Leadership in Environmental and Energy Design (LEED) Standards for Residential and Commercial Buildings. These measures must be incorporated except where they are found to be infeasible. The project team for the Specific Plan should obtain information on LEED standards at <http://www.usgbc.org>. Also, as referenced in the section on air quality and greenhouse gases, the recommendations of the California Attorney General and those conservation strategies that are on the South Coast Air Quality Management District’s website should be incorporated into the Specific Plan.

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2. Many of the Mitigations Do No More Than Require Compliance with Existing Laws, and That is Not Sufficient.

The DEIR states, “The proposed Project and applicable cumulative projects will implement applicable mitigation measures and standards, *such as* compliance with existing regulations (i.e., National Ambient Air Quality Standards, California Ambient Air Quality Standards), City of Banning and City of Beaumont General Plan DEIR Mitigation Measures, the SCAQMD 2007 Air Quality Management Plan for the South Coast Basin, SCAG Regional Comprehensive Plan and Guide, permit conditions, and mitigation measures.” (1.0-21.) Simply complying with existing laws does not mean impacts are mitigated to the extent feasible. Also, compliance with the above-referenced regulations should be stated as “including but not limited to” these regulations, as there are many more that are applicable. Most importantly, there should be a discussion in the DEIR of *how* the development under the Specific Plan would comply with these regulations.

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The DEIR also states, “The proposed Project and applicable cumulative projects will implement applicable mitigation measures and standards, such as compliance with existing regulations (i.e., City of Banning and Beaumont General Plan EIR Mitigation Measures, Migratory Bird Treaty Act, Clean Water Act, Federal Endangered Species Act, State Porter-Cologne Act, California Department of Fish and Game Code, City code, and the Riverside County MSHCP), permit conditions, and mitigation measures BIO-1 through BIO-5.” (1.0-26.) It similarly refers to the Banning General Plan EIR for mitigation measures for biological impacts and air quality, among other things.

Similarly, the DEIR provides “The proposed Project and applicable cumulative projects will implement applicable mitigation measures and standards, such as compliance with the 2010 California Fire Code (CFC), California Health and Safety Code, City of Banning Municipal Code, California Senate Bill 50 (SB 50) and California Government Code 66478, Quimby Act, California Code of Regulations (CCR) Title 24, California CCR, Title 22, other developments’ permit conditions, the City of Banning and City of Beaumont General Plan EIR Mitigation Measures, and mitigation measures.” (DEIR p. 1.0-75.)

Although an EIR may incorporate other documents by reference, it must include a summary of those documents and state where they are available, and there must be a description of the relationship of the project and the referenced document. (CEQA Guidelines, § 15150.)

3. The DEIR Repeatedly States that Certain Actions Would Be Required “If Feasible” but Does Not Define Feasibility.

CEQA requires that a project:

Must also ensure that all mitigation measures it has included are fully enforceable, as required by CEQA. (CEQA Guidelines § 15097; see also *Lincoln Place Tenants Ass'n v. City of Los Angeles* (2005) 130 Cal.App.4th 1491, 1508 [“Mitigating conditions are not mere expressions of hope.”])

Specifically, the CEQA Guidelines require any mitigation measure to be “fully enforceable through permit conditions, agreements, or other legally-binding instruments.” (CEQA Guidelines § 15126.4(a)(2).) Unfortunately, many of the mitigation measures included in the Specific Plan are vague and unenforceable or do not require the most effective mitigation measures feasible to reduce adverse impacts. There are many examples of this, and the Resort lists only a few:

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The DEIR is replete with statements that action will be required “if feasible.” For example, it states: “The operator of the Butterfield Specific Plan Golf Course shall prepare and implement an Operational Waste Management Plan that incorporates *to the extent feasible* the Best Management Practices for the management of green waste recommended by the Golf Course Superintendent Association of America (GCSAA).” (DEIR p. 1.0-74.) “GPS-controlled ‘machine-guided grading’, or other equivalent grading techniques, shall be incorporated into Project grading plans, subject to review and approval by the City Engineer. This technology will be utilized on mass grading activities where deemed feasible, and shall be used *where feasible* on subsequent rough or fine grading activities.” (DEIR p. 1.0-14.) “Construction operations affecting traffic shall be scheduled for off-peak hours *to the extent feasible*.” (DEIR p. 1.0-17.) “*To the extent feasible*, construction phasing for individual subdivisions shall be designed to avoid the need for construction vehicles and related construction traffic to traverse occupied residential neighborhoods.” (DEIR p. 1.0-64.) “Construction and building materials that do not require painting shall be used to the extent feasible; Pre-painted construction materials shall be used *to the extent feasible*.” (DEIR p. 1.0-13.) These activities and mitigation measures should be required.

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4. Many Studies and Related Mitigation Measures Are Impermissibly Deferred.

Others mitigation measures are impermissibly deferred and this too violates CEQA. (*Endangered Habitats League v County of Orange* (2005) 131 Cal. App. 4th 777, 793-94; Guidelines Section 15126.4(a)(1)(B).) CEQA requires all mitigation measures for a project to be formulated during the environmental review process so their efficacy can be analyzed in the EIR. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 669-670.) Courts have prohibited the deferral of mitigation measures because “[t]here cannot be meaningful scrutiny [of an environmental review document] when the mitigation measures are not set forth at the time of project approval.” (*Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal.App.3d 872, 884.) Deferral of the development of mitigation is only allowable where “specific performance criteria” are required at the “time of project approval.” (*Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1029.) Such performance criteria are not included in the Specific Plan.

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Here, many plans for mitigating impacts are required either “Prior to issuance of grading permits” or “as a condition of grading permits.” Indeed, studies that are necessary to identify the impacts and related mitigation measures are also deferred. This is applicable as to street improvements, noise studies, among other things. (DEIR p. 1.0-66; 1.0-67; 1.0-74.) It is impermissible and must be corrected in a revised DEIR.

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5. Transportation Infrastructure to Serve the Project May Not Be Constructed and the DEIR Does Not Identify What the Applicant’s Fair Share Would be Infrastructure Outside of Banning is Required.

The DEIR states:

The Applicant shall construct road improvements identified in Table 4.13-9, Summary of Future Improvements (“Existing Plus Project” improvements in the City of Banning only). As part of each Final Tract Map, or appropriate group of maps, the Applicant shall submit a TIA Validation Report. The report will provide a focused defined process to identify which of the Existing Plus Project improvement identified are required to be constructed for the respective Final Tract Map to ensure adequate emergency access and acceptable levels of service. Lastly, improvement plans for each Project related offsite traffic improvement shall incorporate the considerations listed in Mitigation Measure TRF-3.]

(DEIR p. 1.0-79.) There is no real discussion of the likelihood that these infrastructure needs would be met. Further, the DEIR does not say anything about the Applicant paying its fair share if infrastructure outside of Banning is required. Both issues need to be addressed, as well as the impact of the additional streets and roads contemplated in the Specific Plan are not constructed.

Conclusion

The Butterfield Specific Plan would have severe impacts on the region and would have unnecessary impacts on private property, including property owned by the Highland Springs Resort and used for habitat preservation, organic farming, and publicly accessible hiking. Under CEQA, “The EIR is intended to furnish both the road map and the environmental price tag for a project, so that the decision maker and the public both know, before the journey begins, just where the journey will lead, and how much they-and the environment-will have to give up in order to take that journey.” (*NRDC v. City of Los Angeles* (2002) 103 Cal.App.4th 268, 271.) The Butterfield Specific Plan draft EIR fails to provide this environmental price tag to the public and to the City’s decisionmakers. The DEIR should be revised to include additional analysis – and to include analysis of impacts where analysis is absent – as well as to include enforceable mitigation measures that will actually reduce the Specific Plan’s significant impacts. It should then be recirculated for the benefit of the community, decisionmakers, and the Banning area environment.

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Thank you for your consideration of these comments. We look forward to reviewing the revisions to this draft environmental impact report.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle N. Black". The signature is written in a cursive, flowing style.

Michelle N. Black

Highland Springs Resort (submitted by Chatten-Brown and Carstens)

Response No. 20

- 20-a. The comment states that the Specific Plan would permit the development of a new town increasing the size of Banning by 50 percent. The Butterfield Specific Plan is an amendment to and restatement of the existing and entitled Deutsch Specific Plan. The existing Deutsch Specific Plan has been part of the City's General Plan for over 15 years and is part of the City's long-term growth trends utilized in the various elements of the General Plan. The Specific Plan is not a new town but an updated and improved version of existing land uses to accommodate the projected growth of the City and lessen environmental effects, as compared to the existing land use designations. For example, the mix of residential use allows for active adult uses, the circulation improves traffic flows and alternatives to vehicle trips. Additional sites are set aside to accommodate schools and to promote more recreation.

The comment also states that the Specific Plan includes provisions for certain land uses and infrastructure but no commitment to actually construct the various uses. For purposes of environmental review, it is assumed that all uses and necessary infrastructure will be built out at completion. The Project is expected to be built over a 30-year period, as indicated in Section 3.7 of the Draft EIR. It is anticipated that the first Project homes will not be completed until sometime in the year 2013 and the Project will be developed to the full maximum of 5,387 homes in 30-years. Therefore, buildout of the project would not likely occur until approximately the year 2042. It is expected with the Project and other planned for development in the City of Banning by 2042 there would be a total of approximately 20,660 households and a population of 55,790. The maximum project buildout in 2042 would represent approximately 26 percent of the total households and population at that time. Contrary to the comment here, the Project Specific Plan and EIR if approved as proposed would allow for the provision of commercial centers when there is a viable market for them, would commit to the provision of school sites if the School Districts determine they need them, would commit to the provision of parklands to City standards, and would commit to the improvement of offsite roads where they are feasible and allowed by the local jurisdictions.

The comment states that the Resort is concerned with the Specific Plan's proposition of new roads that might pass through the Resort property. Refer to Master Response #2, as well as Response 20.ddddd, for an explanation of impacts in the northwestern portion of the site that may occur as a result of the potential roadway extension

The comment also states that the Draft EIR includes an inadequate discussion of how the proposed growth would be handled through on- and off-site infrastructure. In this specific comment the comment does not identify any particular deficiencies in the analyses of the on- and off-site infrastructure. The proposed infrastructure is described in the Draft EIR in Sections 3.6.2 and 3.6.3 and analyses of those Project components are contained throughout Section 4 of the Draft EIR. Also, as the comment identifies particular concerns throughout this comment letter, responses to those specific concerns are provided.

- 20-b. The comment states that the Resort is concerned that the Draft EIR fails to adequately disclose, analyze, and mitigate many significant adverse environmental impacts. The comment states that in addition to the significant impacts identified in the Draft EIR, the proposed Project would result in significant impacts related to biological resources, land use, hydrology, and water supply.

Particular concerns related to these topical areas are addressed below under the following responses:

- Biological resources: Responses 20.ll through 20.ttt and 20.jjjj.
- Hydrology: Responses 20.xxx through 20.yyy and 20.ffff.
- Land use: Responses 20.zzz through 20.cccc, 20.mmmm through 20.nnnn, 20.pppp, and 20.kkkkk.
- Water Supply: Responses 20.hhhh and 20.mmmmm through 20.ppppp.

The comment states that the Project description is too vague. Refer to Response 20.qqqqq through 20.rrrrr for a further explanation regarding this concern. As stated below, Section 3.0 of the Draft EIR has laid out the Project Description and the potential land use conversions that may occur with implementation of the Butterfield Specific Plan. It is unclear in this statement, which aspect of the Project description is unclear to the commenter.

The comment states that many of the proposed mitigation measures are inadequate, unenforceable, or improperly deferred until after the close of the CEQA process. Response 20.tttt through 20.aaaaa and 20.ddddd and 20.eeeee address the comment's specific concerns regarding the adequacy and enforceability of the proposed mitigation, while Response 20.fffff specifically addresses the comment's statement that mitigation is improperly deferred.

The comment also requests that mitigation be required to reduce impacts on views across lavender fields, dark night sky, and the solitude and serenity of the area. These topical areas are addressed below under the following responses:

- Views across the foothills: Responses 20.n through 20.r.
- Night sky: Responses 20.s through 20.t.
- Solitude and serenity of the area: Responses 20.l through 20.m.

Request for Purchase of Land

The states that a possible alternative to the Project could include the Resort's purchase of land owned and scheduled for development by Pardee under the Specific Plan to reduce development impacts and increase open space. Increasing open space and reducing the density of the project by 20 percent was considered as an alternative. While the alternative would reduce effects they would nevertheless remain significant and unavoidable. It should be noted that the property adjacent to the Resort would include approximately 400 new housing units, or less than 10% of the overall Specific Plan residential density. Accordingly, the analysis of the 20 percent reduced density alternative would provide more mitigation than the Resort's suggested alternative. Also, refer to Response 20.l below for a further discussion regarding this alternative.

- 20-c. The comment requests that the City revise the Draft EIR to include a very low-density, rural development. Refer to Response 20.l and 20.m. As stated below, Section 6.0 of the Draft EIR demonstrates that a reduced density alternative would generate lessened adverse environmental impacts; however, as noted on pg. 6.0-22 of the Draft EIR, this alternative would not be consistent with the City's visions of its future as articulated in the City's 2008-2014 Draft Housing Element based on the reduction in household unit growth.

I Specific Plan Effects

- 20-d. The comment states that because the Highland Springs Resort's property serves as a nature preserve and is certified organic for farming and grazing purposes it needs protection from chemicals and pollution the Project could release. According to its website, Highland Springs Resort is an 88 room resort and conference center with gardens, tennis courts, various lodging (including "deluxe inns"), a pool house, restaurant, wedding facilities, and cooking class facilities.¹ The Resort is adjacent to residential development to the northwest, west and southwest. Smith Creek runs along the eastern boarder of the various Resort facilities (including the Oak Tree and lavender fields) and is approximately 500 to 600 feet due west from the Project boundary. The northernmost portion of the Project (including the foothills rising to the east of the Resort) is designated Open Space and the remaining areas east of the Resort are designated low density residential. Draft EIR Section 4.8 (particularly Impact Statement 4.8-1) addresses impacts related to the use and transport of hazardous materials. Sections 4.3 and 4.9 (particularly Impact Statement 4.9-1 and 4.9-3) address air and water

¹ <http://hsresort.com/resort.php>

pollution, respectively. Given the distance between existing Resort facilities and Project development areas as well as the Resort's current proximity to similar land uses, it is not clear what chemicals and pollution could impact the Resort's farming and grazing activities. Without particular concerns related to the adequacy of the analysis in this Draft EIR Section, no further analysis is required.

- 20-e. The comment states that the Resort's trail network, the air, noise, wildlife, safety, nighttime sky, and unobstructed views within the area would be adversely affected by the proposed Project.

All of these topic areas are addressed in the Draft EIR. For analyses of impacts in these topic areas, refer to Section 4.13 (Impact Statement 4.13-6), Section 4.3 (Impact Statements 4.3-1 through 4.3-4), Section 4.5 (Impact Statements 4.5-1 through 4.5-5), Section 4.4 (Impact Statement 4.4-1 through 4.4-3), Section 4.1 (Impact Statement 4.1-3), and Section 4.1 (Impact Statements 4.4-1 and 4.4-2), respectively. Of these impact areas, the Draft EIR found that significant, unavoidable impacts would occur related to light and glare (Project/cumulative), construction and operational air emissions (Project/cumulative) and noise from mobile sources (cumulative only).

Pursuant to State CEQA Guidelines, when a lead agency approves a project which will result in the occurrence of significant effects which are identified in the EIR, but are not avoided or substantially lessened, the agency is required to state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record. The statement of overriding considerations would be included in the record of the Project approval and noted in the Notice of Determination (NOD).

- 20-f. The comment states that the Butterfield Specific Plan would force improvements through the Resort property, resulting in a loss of habitat value for wildlife and roadway hazards for roaming and hiking children.

Offsite improvements that may occur on the southerly edge of the commenter's property include the potential SWP pipeline extension, possible roadway grading improvements, and drainage course inlet structures. Of these improvements, only the drainage course inlet structures are necessary to carry out the proposed Project. If carried out, these improvements would require the Project Applicant (for the inlet structures), City or County (for the SWP pipeline and roadway improvements) to obtain an easement or right-of-way from the property owner. Street design plans and safety measures would be in conformance with the City Municipal Code (e.g., Chapter 10.08, Traffic Control Devices, and Title 12, Street, Sidewalks and Public Places) as well as Riverside County Roadway Standards and Specifications (Ordinance 461); therefore, roadway hazards for children would be addressed through these existing regulations.

Impacts to habitat value within the proposed offsite improvement areas are addressed immediately below under Response 20.g. However, the comment also identifies impacts to an ancient oak tree. This oak tree was not observed on the Project site nor in the immediate vicinity of the proposed or potential offsite improvements (Brookside Avenue extension) and the location was not specified in this comment letter. However, based on photos in the appendices provided in the comment and aerial photography, it is assumed that this oak tree is located 700 to 800 feet to the east of the existing intersection of Highland Springs Avenue and Cherry Valley Boulevard. If this is the oak tree to which the comment is referring, the proposed and potential offsite improvements would not be located within its vicinity, and therefore would not affect the oak tree. Refer to Draft EIR Exhibits 3.5-5, and 3.0-9 through 3.0-11. Offsite improvements as depicted in the Specific Plan and Draft EIR in this general area would occur along the Brookside Avenue extension and not in the vicinity of this oak tree. As depicted on the City of Banning General Plan Circulation Element map, an alternative to the Brookside Avenue extension is the Cherry Valley Boulevard extension to Highland Home Road. This extension is not proposed by the Project applicant and not part of the proposed Project. Independent of the Project, if the County (whose jurisdiction the extension would fall under) chose to pursue an extension to Cherry Valley Boulevard a separate review and approval process would be required and verification of the alignment and analysis of would be conducted as part of this process. As part of this process, potential impacts to the oak tree would be evaluated at that time. For additional discussion on traffic and circulation related issues, please refer to Master Response #2.

- 20-g. The comment states that offsite grading north of the Brookside Avenue Extension could destroy lavender fields that are home to the annual Lavender Festival. Brookside Avenue is a City of Banning General Plan-designated roadway. Proposed offsite grading would be consistent with the width requirements of this roadway pursuant to the General Plan. The offsite vegetation communities north of the potential extension of Brookside Avenue to the proposed extension of Highland Home Road where offsite improvements would be located were evaluated in the *Biological Resources Assessment* (Draft EIR Appendix C1). Lavender fields were not observed in the immediate vicinity of the proposed and potential roadway extensions during the offsite plant community survey. The Resort's lavender fields are located north and east of the Cherry Valley Boulevard/Highland Springs Avenue intersection, which are outside of the Project site away from the Project's offsite inlet structures and outside of the City of Banning jurisdiction, and therefore, would not be impacted by Project implementation. For additional discussion on traffic and circulation related issues, please refer to Master Response #2.

As stated in the Biological Resources Assessment (pg. 8-9), the proposed off-site improvement areas contain agriculture, annual grassland, disturbed coastal sage scrub, mule fat scrub, sandy wash, and disturbed/developed vegetation communities. The

agriculture vegetation is currently grazed by cattle and contains several non-native grass species similar to those found on site. The scrub is dominated by California buckwheat (*Eriogonum fasciculatum*) and Palmer's goldenbush (*Ericameria palmeri*) with openings of non-native grasses. The Smith Creek drainage is dominated by mule fat scrub. None of these plant communities are considered special-status communities. The biological surveys indicated that no suitable habitat for special status plant species exist in these offsite improvement areas.

Potential temporary and permanent impacts to jurisdictional waters in the offsite improvement areas are identified in Section 4.4, Impact Statement 4.4-2, of the Draft EIR.

The comment also states that views from the Resort would be impacted and that noise would mar the sense of wilderness. As stated above under Response 20.b, scenic vistas and visual resources are addressed in Section 4.1 (Impact Statements 4.4-1 and 4.4-2). Light pollution is addressed in Section 4.1 (Impact Statement 4.1-3). Noise is addressed in Section 4.5 (Impact Statements 4.5-1 through 4.5-5). The foothills east of the Resort are designated Open Space under the Specific Plan. Over 56 acres of land bordering the north and northeast portions of the Project site will remain undeveloped. The remaining areas to the east of the Resort are designated low density residential. To the extent private views are impacted, the Open Space designation preserves the views of the ridges and mountains of the San Bernardino National Forest, consistent with the goals of the City of Banning's General Plan.

- 20-h. The comment states that the Project Applicant has not been granted access to trails on the Resort's property. The intent of the Specific Plan is not to suggest that access onto private property has been granted. During the Notice of Preparation (NOP) community meeting, a representative of the Highland Springs Resort communicated to the City that the Resort was concerned about maintaining access to its trails through the Project area. As such, the Project Applicant has sought to accommodate access to these trails, if the Resort was to allow such access. Agreements with the Resort (or successor in interest) would be required in order to obtain the appropriate easements allowing access. Refer to Response 20.vvvv for a further discussion of this comment.
- 20-i. The comment asserts that the proposed Project is too dense and too close to the San Bernardino National Forest and, thus, an incompatible land use. As stated in Section 4.10, Impact Statement 4.10-2, the proposed Project is consistent with the overall intent of the original Deutsch Specific Plan, and would not result in an increase in the number of residential units proposed for the Specific Plan. As such, an increase in density beyond the Project site's General Plan land use designations would not occur.

In addition, the Project is compatible with the surrounding development including existing adjacent single- and multi-family residential neighborhoods and uses in the

Project vicinity. While the Project site is located near the National Forest, impacts to the National Forest are considered less than significant. Refer to Response 17.gg for a discussion of Project impacts related to the National Forest. Refer also to Response 20.pppp regarding compatibility with adjacent land uses.

Lastly, the commenter's preference that the site remains rural is noted; however, since this comment does not pertain to the adequacy of the environmental analysis in the Draft EIR, no further response regarding this particular matter is necessary.

IIA Revisit Land Use Plan

- 20-j. The comment states that the treatment of the Draft EIR as a standalone EIR is appropriate since the Deutsch Specific Plan EIR has not been made available and is extremely outdated.

The recognition of the Butterfield Specific Plan Draft EIR as a "Subsequent" EIR was purposeful. As stated in Draft EIR, Section 2.2, the Draft EIR was prepared as a Subsequent EIR pursuant to CEQA Guidelines Section 15162(1). The Deutsch Specific Plan EIR was made available for public review and incorporated by reference into the Draft EIR. (Draft EIR, 2.6.)

The proposed Project is substantially the same as the Project approved in 1993 (the Deutsch Specific Plan and EIR). This Project is also generally consistent with the City of Banning General Plan. However, the City elected to prepare a Subsequent EIR given the elapsed time, changes in regulatory environment, additional Project information and technical studies that have become available, and to more accurately evaluate the impacts of the amended and restated Specific Plan.

- 20-k. The comment states that because of the age of the Deutsch Specific Plan EIR (originally certified in 1985) and Subsequent EIR (certified in 1993) that the understanding of the impacts of large-scale developments has changed significantly. The comment suggests that the current Draft EIR should evaluate greenhouse gases and the urban/wildlands interface as it related to wildfire hazards.

As stated above, the City is electing to prepare this Subsequent EIR, given the changes that have occurred in the regulatory environment and additional Project information and technical studies. The EIR evaluates the Project's impacts on the existing environment and analyzes greenhouse gas effects and wildfire hazards. Refer to Section 4.5, Climate Change, for a discussion of the Project's impacts related to greenhouse gases. Also, refer to Section 4.8, Hazards and Hazardous Materials, particularly Impact Statement 4.8-5, "Wildland Fires", for a discussion of impacts related to the urban/wildlands interface and its impact related to fire hazards.

The comment also states that the Project Applicant has no vested right to develop at the same density as the Deutsch Specific Plan, nor a right to a restatement of the Plan. The underlying zoning and General Plan land use designations for the Project site are the Deutsch Specific Plan. As part of the approval, the Applicant and the City are also amending and restating an existing Development Agreement. The current DA does provide the Applicant vested rights to develop the Property at a slightly greater density as compared to the proposed Butterfield Specific Plan. See, Gov. Code §§ 65864 et seq. The case cited in the comment, *Avco Community Developers, Inc. v. South Coast Regional Com.* (1976) 17 Cal.3d 785, concerned vested rights under common law not vested rights under the Development Agreement Act that was adopted to allow cities to enter into agreements that grant vested rights without meeting the common law requirements.

However, given the elapsed time, changes in regulatory environment, and additional Project information and technical studies mentioned above, the Project Applicant submitted an application for a comprehensive amendment and restatement of the Deutsch Specific Plan. That amendment is required to undergo a CEQA review process, at the end of which it will be presented before the City Council. The City Council will determine the adequacy of the CEQA analysis contained in the Draft EIR and approve or deny the proposed Project, either giving or denying the Project Applicant rights to develop in conformance with the Butterfield Specific Plan.

IIB Very Low Density and Open Space Alternatives

- 20-1. The comment affirms that “all” reasonable alternatives to the proposed Project must be assessed and if an alternative is identified as at least potentially feasible, an in-depth discussion is required. The comment further states that due to the significant adverse impacts generated by the proposed Project, the CEQA analysis should include an in-depth consideration of a very low-density, rural development as an alternative.

Further, the comment requests that the alternative of preservation of the open space in the northwest corner of the Project site be analyzed. The comment states that the Resort is willing to purchase either 157 or 271 acres of this area for preservation purposes.

An EIR need not analyze all possible alternatives, only a reasonable range that will foster informed decision making and public participation. (See Section 15126.6 of the CEQA Guidelines; *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957.) The Butterfield Specific Plan EIR considers a no project/existing plan alternative, a reduced density alternative, an active adult community alternative and a no golf course

alternative.² Given the existing entitlements at the Property, City policies and objectives and the range of impacts identified, the alternatives analysis reflects a reasonable range of alternatives.

The proposed Project is substantially consistent with the General Plan and Deutsch Specific Plan. The Project site has been designated as Specific Plan with up to 5,400 dwelling units allowed since 1993; thus, the Project Applicant holds vested rights to develop the property through the existing Development Agreement at this density consistent with the existing approvals. The open space/low-density, rural alternative proposed in the comment would conflict with the General Plan, as well as the City's housing/economic goals. At present, the Project Applicant has not expressed a specific willingness in selling the portion of the property identified in this comment letter at an agreed upon price. Furthermore, the sale of the property is a private matter between the Resort and the Project Applicant. Until such time as the Project Applicant conveys to the City its intention to sell the property, the proposed use of the portion of the property in question will remain as presented in the Butterfield Specific Plan. Moreover, the sale of the northwest portion of the Project site to the Resort (assuming it would remain undeveloped) would reduce the number of residential units by less than 10 percent of the overall Project. The Reduced Density Alternative analyzed in the Draft EIR, if adopted by the City, would reduce both residential and commercial development by 20 percent. Therefore, the EIR has already considered an alternative that would reduce effects by more than two times what a potential sale of the northern portion of the property to the Resort for preservation would produce in reduced impacts.

The comment also provides a webpage print-out from the City of Riverside's website regarding the Arlington Heights neighborhood in Riverside. This webpage describes the overall character of this Arlington Heights neighborhood which is an already established community built primarily in the 1960s and 1980s, and not any particular master-planned development or Specific Plan project. This webpage does not state projects of similar character would be economically feasible if developed on vacant parcels within this community at this time and under current conditions. The economic viability of any individual development projects in this community has not been presented; thus, it is speculative to assume that similar developments would be economically feasible in the Banning area.

In addition, the type of development described on this webpage is inconsistent with what the City of Banning's General Plan, including the Draft 2008-2014 Housing Element, and the Deutsch Specific Plan have envisioned for the Project site. Furthermore, the character of the community described on this webpage is not

² The Deutsch Specific Plan EIR also considered the following alternatives: No Build Alternative, No Project Alternative (Development Under Existing General Plan/Zoning), Alternative Location, Alternative Design - Agricultural Preserve/No Golf Course, Alternative Design - Agricultural Preserve/Increased Density, Alternative Design - Package Treatment Plant

comparable to the development in the Project's vicinity. Projects more similar to the Butterfield Specific Plan (i.e., residential developments with greater densities than those in the Arlington Heights neighborhood) currently exist just west and northwest of the Project site, including the Highland Springs Country Club, Sundance Specific Plan, and Highland Springs Village.

- 20-m. The comment states that the EIR does to provide a reasonable range because none of the alternatives substantially reduce *all* of the adverse impacts. Section 15126.6(a) of the CEQA Guidelines requires that an EIR describe a range of reasonable alternatives to the Project, or a range of reasonable alternatives to the location of the Project, that could feasibly attain the basic objectives of the Project and that would avoid or substantially lessen any of the significant effects of the Project. An EIR does not need to consider *every* conceivable alternative project. It is only necessary for the Draft EIR to consider a range of potentially feasible alternatives that facilitate informed decision-making and public participation. Section 6.0 of the Draft EIR demonstrates that a reduced density alternative would significantly reduce adverse environmental impacts; however, as noted on pg. 6.0-22 of the Draft EIR, this alternative would not be consistent with the City's vision of its future as articulated in the City's 2008-2014 Draft Housing Element based on the reduction in household unit growth.

The comment also states that it is not a reasonable objective for the City to "update and restate the prior approved" Deutsch Specific Plan. The Draft EIR concluded that this is a reasonable objective for the City, because as stated above it would further the City's visions of its future as described in the Draft Housing Element, General Plan, and Deutsch Specific Plan.

IIIA1 Aesthetics – View of San Jacinto

- 20-n. The comment states that the proposed Project does not comply with City regulations regarding the protection of General Plan-identified scenic vistas and that development extending into the foothills will result in a change in the site's topographic relief and a channelization of Smith Creek. The comment also states that General Plan Mitigation Measure H requires that all grading and development shall minimize adverse impacts to the San Jacinto Mountain and San Bernardino foothill viewsheds.

As noted in the Draft EIR, the existing site does not contain any visually significant features. Smith Creek is an ephemeral drainage system that is sparsely vegetated. The change in foreground views on the Project site described in this comment were considered as part of the City's 2005 Comprehensive General Plan and addressed programmatically in the General Plan EIR. The General Plan EIR determined that the impacts of such development would be less than significant. In addition, the Project Draft EIR identifies mitigation measures, Project Design Features, and City of Banning

Municipal Code regulations that will minimize adverse impacts (refer to Draft EIR Section 4.1.4 and Mitigation Measures AES-1 under Impact Statement 4.1-1). The existing higher elevations of the start of the foothills at the north end of the Project site that are within the Project site boundary range in elevation of 3,200 feet to 3,400 feet. The highest residential building pad elevation proposed in the Project would be approximately 3,115 feet, well below the upper elevations of the site. The proposed Zone II water reservoir site for the Project would be at elevation 3,205, still below the higher elevations of the site. The preservation of over 56 acres of rising foothills in Planning Area 73 protects the peaks and ridgelines consistent with Goal 1 and Policy 3 of the Land Use Element and that protects the visual quality of the hillside areas.

Additionally, as a Project Design Feature, the Project's golf course/open space will provide a view corridor to preserve vistas of the San Bernardino ridgelines and foothills to the north and east and vistas of the San Jacinto Mountains to the south. The Project would also include re-vegetation of Smith Creek to allow for a natural appearance and value; this will be required in accordance with the Project's biological resource permits (refer to Section 4.4, *Biological Resources*). As such, it was determined in Impact Statements 4.1-1 and 4.1-2 that the Project would not result in significant impacts to scenic resources or vistas. Although the realignment of Smith Creek through the Project site may be part of the proposed golf course open space area, the realigned creek itself will be separate from the golf course facilities such as fairways, roughs, tees and greens. The creek is not intended to be part of the proposed golf course that will be the "in play" area, but instead will be a separate natural restoration area. The "channelization" of the realigned creek will consist mainly of earthen bottom and sides to allow for the native plant re-vegetation of the creek.

- 20-o. The comment states that views from Highland Home Road and Highland Springs Avenue may be impacted and need to be analyzed. It also requests that the Draft EIR depict views to the south of the San Jacinto Mountains. Lastly, this comment states that the aesthetic analyses did not include view simulations of Specific Plan implementation.

The Draft EIR does discuss the change in topographical relief that will result from development of the site (refer to Draft EIR Impact Statement 4.1-1). To limit aesthetic impacts in this regard, the project would comply with all relevant codes, particularly those described in Draft EIR Section 4.1.4, "Project Design Features and Existing Regulations, Rules and Requirements", and would implement Mitigation Measure AES-4. With adherence to these regulation and mitigation measures, it was concluded that less than significant impacts would occur.

Although the Project development would alter the topography and appearance of the Project site, development would not "degrade" its visual quality in the interim or build-out condition (refer to Impact Statement 4.1-1). In addition, to address concerns

regarding the provision of open space raised during the scoping meeting, the Project Applicant has designated 27 percent of the Project site as open space. The proposed Project is not, however, located in a designated Open Space District, does not contain unique geologic features or visual resources, and is not located in (or regulated by) an adopted view corridor protection plan. Additionally, the Project proposes substantially the same land use plan as the Deutsch Specific Plan. Also refer to Response 20.n, above for a discussion of the City of Banning General Plan's previous analysis of the Deutsch Specific Plan. Neither Highland Springs Avenue nor Highland Home Road are designated view corridors. Views from Highland Springs Avenue are depicted facing, west, northeast, east, south and southeast. The Draft EIR determined that views across the site from Highland Springs Avenue and Highland Home Road do not include significant ridgelines. The existing view looking north on Highland Home Road at Wilson depicts tall trees in the foreground that partially obstruct views of the ridgeline and mountains. Homes constructed in the background would have much less of an impact on this view than the existing landscaping. As such, it was determined in the Draft EIR that impacts to visual resources would be less than significant with mitigation, without the need for visual simulations. Lastly, Exhibit 4.1-1C shows views of the San Jacinto Mountains to the south (refer to photograph #3).

- 20-p. The comment states that the aesthetic analysis fails to analyze or mitigate impacts to views from the Resort property and its network of trails or trails developed under the Specific Plan to the San Bernardino Mountains. The analysis provided in Section 4.1, Aesthetics, Light and Glare indicates that views of the San Bernardino and San Jacinto Mountains are considered significant scenic resources within the vicinity of the Project area. Based on the analysis provided, it was determined that views of these mountain ranges would not be significantly impacted due to the topographic relief of the site (ranging from 2560' to 3,400' above mean sea level) in comparison to the surrounding mountain ranges (ranging from 7,000' to 9,000' above mean sea level). To assist in depicting these conditions, an additional site photo graphic has been prepared and included in Section 4.0, Errata, which provide views of the site from the northwestern corner looking south and southwest towards the San Jacinto Mountains. In addition, the proposed development does not propose development on ridgelines, in conformance with Banning General Plan policies.

The Project also provides a view corridor between low density residential Planning Areas 52 and 60 to preserve vistas of the San Bernardino Mountain ridgelines and foothills to the north and east and vistas of the San Jacinto Mountains to the south.

While the proposed development on the Project site would be visible from the Resort's trail network, the proposed Specific Plan contains grading standards and landscape guidelines that both incorporate and exceed the City's Code design standards by providing detailed plans and standards for landscape plant palettes, architectural

guidelines (including colors and materials, streetscape enhancements, park treatments, perimeter and interior fencing, etc. Mass graded areas where development does not immediately occur will be re-vegetated with the non-native grassland that currently covers the Project site. Lastly, the Project has been redesigned from the currently approved Deutsch Specific Plan to retain the northern steeper slopes in natural open space and create lower density residential and greater separation between proposed development areas and adjacent uses along Highland Home Road.

- 20-q. The comment states that the Draft EIR fails to demonstrate that the Butterfield Specific Plan complies with visual resources-related regulations in the City's municipal code. Draft EIR Section 4.1.4 states that the Project will comply with Title 17 of the City's Municipal Code, which includes the development and landscape standards, including contour grading, preservation of natural open space and scenic vistas, lighting, setbacks, walls, fences, hedges, undergrounding of utilities, etc. The Butterfield Specific Plan contains grading standards and landscape guidelines that both incorporate and exceed the City's Code design standards by providing detailed plans and standards for landscape plant palettes, architectural guidelines (including colors and materials), streetscape enhancements, park treatments, perimeter and interior fencing, etc. The Project grading plan reflects the requirements of MC Section 17.08.240(P) by incorporated contour grading in hillside areas. The Project will also comply with the applicable Mitigation Measures for Visual Resources in the City of Banning General Plan EIR, including A through H.
- 20-r. The comment states that impacts to views can be dramatically reduced if development is clustered in the southern portion of the Specific Plan area and eliminated at the higher elevations. As discussed in Draft EIR Section 4.1.4, the Project has been redesigned from the currently approved Deutsch Specific Plan to retain the northern steeper slopes in the natural open space. It has also lowered densities in and along Highland Home Road in the northern portion of the site.

In addition, the comment asserts that the purchase of the land nearest the Resort property by the Resort would alleviate impacts on views, particularly from publicly accessible trails. Refer to Response 20.1 for a response regarding this potential purchase.

IIIA2 Night Sky

- 20-s. The comment states that Mitigation Measure AES-7 contains too many "if feasible" caveats. The comment asserts that this mitigation must contain adequate performance standards, which would dictate when and if mitigation is to be deferred. In addition, the comment states that additional mitigation must be adopted. Specifically, it is requested that later operations of nighttime lighting be enforced and trail lighting be turned off at nightfall.

Mitigation Measure AES-7 contains only one caveat statement under the first bullet point. While this bullet point does not have performance standards listed directly alongside it, the third bullet point, which described situations in which an exceedance of the 4,050-lumen standard would be necessary for public safety, does contain such standards. The “if feasible” language is consistent with CEQA mitigation standards. To avoid confusion regarding enforceability, mitigation measure AES-7 has been revised in Section 4.0, Errata within the Final EIR.

The proposed Project would be required to comply with the City’s Municipal Code mentioned in this comment which allows recreation areas to have lighting for activities and events up to 10 p.m. because this is an existing regulation. Therefore, it is not necessary to require that this measure be enforced through a mitigation measure. Also, the recreational trails would not include nighttime lighting for the public, but would include security and safety lighting for public utilities (e.g., storage tanks or service roads).

Lastly, Mitigation Measure AES-7 requires a photometric plan be submitted which must demonstrate *a minimum of one foot-candle at ground level overlap* provided in all exterior doorways and vehicle parking areas, and on outdoor pedestrian walkways to the satisfaction of the City of Banning Community Development Director.

- 20-t. This comment states that the direct lighting impacts on stargazing at the Resort would occur, but could be resolved through the purchase of the northern portion of the site by the Resort. The proposed Project has been redesigned from the currently approved Deutsch Specific Plan to retain the northern steeper slopes in natural open space and create lower density residential and greater separation between proposed development areas and adjacent uses. However, the Draft EIR concluded that even with the proposed lighting-reduction mitigation associated with the Reduced Density Alternative (which reduces development by 20%) and Project Design Features, significant and unavoidable impacts to nighttime skies would still occur. Since the northern portion of the site contains approximately 10% of the proposed residential units, this reduction would not result in a significant reduction of impacts above what was analyzed within the Alternatives section of the Draft EIR.

IIIA3 Highland Springs Avenue Oak Tree

- 20-u. The comment states that Highland Springs Avenue should be re-routed and the Mitigation Measure AES-6 should be revised to require design of the road in such a way that the tree is preserved. Refer to Response 27.a which characterizes this resource and discusses the less than significant impact determination reached in the Draft EIR. The oak tree is not a visual resource protected by either the General Plan or Banning

Municipal Code and is not a locally, State, or federally listed species. In addition, the *Vehicle Circulation Plan* (Draft EIR Exhibit 3.0-5) follows the alignment for Highland Springs Avenue as shown in the City of Banning, City of Beaumont, and County of Riverside General Plan and thus re-routing this roadway may create an inconsistency with these General Plans. Furthermore, Riverside County Flood Control and Water Conservation District right-of-way with an existing channel/underground concrete box is located along the west side of Highland Springs Avenue. As such, re-routing this roadway to the west would be infeasible due to the conflict with this facility. To the west of this flood control facility in the vicinity of the oak tree is the approved Sundance Specific Plan, which has multiple connections along Highland Springs Avenue. If the Project Applicant were to reroute Highland Springs Avenue to the east around the oak tree, the approved connections to the Sundance Specific Plan would be significantly altered due to the geometry of the rerouted roadway.

20-v. The comment recommends that Mitigation Measure AES-6 require that any replacement of the Highland Springs Avenue oak tree be of the same or greater size than the existing tree. In addition, large oak trees of equal or greater size may not be available at the time the roadway is constructed or may not be suitable for transplant. Mitigation Measure AES-6 has been revised to provide additional measures and standards should the oak tree require relocation or replacement:

- If relocation of the oak tree is initially selected to be pursued, a certified arborist shall evaluate the viability of transplanting the Heritage oak tree. If transplanting is deemed feasible by the arborist, the Project Applicant shall relocate the oak tree to a suitable location as approved by the City and verified by the arborist within the Project boundaries, or
- If replacement is selected, the Project Applicant as "Replacement Option #1" shall replace the Heritage oak with a single oak tree contained in a minimum of a 60-inch box if readily available and suitable for transplanting at a suitable location approved by the City and verified by the arborist within the Project boundaries, or
- If replacement is selected, and Option 1 is not feasible, the Project Applicant shall replace the Heritage oak with 24-inch-box oak trees at a ratio of 3:1 at a suitable location approved by the City and verified by the arborist within the Project boundaries.

20-w. The comment states that the 1,100-year-old oak tree on the Resort property should be analyzed. Refer to Response 20.f above and 20.lllll below.

IIIB Air Quality/Greenhouse Gas Emissions

20-x. The Draft EIR identifies all feasible mitigation measures (i.e., Mitigation Measures AQ-1 through AQ-7) to reduce construction air quality emissions (in addition to GHG

mitigation measures). During the operational phase, the Project would result in a net increase in regional emissions of criteria pollutants from the operation of both stationary and mobile sources. Despite the inclusion of numerous Project Design Features that would reduce the potential air quality impacts to the degree feasible, emissions would remain above SCAQMD significance thresholds for all of the criteria pollutants (except SO_x). Therefore, operation of the proposed Project would have a significant and unavoidable impact on regional air quality.

As the Project would exceed SCAQMD thresholds, the Project would potentially result in a long-term impact on the region's ability to meet State and Federal air quality Standards. As a result, the Project would conflict with the SCAQMD 2007 AQMP. However, the proposed Specific Plan is generally consistent with the previously approved Deutsch Specific Plan, and therefore the City of Banning General Plan's assumptions regarding population and housing growth. On a regional scale, the emissions from the Specific Plan have been considered in the forecasts presented in the 2007 AQMP.

Additionally, Draft EIR Section 6.0, *Alternatives*, analyzed a reduced density project alternative. The analysis determined that reduced density alternative would not reduce impacts to a less than significant level. Additionally, this alternative would result in fewer residential dwelling units developed within the Project site, and would create inconsistencies with the City's General Plan Housing Element. The reduced density alternative would also not fully achieve the Project's objectives for a master planned community and to provide a range of housing opportunities.

The possible effects of GHG emissions have been known since the late 1970s. According to a National Research Council report prepared during the Carter administration, "[if] carbon dioxide continues to increase, the study group finds no reason to doubt that climate changes will result and no reason to believe that these changes will be negligible." *Citizens for Responsible Equitable Environmental Development v. City of San Diego* (2011) 196 Cal.App.4th 515, 524 [citing *Massachusetts v. E.P.A.* (2007) 549 U.S. 497, 507]. A 1990 district court case affirmed potential impacts from fossil fuel use on climate change. *Id.* More recently, with the passage of AB32, the state has put more emphasis on combating the potential effects of GHG emission levels on climate change. The state's main planning document is its Scoping Plan, which includes a wide range of measures in the areas of transportation, energy and land use. The most significant contributors to increased emissions are vehicles. According to the Scoping Plan, reductions in these transportation emissions are to be achieved primarily through heightened fuel standards. A small percentage of the Scoping Plan's overall emissions reductions are to be achieved through land use. Within the area covered by the Southern California Association of Governments, the 2020 emission reduction target is 8%. The 2035 target is 13%. See Draft EIR, section 4.5.2. GHG reduction measures and Project design features

also reduce emissions of criterion pollutants. The Draft EIR considered the complete list of measures recommended by the Office of the Attorney General and, either through design features or mitigation measures, adopted all feasible reduction measures.

- 20-y. As stated above, the Draft EIR includes all feasible mitigation measures and numerous Project Design Features. Regarding VOC emissions, the Draft EIR identifies Mitigation Measure AQ-3, which requires the use of high-pressure-low-volume paint applicators with high transfer efficiency, low VOC content paint, pre-painted construction and building materials, and construction materials that do not require painting. Additional mitigation suggested in the comment, such as hand applications and super compliant paint, would not effectively reduce VOC emissions below SCAQMD thresholds due to the amount of development proposed and the corresponding amount of paint required to construct the development.
- 20-z. As discussed above, the Draft EIR includes numerous Project Design Features and mitigation measures to reduce operational emissions to the greatest extent feasible. Project Design Features include transit, bicycle, and pedestrian connections, energy and water efficient buildings, and recycling and waste diversion services. It should be noted that the proposed Project is generally consistent with the previously approved Deutsch Specific Plan. The mitigation measures include green building practices that focus on water conservation, energy conservation, and recycling (energy, water, and waste). Also refer to Response 20.x and 20.y, above.
- 20-aa. As noted in the Draft EIR, the Specific Plan requires future development to include trash enclosures that accommodate waste and recyclables. According to the California Department of Resources, Recycling, and Recovery (CalRecycle), the City of Banning has a waste diversion rate of 53 percent. The proposed Project would maintain this waste diversion rate. Therefore, emissions from solid waste would be controlled to the maximum extent feasible.
- 20-bb. Although the City of Banning Electric Utility Department obtains 65 percent of its energy from coal, it also obtains 20 percent from geothermal, 1 percent from hydroelectric, and 13 percent from nuclear sources. Additionally, the Banning Electric Department also has commitments to increase their supply of electricity from renewable resources until a target portfolio level of 33 percent is reached by December 31, 2020, as required by California Senate Bill 107. Additionally, Mitigation Measure GHG-2 requires the Project to promote renewable energy resources, which includes allowing rooftop solar on all structures. The solar ready roofs include providing a minimum of 300 square feet of unobstructed roof area facing within 30 degrees of south for future solar collector or photovoltaic panels. The Project would also utilize low flush toilets, passive solar heating and cooling, water efficient fixtures, appliances, and irrigation controls (including computerized irrigation), as well as drought-tolerant native landscaping,

among other water and energy efficient measures. Given that the portion of GHG emissions associated with homes is approximately 10% of the Project's total emissions, requiring the use of these technologies would not reduce the significant impacts associated with GHG emissions. In addition, the homes built within the Project would be more efficient than existing development in Banning, especially since the Applicant has committed to achieving 15% greater efficiency than the California Green Building code requires. Since homes in the Project will still be required to connect to the City's electric grid, and the City has committed to achieving a 33% renewable portfolio standard, the incremental reductions associated with the technologies discussed above would not reduce impacts to less than significant levels.

20-cc. Refer to Response 20.bb, above. The Draft EIR includes Mitigation Measure GHG-1 through GHG-3. The Project Design Features as well as these mitigation measures include energy efficiency measures to ensure compliance with voluntary Tier 1 measures of the 2010 California Green Building Standards, which results in a 15 percent overall voluntary reduction in energy consumption beyond the reductions already required in the 2010 California Green Building Code. Key energy efficiency strategies include codes and standards, existing buildings, improved utility programs, solar water heating, and combined heat and power, among others. Mandating particular energy technologies such as geothermal heat exchangers or heat pumps, solar or hydrogen fuel stations is not warranted given rapidly changing technology and the fact that the entire development will be connected to the existing electrical grid. The Project commits to a 15 percent base reduction requirement (beyond what is required by the existing code) and individual homeowners, commercial property owners, school districts, and park districts will determine whether and how they will consume energy to obtain even greater energy efficiencies. Moreover, throughout the buildout of the Project, the Applicant will be required to comply with all later adopted applicable state and federal laws concerning building codes and environmental restrictions, including mandatory greenhouse gas reduction measures. In addition, each home will be supplied with a dedicated circuit for electrical vehicles, which could incentivize residents to purchase low or zero emission vehicles.

20-dd. The Specific Plan and Draft EIR encourage public transit in a variety of ways. The circulation plan includes internal loop roads that facilitate transit and connectivity. The Project roadways that are modified collector classification or higher are designed to provide on-street bicycle lanes, minimum 7 feet wide, providing connections to regional and local facilities, and residential areas within the Project. Trails/pathways and sidewalks providing pedestrian safety from vehicles will also be provided along roadways within the Project. The proposed Project also includes accommodations for Neighborhood Electric Vehicles (NEV) and low speed electric vehicles. Local streets would provide access from arterial highways to proposed residential areas, parks, schools, commercial sites, golf course, and other recreational areas. Additionally, the

Banning Pass Transit and the Riverside County Transit agencies would coordinate to expand bus service to the Project site, as well as within the site. Mitigation Measure GHG-1 includes requirements that would support alternative modes of transportation. The commenter's suggestion for interim funding of bus operations would not reduce impacts to less than significant levels because the mobile source emissions are long-term and estimating the interim increase in bus ridership by new residents would be speculative. It would be speculative to assume that a short-term incremental increase in bus funding would increase new resident ridership sufficiently to materially impact air quality through emissions reductions.

20-ee. Refer to Response 20.aa, above. The proposed Project would accommodate recycling and would maintain the City's solid waste diversion rate of over 50 percent, pursuant to California Assembly Bill 939. The proposed Project would not exclude the possibility of adding composting service; however, such service is not part of the Project at this time. It should be noted that the Draft EIR identifies numerous Project Design Features and mitigation measures that would reduce direct and indirect GHG emissions from the Project. The reference to the Bryan A. Stirrat & Associates document found at <http://www.sandiego.gov/environmental-services/geninfo/pdf/1section50.pdf> indicates that the City of San Diego required 50 to 75 percent diversion of construction and demolition debris (p. 5-6) and reports that the City's overall diversion rate was 52 percent (p. 5-4). This is in line with the City of Banning diversion rate of 53 percent.

20-ff. The California Attorney General's mitigation measures are recommendations that are not necessarily exhaustive, not legally mandated, and not part of a statewide GHG reduction strategy. As identified by the Attorney General's Office, the measures are examples and may not be appropriate for every project. The decision of whether to approve a project (as proposed or with required changes or mitigation) is for the local agency, exercising its informed judgment in compliance with the law and balancing a variety of public objectives. The Draft EIR evaluated the Attorney General's recommendations and incorporated applicable Project Design Features, Project mitigation measures, and GHG emission reductions. Refer to Table 4.5-3 setting for the Attorney General's Recommended Measures, their incorporation into the Project and their estimated reduction benefits. The commenter has not identified any particular measure that has not already been covered by a design feature or mitigation measure. Therefore, this response need not list every measure incorporated by reference to explain why each unincorporated measure is inapplicable or infeasible. See *Santa Clarita Organization for Planning the Environment v. City of Santa Clarita* (2011) 197 Cal.App.4th 1042, 1054-1056.

20-gg. The SCAQMD recommended measures identified by the comment largely represent Project Design Features that are already incorporated into the Project. For example, roofs of proposed residential structures would achieve California Green Building Standard

Code Tier 1 Cool Roofs. Mitigation Measure GHG-1 requires the Project to include various green building practices and energy efficiency measures to ensure compliance with voluntary Tier 1 measures of the 2010 California Green Building Standards Code, which results in a 15 percent overall reduction in energy consumption beyond the reductions already required in the 2010 CGBSC. These measures include passive solar design, shade trees, efficient water heating, automatic lighting controls, and solar ready roofs, among others. The incorporation of these measures would still result in significant and unavoidable impacts with regard to GHG emissions. For additional discussion, please refer to Response 20.x through 20.ff above.

- 20-hh. As stated in Response 20.gg, immediately above, the Mitigation Measure GHG-1 requires various green building practices and energy efficiency measures to ensure compliance with voluntary Tier 1 measures of the 2010 CGBSC. Mitigation Measures requiring the Project Applicant to comply with all applicable measures required by SCAQMD rules and regulations are included in the Draft EIR (refer to Mitigation Measure AQ-1, AQ-4, and AQ-5).
- 20-ii. Mitigation Measure GHG-1 provides numerous requirements for water conservation, including the use of drought-tolerant vegetation, including trees. Also, Municipal Code Chapter 17.32, Landscape Standards, require the use of xeriscape, which combines landscape features and other techniques to reduce water consumption associated with landscaping. Drought-tolerant and native landscaping would be utilized throughout the Plan area.
- 20-jj. As described in the Draft EIR, the proposed Project includes an on-site recycled water distribution system to reduce imported water demands (accomplished through either an onsite satellite treatment plant or expansion of the City's existing treatment plant). Upon availability, recycled water would be used to irrigate the golf course and the common landscaped areas of the Project in order to reduce the demand for potable water. The proposed Project would have a overall net water demand of 3,103 acre feet per year and reclaimed water could offset up to approximately 1,321 acre feet per year of water used outdoors for irrigation; also refer to Draft EIR Section 4.14, *Water Supply*. Using reclaimed water uses less energy than using potable water that is pumped and transported and treated more extensively. The golf course referenced in Australia, the Kabi Golf Course at Boreen Point, is located in a coastal climate that receives over 60 inches of annual rainfall³. Without details of the courses operations, water demands and supplies and given individualized climate, it is not practical to analyze whether its operations could be replicated in Banning. The Machrinhanish Dunes course is also a seaside golf course with annual rainfall in the range of 40 inches⁴. For similar reasons, it is not practical to compare a seaside Scottish golf course with one in Banning.

³ <http://www.weatherzone.com.au/climate/station.jsp?l=site&lc=40908> (accessed November 10, 2011)

⁴ <http://www.worldweatheronline.com/weather-averages/United-Kingdom/806139Machrinhanish/816098/info.aspx> (accessed November 10, 2011)

Regarding the use of artificial turf, the use of this material was not necessary to meet the Project's water demand (refer to Draft EIR Section 4.14, *Water Supply*). If a golf course is constructed, the Golf Course developer would have the option of using artificial turf if desired. Since impacts associated with water use were considered less than significant, the use of artificial turf was not necessary to reduce impacts below those analyzed in the Draft EIR. For this reason the environmental analysis did not examine the use of this material.

- 20-kk. As discussed in the Draft EIR, construction activities would occur in different locations on the Project site at different times; thereby not affecting the same sensitive receptors for significant periods of time. Implementation of Mitigation Measures AQ-1 through AQ-7 would lessen construction-related impacts by requiring measures to reduce air pollutant emissions from construction activities. These measures call for the maintenance of construction equipment, the use of non-polluting and non-toxic building equipment, the minimization of fugitive dust, and the use of machine guided grading equipment. Additionally, Mitigation Measure AQ-5 would require the development of a Dust Management Plan prior to the issuance of grading permits for the control of fugitive dust throughout the construction period. Please also refer to the sensitive receptors discussion on page 4.3-6 of the Draft EIR and impact analysis 4.3-2. Intersections with the highest level of Carbon Monoxide were studied and determined to be at concentrations well below federal and state standards. Additionally, due to the distance of the Resort from the Project (1,880 feet) potential health impacts from mobile source emissions would be less than significant.

IIIC Biological Resources

- 20-ll. The comment states that impacts of the Specific Plan would be severe, given its location within a critical wildlife corridor and the fact that 1,000 acres (this figure is given by the commenter) of land with diverse wildlife would be eliminated. The comment also states that the Draft EIR improperly touts the Specific Plan's "green qualifications".

Refer to Response 20.mm below for a detailed discussion regarding impacts to wildlife corridors. The site is sparsely vegetated with non-native grass, currently used for cattle grazing and has also been historically used for agriculture. Residential development occurs to the south, west, northwest and east. The onsite biological surveys found no evidence of wildlife corridors or habitat linkages. Moreover, the Butterfield Specific Plan does not conflict with any Multiple Species Habitat Conservation Plan (MSHCP) core linkage or wildlife corridor. Also, refer to Response 20.eee for a detailed discussion regarding the Project's impact on the existing grassland habitat onsite. This response explains that the loss of 1,200 acres of grassland/agriculture is adverse but not significant as the development does not conflict with the MSHCP conserved areas. Also, refer to Section 4.4, Impact Statement 4.4-1, which explains that no suitable habitat was found

and no sensitive plant species were identified on site during protocol surveys conducted between March and August 2010, no significant impacts are anticipated, and no mitigation is required regarding sensitive plant communities. While mixed chaparral was identified in the steeper elevations of the site, the vegetation mix did not include Riversidian sage scrub. As for the Specific Plan's "green qualifications", refer to Response 20.rrr.

20-mm. The comment lists the plant communities that would be affected by the Project. On the 1,543.4 acre site, only .4 acre consists of Southern Willow Scrub and 1.4 acres of disturbed Coastal Sage Scrub. In its current condition, the site provides very limited and marginal suitable habitat for special status plant species. As noted above, no sensitive plant species were detected onsite or within proposed offsite improvement areas during the surveys. For impacts to plant communities refer to Response 20.ll above. The comment also notes impacts to burrowing owl and six special status species. Also, for impacts to burrowing owl and six special status species, refer to Responses 20.fff and 20.hhh, respectively. Lastly, a discussion of the adequacy of the proposed mitigation measures is discussed in Responses 20.nnn through 20.sss.

20-nn. The comment states that the Draft EIR improperly depicts a portion of the northern Project site as a burn area and does not disclose its current composition. While the comment is correct in stating that a northern portion of the site is shown as a burn area, this burn area is also underlain with an "agricultural" biological resource classification that consists primarily of non-native grasslands currently supporting cattle grazing. Refer to Draft EIR Exhibit 4.4-1, also refer to p. 4.4-2. The site was surveyed in 2005, 2006 and 2010. Therefore, the Draft EIR does disclose its current composition.

IIIC1 The Applicant Should Not Be Rewarded for Agricultural Activities that Have Reduced the Site's Biodiversity

20-oo. The comment states that the Project site's capacity of restoration, and as suitable habitat for quail, foxes, and other wildlife, must be taken into account. CEQA requires that the impacts of a project be measured against existing conditions, i.e. the environmental baseline. It is not the roll of the EIR to speculate as to the condition of the site had historical uses been different, either less intense or more intense. As noted in Draft EIR Appendix C-1, Section 6.1.1, the 1,220.2 acres classified as "agriculture" is used for cattle grazing and is subject to the associated disturbance effects of soil compaction and waste deposition.

The area is now dominated by non-native grasses. Dense stands of non-native and taller growing vetch and/or wild radish are distributed across these large areas of the site. The comment letter's statement that the northern portion of the property could fully recover if grazing were to cease is speculative. The comment does not offer any technical

verification of this statement. However, the Draft EIR is required to analyze the existing physical environmental conditions.

Also, it is not clear as to which type of vegetation community the comment assumes the grazing land will return, since the comment only states that the site could in the future contain wildflowers and grasses. Regardless, the Draft EIR is not required to analyze future hypothetical scenarios that may take many years to reach fruition, but rather is required to examine existing conditions.

IIC2 Environmental Analysis is Deferred Until After Project Approval

20-pp. The comment states that the discussion of biological resources jumps straight from a description of the applicable regulatory framework to a discussion of Project Design Features and mitigation. The City does not agree with this assessment. The outline of the section goes from a recap of Project features (Project Design Features) relevant to biological issues, then transitions into the biological impacts analysis, and lastly offers mitigation measures to reduce those impacts.

The comment states that the Draft EIR contains no detailed, quantitative analysis of the Project's potential impacts on wildlife and populations of special status species or habitats. The City does not agree with this assessment. Quantitative analysis is provided throughout Draft EIR Section 4.4 from the Environmental Setting at 4.4.2.1 to the Impact Statements 4.4-1 to 4.4-3. In addition, Table I of the *Biological Resources Assessment* (Draft EIR Appendix C-1) provides clear quantitative analysis of the onsite vegetation communities, while Table II lists sensitive species including a discussion of habitat suitability and results of the field surveys. No special status vegetation communities or plants were observed onsite. Several special status species were observed onsite, including burrowing owl, northern harrier, California horned lark, loggerhead shrike, double crested cormorant, coyote, and San Diego black-tailed jack rabbit.

20-qq. The comment states there is no guarantee that analysis conducted pursuant to the permitting processes of CDFG, USACE and RWQCB would adequately cover what is required by CEQA. Also, the comment states that the analysis may not be subject to public review or may not be read by City decision makers prior to Project approvals. The Draft EIR and the studies and surveys undertaken thoroughly evaluate the environmental conditions of the site, analyze project impacts and mitigate effects on sensitive species and habitats. Mitigation includes pre-construction surveys, suitable buffers for nesting birds and burrowing owls (BIO-1 and BIO-2) and compensatory mitigation for impacts to riparian habitat (BIO-3). Impacts to Smith Creek are for the most part temporary as the habitat will be mitigated through re-vegetation of the Smith Creek Channel. Mitigation from impacts to riparian vegetation is discussed in the Draft EIR. Mitigation beyond what is required by CEQA may be imposed by other permitting

agencies as part of their approval process. Refer to Response 20.000 for an explanation of how these impacts are addressed in the Draft EIR. Also, Refer to Response 7 and Master Response #10.

- 20-rr. The comment states that the MSHCP consistency analysis must occur now, prior to the certification of the Draft EIR and must consult with CDFG, USACE, and USFWS; so that their input and analysis can be included in the Draft EIR and appropriate mitigation can be incorporated into the Specific Plan.

For a discussion regarding the MSHCP consistency analysis, refer to Response 7.n. Also, the Draft EIR identifies impacts and mitigation to jurisdictional waters, riparian habitat and wetland under Impact Statement 4.4-2. The City will consult with permitting regulatory agencies; however, these agencies will not issue final mitigation requirements until a formal application has been submitted and a Final EIR is certified. Therefore, it is not feasible to present approved final mitigation requirements by CDFG and USACE in the Final EIR. However, the Draft EIR has analyzed the impacts to CDFG and USACE jurisdictional water and proposed mitigation necessary to comply with CEQA and which is likely to occur through the CDFG's Streambed Alteration Agreement and USACE's 404 permitting processes. The Draft EIR states that impacts to jurisdictional areas would be mitigation at not less than a 1:1 ratio. However, the specific mitigation requirements of the regulatory agencies would be defined once the formal applications are provided to the regulatory agencies. Additionally, Mitigation Measure BIO-3 has been clarified stating that the mitigation requirements will be determined through applicable regulatory permitting programs of CDFG, RWQCB, and USACE, and shall consist of minimum 1:1 mitigation primarily through onsite restoration of 9.22 acres within the Smith Creek drainage and other onsite areas, which will be performed concurrently with development of the golf course (PAs 35 and 39) or alternative uses within these PAs (the golf course/open space PAs include various combinations of parks, trails, native habitat, drainage facilities, water quality improvements, groundwater recharge areas, and wetland mitigation areas). Also, refer to Master Response #10 for a detailed discussion regarding compensatory mitigation. Refer also to Section 4.0, *Errata* of this Final EIR.

- 20-ss. The comment states that the Project must comply with CEQA and present a full and thorough analysis of the Project site's biological resources and any adverse impacts that the Project approval might cause to those resources.

Such an analysis is provided in Draft EIR Section 4.4, Impact Statements 4.4-1 through 4.4-3 and Appendix C-1, *Biological Resources Assessment*, and C-2, *Jurisdictional Delineation Report*.

The comment asserts that the Draft EIR inappropriately defers to the MSHCP for its analysis of covered species and assumes that compliance with the MSHCP would reduce all impacts below significance. The City does not agree with this characterization of the Draft EIR biological analysis. The Draft EIR analyzes both the Project impacts on biological resources (Impact Statements 4.4-1 and 4.4-2) and the Project's consistency with the MSHCP (Impact Statement 4.4-3). At no point does the Draft EIR conclude that mere consistency with the MSHCP would reduce all biological impacts below significant levels.

IIIC3 Wildlife Corridors Are Located Onsite

20-tt. The comment states that the Draft EIR wrongly concludes that Specific Plan implementation would not have significant impacts on wildlife corridors and movement.

A wildlife corridor is habitat connecting wildlife populations separated by human activities. The project site is bounded by the I-10 freeway, commercial and residential uses to the south and southeast, development to the west and northwest. See DRAFT EIR, Exhibit 3.0-2. The only wildlife access is to and from the north and northeast into the San Bernardino National Forest. A barbwire fence surrounding the site precludes the use of the site for any significant wildlife movement to other habitats. Additionally, the Butterfield Specific Plan does not conflict with any Multiple Species Habitat Conservation Plan (MSHCP) core linkage or wildlife corridor.

20-uu. The comment states that the Draft EIR's conclusion conflicts with the findings of the EIR for the Black Bench project. Refer to Response 20.tt above. Given the existing development to the west and south, there is no wildlife corridor between the San Bernardino and San Jacinto mountains through the site. The report referenced at http://www.scwildlands.org/reports/SCML_SanBernardino_SanJacinto.pdf is a 225 page report by South Coast Wildlands prepared in 2005 and recommending a wildlife linkage design for the area. Notably, the Report confirms that the Project site is not suitable habitat for the various wildlife considered and was not proposed to be part of any wildlife corridor.

20-vv. The comment states that the Draft EIR's conclusions would change if additional biological surveys were performed during times of seasonal migrations, or for longer periods of time. Refer to Response 20.tt above. The information presented in the Draft EIR, surveys and studies is sufficient to establish that the Project site does not function as a wildlife corridor.

IIIC4 Impacts to Smith Creek and Riparian Habitat are Not Analyzed

20-ww. The comment describes the existing environmental setting within Smith Creek and notes that western burrowing owls locate their burrows around Smith Creek. As stated in Draft EIR pg. 4.4-21, as burrowing owl habitat exists on-site and burrowing owls have been detected on-site in the past, pre-construction surveys for burrowing owl will be required prior to mass grading and subsequent rough grading for subdivision development pursuant to standard CDFG and MSHCP protocols as provided for in Mitigation Measure BIO-2. The City agrees with the description of Smith Creek as stated in this comment.

20-xx. The comment characterizes the proposed Smith Creek as a grass-lined urban storm sewer. The City does not agree with this depiction of the proposed future Smith Creek. No functions related to sewer are proposed within Smith Creek. Smith Creek will be altered but the banks will be vegetated with native plants providing new habitat in place of sandy banks and nonnative grasses that currently exist. The comment does not substantiate how sewer, in the opinion of the commenter, would be involved. Also, the proposed Smith Creek would incorporate natural plant materials as described on pg. 4.3-19m of the Draft EIR and thus would not be lined solely with grasses. Smith Creek would be realigned through the Project site. The Creek's upstream entrance into the site at the north end would remain in its current location and as would the Creek's exit at the south end of the site. Proposed golf course facilities would be adjacent to the realigned creek, but kept separate. Water quality management facilities proposed would be located in the proposed golf course open space area adjacent to the creek, but would be kept separate. Under existing conditions, Smith Creek is generally an unvegetated, disturbed creek within the limits of the Project site. This is a result of past ranching and agricultural use within the watershed. Although a few grade control structures are propose within Smith Creek, a majority of the proposed realigned creek will be natural bottom with natural sides and past ranching and agricultural uses will be eliminated. The realigned creek will, in general, be in a similar location as compared to the existing stream channel and will not eliminate the functions and values of the stream. Mitigation Measure BIO-3 requires the Project Applicant to provide compensatory mitigation for the permanent disturbance to 2.47 acres of CDFG jurisdiction, of which 0.41 acre consists of vegetated riparian habitat, which will consist of the establishment, enhancement, and/or restoration of at least 2.47 acres of CDFG jurisdiction within, or adjacent to, the newly realigned Smith Creek. Mitigation will include the establishment, enhancement, and/or restoration of mixed southern willow scrub and alluvial fan sage scrub habitat, similar to the existing habitat onsite.

Once realigned, Smith Creek will regain (if not increase) its function and value through the restoration of 9.22 acres of streambed (including vegetated riparian habitat) and the creation of at least 2.47 acres of CDFG vegetated riparian habitat (mixed southern

willow scrub and alluvial fan sage scrub habitat) within the creek system. With the establishment, enhancement, and/or restoration of at least 2.47 acres of CDFG jurisdiction (including vegetated riparian habitat) within Smith Creek, along with the restoration of 9.22 acres of temporary streambed impacts, there will be a no net loss of CDFG jurisdiction; therefore, there will be no net loss of acreage or habitat value as defined in the Fish and Game Code. Therefore, the proposed establishment, enhancement, and/or restoration of at least 2.47 acres of CDFG jurisdiction (including vegetated riparian habitat) and the restoration of 9.22 acres of vegetated riparian habitat and streambed within, or adjacent to, Smith Creek, will reduce potential impacts to waterways to a less than significant level in compliance with CEQA. Additionally, groundwater recharge functions will be returned to the creek system, which are currently lacking. Therefore, the realignment of Smith Creek will be an improvement as compared to existing conditions onsite. Also, refer to Master Response #10 for a detailed discussion regarding compensatory mitigation.

- 20-yy. The comment states that zero analysis of Smith Creek's existing biological functions and the Project's potential impacts on those functions are provided in the Draft EIR.

Draft EIR Appendix C-1, *Biological Resources Assessment*, contains a detailed description of existing conditions within Smith Creek (refer to Section 6.1). This assessment includes a detailed mapping of biological habitat within Smith Creek, as well as an analysis of the value of that habitat. Also, refer to Draft EIR Appendix C-2, *Jurisdictional Delineation Report*, pg. 15-17 which provides further details regarding Smith Creek's existing conditions. On site, Smith Creek currently serves as a natural wash, with little value as habitat. Nearly the entire length of the creek consists of sandy wash. The function of the creek will not be affected but re-vegetation will enhance the creek's value as habitat. The only areas of riparian habitat that may be impacted are mitigated by BIO-3.

The comment further states that the Draft EIR contains no information about species that might use the creek. Appendix C-1, Section 7.0 catalogues and described those biological resources determined to be sensitive within the Project site, which includes Smith Creek. This includes an account of special status species and community occurrences within the entire study area. Draft EIR Section 4.4.4 discusses potential impacts of the proposed Project on the biological function provided by Smith Creek. With the recommended mitigation measures, impacts to Smith Creek were determined to be less than significant.

- 20-zz. The comment states that few of the site's drainages and wetlands are described in the Draft EIR and their biological role is ignored. Refer to Response 20.yy above for a discussion regarding the extent of the assessment of vegetation communities and species in the study area.

The comment also notes that even ephemeral streams are important habitat that must be analyzed. The *Jurisdictional Delineation Report* mapped and analyzed ephemeral streams (refer to Exhibits 2 and 3 of this report). All potential Corps jurisdictional waters within the Project area are, in fact, ephemeral and were mapped as Non-Relatively Permanent Waters (Non-RPWs). What is more, Smith Creek itself is considered an ephemeral drainage. Therefore, ephemeral streams are accounted for in this report, as well as in the *Biological Resources Assessment* under the discussion of vegetation communities (Section 6.1) and jurisdictional waters, riparian/riverine, and vernal pools (6.4).

20-aaa. Impacts to Smith Creek were fully analyzed and mitigated. While the habitat value of the creek in its existing condition (dry sandy wash with non-native plants sparsely populating the banks) is low, its re-vegetation with native plants will enhance the value of the habitat. Compensatory mitigation of riparian areas is 1 to 1 because riparian habitat will be restored onsite to enhance the value of the existing habitat. Additional permitting may result in an increase in the ratio but it is not necessary to reduce impacts to less than significant levels. The Applicant is committing to a minimum of 2.47 acres of compensatory mitigation to address impacts to riparian habitat.

Section 15370 of CEQA considers mitigation as the following:

- (a) *Avoiding the impact altogether by not taking a certain action or parts of an action.*
- (b) *Minimizing impacts by limiting the degree or magnitude of the action and its implementation.*
- (c) *Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.*
- (d) *Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.*
- (e) *Compensating for the impact by replacing or providing substitute resources or environments.*

Based upon this CEQA definition, the Applicant has already proposed to conduct mitigation/restoration activities pursuant to sub-parts (c) and (e) of Section 15370, which complies with CEQA. The applicant is not required to mitigate potential streambed impacts to the satisfaction of the CDFG in this CEQA document; rather, the applicant is required to provide compensatory mitigation which complies with CEQA and, at a minimum, would reduce impacts to a less than significant level. The mitigation proposed in Responses 20xx and 20zz above comply with CEQA and reduce potential impacts to Smith Creek and all other drainage features on site to a less than significant level. Also, refer to Master Response #10 for a detailed discussion regarding compensatory mitigation of riparian areas.

20-bbb. See 20xx, yy, and aaa, above. The natural conditions of the creek are of limited habitat value and will be enhanced by the replacement of non-native plants with native

plants. The creek will also be protected from cattle grazing. Plans for the golf course open space drainage system are provided in the Specific Plan, Section 3.4.2. Refer to Specific Plan Exhibit 3.7a, *Master Drainage Plan*. Also refer to Exhibit 3.7c, *Conceptual Golf Course Drainage Plan* for a more detailed description of the proposed concept, including potential water quality feature locations and groundwater recharge areas (discussed in Specific Plan Section 3.5). Additionally, the commenter should refer to the compensatory mitigation discussion contained in Responses 20xx and 20zz and Master Response #10.

20-ccc. On site, Smith Creek currently functions as a natural drainage facility with little habitat value. The natural functions of the creek will be maintained and, with respect to habitat value, improved by the Project.

20-ddd. Smith Creek will not be converted into a conveyance facility. The creek will be maintained in natural open spaces, separate from the golf course facilities. Under existing conditions, Smith Creek is generally an unvegetated, disturbed creek within the limits of the Project site. This is the result of past ranching and agricultural use within the watershed. Although a few grade control structures are proposed within Smith Creek, a majority of the proposed realigned creek will be natural bottom with natural sides and past ranching and agricultural uses will be eliminated. Therefore, Smith Creek is being preserved, as is practicable, as a natural drainage system and improved through the proposed creation, restoration, and enhancement of, at a minimum, 2.47 acres of CDFG jurisdiction on site to compensate for the permanent disturbance to 2.47 acres of CDFG jurisdiction on site. This will return functions and values to the natural creek system that have been lost as a result of past ranching and agricultural operations on site and allow the creek to continue functioning as a means of flood control. Finally, the applicant is also proposing to restore all temporary impacts to 9.22 acres of CDFG jurisdiction on site; therefore, the proposed improvements to Smith Creek are in compliance with the City of Banning's policies. Further data is contained in Responses 20xx and 20zz and Master Response #10.

IIIC5 The Draft EIR Downplays the Importance of Grasslands

20-eee. The comment states that the Draft EIR fails to disclose the ecological role of grasslands on the Project site, and fails to list or quantify the plant or animal species or populations present.

Grassland habitat is adequately conserved within the MSHCP for the sensitive species listed on the site. There are 154,140 acres of grassland (151,403 acres of non-native grassland) in the MSHCP Plan Area. Approximately 42,820 acres of grassland (40,191 acres of non-native grassland) will be conserved through the MSHCP process. The MSHCP has determined that these conserved grasslands are adequate habitat for raptors and other sensitive species in the region. The loss of 1,200 acres of grassland/agriculture

is adverse but not significant as the development does not conflict with the MSHCP conserved areas. The MSHCP also states “The Banning-Beaumont area supports approximately 14,000 acres of grassland” that are not conserved under the Plan. The Butterfield Specific Plan falls under these grasslands that are not planned for conservation under the MSHCP. Compliance with the MSHCP, including payment of local development mitigation fees, offsets potential cumulative impacts related to development of the Project. Additionally, approximately 28 percent of the site will remain open space. Approximately 58 acres of open space consists of the northern and eastern buffers that are adjacent to the foothills leading up into the San Gorgonio Mountains. This buffer and the San Gorgonio Wilderness provide sufficient suitable habitat to accommodate species that currently forage or live on the site.

IIIC6 Habitat for Burrowing Owls Would Be Destroyed

20-fff. The comment states that the Draft EIR does not properly analyze the potential impact on the western burrowing owl and on its continued existence.

Burrowing Owls nest underground in abandoned burrows dug by mammals or if soil conditions allow they dig their own burrows. The proposed clearance surveys and passive relocation are adequate mitigation for burrowing owls as stated in the MSHCP Section 6.3.2 and the Burrowing Owl Consortium Guidelines. These measures protect breeding birds and their nests. The burrowing owl is covered under the Incidental Take permit for the MSHCP. The MSHCP Conservation Area adequately conserves habitat for this species. Additionally, the approximately 58 acres of open space on the northern and eastern boundaries would provide sufficient habitat for any owls that return to the site for breeding.

20-ggg. The comment asserts that Mitigation Measure BIO-2 hinders nesting efforts when owls return and would result in a potential adverse impact on the persistence of burrowing owls in the area. In addition, the comment states that this mitigation conflicts with the General Plan Biological Resources Element Policy 1 Refer to Response 20.fff above.

IIIC7 Other Sensitive Species Live in the Specific Plan Area

20-hhh. The comment states that the Draft EIR fails to analyze the impacts that reduction of 1,500 acres of habitat would have on the double-crested cormorant, northern harrier, California horned lark, loggerhead shrike, coyote, and San Diego black-tailed jackrabbit.

As stated in the *Biological Resources Assessment* (Draft EIR Appendix C-1, Section 8.2.3), the Project’s direct impacts are not considered significant. These species are all adequately covered by the MSHCP Conservation Area as found on the MSHCP list of

Covered Species Adequately Conserved. In addition, there is no nesting habitat for the double-crested cormorant on site. As noted in the EIR, the gradual development of the project will allow species to safely relocated over time to the less disturbed areas, including the open space provided onsite in the northern and eastern portions of the site. The vegetated Smith Creek will also provide additional opportunities for wildlife to forage and live.

20-iii. The comment asserts that the Draft EIR Biological Resources Assessment (Draft EIR Appendix C-1) must be expanded to include a determination as to what biological resources will be affected, how these resources will be affected, and why particular effects will be or will not be significant. Refer to Response 20.hhh above.

20-jjj. The comment lists species which purportedly have been observed by residents on the Project site. The comment requests that the Draft EIR include an analysis of these species and the Project's potential impacts upon them.

The *Biological Resources Assessment* (Draft EIR Appendix C-1) Table II of this study analyzes special status species recorded within the USGS 7.5' Yucaipa, Forest Falls, San Gorgonio Mountain, El Casco, Lakeview, San Jacinto and Lake Fulmor quadrangles within the California Natural Diversity Database, MSHCP, or otherwise known to occur in the region. A number of the species listed in this comment are non-listed species of least concern (e.g., great egret, blackbird, American kestrel). Others are already found in Table II of the study (e.g., Cooper's hawk, golden eagle). Therefore, the *Biological Resources Assessment* (Draft EIR Appendix C-1) adequately discusses habitat suitability and results of the surveys for all sensitive wildlife species recorded in the regional study area.

IIIC8 Impacts on Biological Resources in the San Bernardino National Forest and Preserved Habitat at the Highland Springs Resort Must Be Analyzed.

20-kkk. The comment states that the Draft EIR fails to disclose, analyze, or mitigate its offsite impacts and must include an analysis of specific edge effects on the functionality of adjacent preserved areas and upon the sensitive species that reside within these areas.

Indirect impacts resulting from population growth in the area after habitation of the development are discussed in Draft EIR Appendix C-1, Biological Resources Assessment, Section 8.3. Guidelines for avoidance of these indirect impacts are discussed in MSHCP Section 6.1.4 (Urban/Wildlands Interface or UWI) for projects near MSHCP Conservation Areas. Mitigation measures in compliance with the MSHCP UWI policies are provided in the Draft EIR (Mitigation Measure BIO-5). The UWI Guidelines are provided to minimize the types of edge effects described in the comment. These guidelines shall be implemented in conjunction with review of individual public and

private development projects in proximity to MSHCP Conservation Areas. These guidelines require development projects to address the following areas:

- Drainage - incorporate measures, including measures required through the National Pollutant Discharge Elimination System (NPDES) requirements, to ensure that the quantity and quality of runoff discharged to the MSHCP Conservation Area is not altered in an adverse way when compared with existing conditions.
- Toxics - incorporate measures to ensure that application of such chemicals does not result in discharge to the MSHCP Conservation Area
- Lighting - Night lighting shall be directed away from the MSHCP Conservation Area to protect species within the MSHCP Conservation Area from direct night lighting.
- Invasive Species - When approving landscape plans for Development that is proposed adjacent to the MSHCP Conservation Area, Permittees shall consider the invasive, non-native plant species listed in *Table 6-2* and shall require revisions to landscape plans (subject to the limitations of their jurisdiction) to avoid the use of invasive species for the portions of Development that are adjacent to the MSHCP Conservation Area.

The Specific Plan addresses these concerns through the regulations and guidance developed for the proposed Project. For example, the northern portion of the Property bordering the San Bernardino Forest consists of 56.3 acre Open Space buffer. Mitigation Measures for Hydrology and Water Quality, Hazards and Hazardous Materials, Aesthetics, and Biological Resources address the MSHCP guidelines. In addition, as the Project Applicant submits Tentative Tract Maps, they will be required to provide MSHCP Consistency Analyses that will identify any additional measures to address the MSHCP Guideline requirements listed above. With the incorporation of these measures, the Draft EIR determined that less than significant impacts related to the Project's UWI would occur. Refer to Draft EIR Section 4.4, Impact Statement 4.4-3.

- 20-III. The comment states that domestic cats within the Specific Plan area would present a large threat to the burrowing owl and scrub-dwelling bird populations' continued viability. Refer to Response 20.kkk above for a discussion of the indirect effects on biological resources of development of the Project site. The 56.3 acre Open Space buffer in Planning Area 73 as well as the buffers in Planning Areas 69 and 75 would separate domestic animals from the areas adjacent to the San Bernardino Forest. In addition, ninety percent of the residential development is located south of Highland Home Road which presents a barrier to movement of domestic animals. With adherence of the guidelines identified above, indirect effects on biological resources would remain less than significant.

20-mmm. The comment states that seeds and spores from individual homes and other areas could be carried into preserved areas by birds and the wind. Refer to Response 20.kkk and 20.lll above for a discussion of the indirect effects on biological resources occurring as a result of the development of the Project site. The Project would comply with the required UWI policies as specified in the MSHCP and would, thus, generate less than significant impacts in this regard. In addition, the proposed Project has been planned to avoid all significant indirect impacts associated with drainage, toxics, lighting, noise, barriers, invasive species and brush management that could potentially occur on the Project site.

IIC9 Biological Mitigation Is Inadequate, Deferred, or Both

20-nnn. The comment states that the mitigation presented in the Draft EIR is vague, unenforceable or inadequate. The comment cites Draft EIR 4.4-19 which discusses the Project's urban/wildland interface. According to the comment, the Draft EIR fails to describe enforceable mitigation for biological impacts. As discussed in Section 20.kkk, Mitigation Measure BIO-5 would require UWI required measures to be incorporated into the construction plans and specification to minimize the potentially adverse impacts on adjacent MSHCP Conservation Areas. In addition, the proposed Project has been planned to avoid all significant indirect impacts associated with drainage, toxics, lighting, noise, barriers, invasive species and brush management that could potentially occur on the Project site.

20-ooo. The comment asserts that Mitigation Measure BIO-4 would not be developed until far into the future and that the Draft EIR fails to provide analysis of the Project's impacts on riparian corridors, a description of what the mitigation would be, or the impacts of these mitigation measures.

Mitigation requires pre-construction surveys and buffers to avoid impacts to nesting birds and burrowing owls. Compensatory onsite mitigation at a 1:1 ratio minimum is required for permanent impacts to CDFG jurisdictional waters (including wetlands) and Regional Board and Army Corps jurisdictional waters. In addition to onsite mitigation, the MSHCP requires that the City approve a DBESP illustrating compliance with section 6.1.2 of the MSHCP. The applicant is required to secure permits from the relevant wildlife agencies and submit all protocol and habitat assessments to the City. The DBESP then becomes a condition of approval of the grading permit. Construction plans are required to include a set of conditions to minimize adverse construction impacts including dust control, equipment storage, staging, stream diversion and exotic plant removal.

Mitigation Measure BIO-3 has been clarified stating that the mitigation requirements will be determined through applicable regulatory permitting programs of CDFG, RWQCB, and USACE, and shall consist of minimum 1:1 mitigation primarily through onsite restoration of 9.22 acres within the Smith Creek drainage and other onsite areas, which will be performed concurrently with development of the golf course (PAs 35 and 39) or alternative uses within these PAs (the golf course/open space PAs include various combinations of parks, trails, native habitat, drainage facilities, water quality improvements, groundwater recharge areas, and wetland mitigation areas). Refer to Master Response #10 and Section 4.0, *Errata* of this Final EIR.

The Project follows MSHCP procedures for review and implementation of the applicable mitigation measures for impacts to riparian/riverine area. The riparian/riverine areas on the site provide no value as habitat to species specified in Section 6.1.2 of the MSHCP. Loss of riparian vegetation and jurisdictional riverine areas will be mitigated through permitting actions with the appropriate agencies, including a Determination of Biologically Equivalent or Superior Preservation (DBESP). A DBESP shall be prepared following approval of all required permits from the California Department of Fish and Game (CDFG) and USACE, which shall be reviewed by the CDFG and USFWS, and approved by City staff, in compliance with Section 6.1.2 of the MSHCP. Mitigation measures required by the County Regional Conservation Authority (RCA) and/or by the USACE, CDFG, or the Regional Water Quality Control Board (RWQCB) will be integrated into the DBESP and included in the conditions of approval for the various jurisdictional permits. The Project Applicant shall implement the approved DBESP as a condition of the issuance of a grading permit and comply with all biological mitigation measures contained within the DBESP.

20-ppp. The comment states that the Draft EIR allows Mitigation Measure BIO-3 to consist of golf course development or of alternative uses within these Planning Areas. The City does not agree with this interpretation of Mitigation Measure BIO-3. This mitigation states that the onsite restoration within Smith Creek drainage and other onsite areas will occur *concurrently* with development of the golf course or other alternative uses (as defined in Draft EIR Section 3.0, *Project Description*). This Mitigation Measure is not suggesting that the golf course/alternative uses are part of the mitigation, rather that their construction would be concurrent with the mitigation implementation. For a description of the compensatory mitigation, refer to Response 20.000 above.

20-qqq. The comment states that a 500-foot buffer should be provided in Mitigation Measure BIO-1. The measure has been revised to include a minimum buffer of 300 feet to protect nesting birds. This buffer may be extended if required by CDFG as part of its permitting process. The buffer will be implemented or construction halted to prevent disturbance to nesting birds protected under the Migratory Bird Treaty Act (MBTA).

Active burrowing owl nesting areas will be protected by a 300-foot buffer from construction. Burrowing owl burrows determined to be inactive by a biologist experienced in burrowing owl behavior will be removed. Inactive, unoccupied burrows are not protected under the MBTA. Also, refer to Response 20.fff above.

- 20-rrr. The comment states that the open space recreational elements would not serve as replacement habitat or reduce impacts caused by the approximately 1,500 acres of open space habitat on the Project. The golf course and active recreational areas are not intended to provide mitigation for vegetation removal to agriculture or grassland vegetation. Portions of the open space will provide for mitigation of biological resources associated with Smith Creek. The plant palette and re-vegetation associated with Smith Creek is designed to replicate natural conditions and to preserve and enhance biological values. Also, the proposed Project will include native plant materials in its plant palette for mitigation of biological impacts occasioned by the realignment of Smith Creek (refer to Draft EIR Section 4.4.4, "Project Design Features" No. 3). Planning Areas 69, 73 and 75 will provide over 65 acres of Open Space buffer in the north and northeastern portions of the site (that is currently subject to grazing) that would support biological resources.

Additionally, water quality BMPs implemented pursuant to the WQMP Guidelines for the Whitewater River Watershed area, described in Draft EIR Impact Analysis 4.9-1, would be required as part of the golf course development and development tributary to Smith Creek realignment.

- 20-sss. The comment states that the golf course would not serve as habitat mitigation or native plant mitigation and that active recreational areas would attract crows, mockingbird and the like, driving out sensitive and less common species. Refer to Response 20.rrr above regarding the golf course and the active recreational areas' effect on biological resources.

III C10 Cumulative Biological Impacts

- 20-ttt. The comment states that the Specific Plan implementation would cumulatively impact available habitat in the region, and the Draft EIR should further analyze the cumulative impacts to sensitive species observed onsite, including the burrowing owl. For impacts and mitigation regarding the burrowing owl, refer to Draft EIR Section 4.4, Impact Statement 4.4-1 and Response 20.fff.

The comment also states that the Draft EIR concludes without substantiation that open grassland habitat is not sensitive and is widely available in the area. Refer to Response 20.eee concerning the availability of grasslands in the region. No specific mitigation is required under the MSHCP for impacts to agriculture/grasslands. Compensation has been provided under local development mitigation fees for the MSHCP. Also, refer to

Response 7.n. above for cumulative impacts related to the removal of grassland/agricultural land.

IIID1 Bradshaw Trail

20-uuu. The comment states that the Cultural Resources Assessment and Historic Evaluations (LSA, 2006) acknowledges it is likely the Bradshaw Trail at one time cut through the Specific Plan site. The comment asserts that the proposed Project would eliminate this portion of the Bradshaw Trail and would preclude the County from reconnecting the trail between the Gilman Ranch and Highland Springs stops. A mitigation measure requiring the avoidance of destruction of the Trail, if it is discovered, is requested in the comment, as well as a measure to preserve a buffer zone of several hundred feet around the Edison easement as a potential site for relocation of the Trail, if reconstructed.

While the comment cites the Cultural Resources Study's acknowledgement of the likely one-time existence of the Bradshaw Trail across the Project site, the study also notes that during the cultural consultant's field survey the historic Bradshaw Trail was not identified.

However, the Specific Plan has allowed for the continuation of hiking trails around the northern and eastern edge of the Project site within the designated Open Space and Park Planning Areas (PAs 67, 69, 73, 74, and 75). In addition, Mitigation Measure CUL-2 (refer to Draft EIR Section 4.6) will require that an archeological resource monitor be present to observe initial mass grading in upper soils to identify and further evaluate any cultural resources that may be inadvertently discovered in the Project area. This would include archeological artifacts related to the former use of the Bradshaw Trail. The Applicant has not been approached by the County about re-creating Bradshaw Road nor have any feasibility studies been performed to connect the Gilman Ranch and Highland Springs Resort.

IIID2 Historic Significance of Transmission Corridor

20-vvv. The comment asserts that the Draft EIR has failed to analyze the potential significance of the historic transmission line under the standards required under CEQA. The approximately one-mile-long segment of the transmission line within the Project area is more than 50 years old and, as such, was evaluated for significance in compliance with CEQA. A resource that is listed as a historical resource is presumed to be significant. The evaluation used the National Register of Historic Places and California Register of Historical Resources criteria and determined the transmission line is not listed. The City of Banning does not appear to have any local criteria for designation; therefore, no evaluation using local criteria was possible. While a lead agency may find,

based on substantial evidence, that an unlisted historical resource if significant, there is no evidence that the transmission line contributes to California's history and cultural heritage, is associated with important people or have any distinct characteristics or artistic values. The evaluation of this segment of the transmission line complies with the requirements of CEQA. Evaluation of the entire transmission line, which stretches at least 20 miles, is outside the scope of this Project.

20-www. The comment states that the Draft EIR dismisses the possibility that the historic transmission corridor could be determined eligible for listing in the National or California Registers. The comment also states that the Draft EIR should include a more thorough analysis of this resource, including an assessment of the entire transmission corridor.

An assessment of the entire transmission corridor is outside the scope of this Project (refer to Response 20.vvv, above). The Draft EIR will be revised as follows: **LSA-PDH0601-H-3**. This resource consists of an approximately one-mile-long segment of a historic-period transmission corridor, including steel towers, transmission lines and a dirt access road. The corridor is the southernmost of three adjacent transmission alignments and is part of a line that is at least 20 miles long. Review of aerial photographs suggests that the towers were constructed between 1943 and 1953 (USGS Beaumont 7.5' quadrangle). The alignment appears to be in operating conditions, retains its original design and use, and appears to remain in its original position. However, no evidence was found indicating that it is associated with important people or events in history and it appears to be a typical example of a common resource type. Therefore, this segment does not meet the criteria for listing in the National Register of Historic Places or California Register of Historical Resources and is not a historical resource for the purposes of CEQA. Refer to Final EIR Section 4.0, Errata for these changes.

IIIE Hydro-modification Onsite and Offsite

20-xxx. The comment states that the Draft EIR fails to analyze the potential for changes in channel stability of Smith Creek and the potential for hydro-modification downstream.

During significant storm events, when channel stabilization is typically a concern, the Smith Creek channel will spill over the top of the channel and spread onto the fairways. By spreading the flows, the wetted perimeter is increased resulting in slower velocities. The proposed main channel will be primarily lined with turf reinforcing mat (TRM), which will be covered in soil and vegetated. The result is a natural, vegetated channel. For the few areas where the velocities are too great to use just TRM, drop structures will be utilized to further protect the channel from erosion.

The proposed drainage facilities for the Project were designed to replace the systems identified in the County Master Plan of Drainage. The *Backbone Drainage Study* (Draft EIR Appendix G4), using the methodology prescribed in the Riverside County Hydrology Manual, determined that the proposed drainage system would provide the same function as the County master planned facilities, and would actually reduce the master peak flow rates at the Project boundaries. The Draft EIR analyzed and determined that existing peak flows within the Smith Creek and Pershing Channel culverts of 3,518 cubic feet per second (cfs) and 946 cfs would be reduced to 3,413 cfs and 740 cfs, respectively, after the project is completed. Thus, hydro-modification due to increased flow rates would not occur downstream of the Project site. All further detailed plans for the Project that are submitted for approval, such as Tentative Tract Maps, Grading and Drainage Plans, will be required to follow the standard processes of the City of and the Riverside County Water Conservation and Flood Control District, including the preparation of more detailed hydrology studies and hydraulic calculations, to address both on-site and off-site improvements needed.

20-yyy. The comment states that this same issue (raised in Comment No. 20.xxx) was raised during the review of the Black Bench Specific Plan EIR in 2006. The comment asserts that the proposed Project will have an even greater effect on hydro-modification and channel stability than the Black Bench project due to its larger scale.

Preliminarily, it should be noted that any attempt to incorporate comments made in response to the EIR for another project is deficient. Any such comments are not part of the record for this project.

Refer to Response 20.xxx above. Flow rates would be reduced at the Project's downstream boundary, reducing downstream hydro-modification from increased flow rates.

IIIF1 General Plan Consistency

20-zzz. The comment states that the proposed Project, which includes a proposal for a General Plan Amendment to revise the land use designation map, would create an internally inconsistent General Plan, in violation of Government Code Section 65300.5. The comment explains that the City's General Plan expressly prohibits the use of "Specific Plan" as a land use designation.

As stated in the Specific Plan Draft EIR, Section 4.10, *Land Use and Planning*, Impact Statement 4.10-2, the Applicant proposes an amendment to the General Plan in order for the General Plan Land Use Map to reference the Butterfield Specific Plan as an amendment and restatement of the Deutsch Specific Plan. The proposed revisions are consistent with the overall intent of the original Specific Plan, and would be generally

consistent with other land use designations within the original Specific Plan. The proposed General Plan Amendment would allow for the orderly planned development of the Butterfield Specific Plan site in a manner that is consistent with current market requirements and revised regulatory requirements. The current General Plan does include a Specific Plan as a land use designation overlay and requires its use when a Specific Plan is approved (General Plan, pgs. III-8 and 9).

The comment correctly identifies that changing the General Plan Land Use Map to reflect the Specific Plan overlay designation alone would create an inconsistency with the current General Plan text. To avoid impacts related to this inconsistency with the General Plan, the Project would require a General Plan Amendment that would change the text of the General Plan, in addition to the General Plan Land Use Map, that includes the Specific Plan overlay with reference to the approved Specific Plan land use plan for specific land use designations. It is the intent of the City to adopt a General Plan Amendment that would change the wording of the General Plan to allow a single land use designation that refers to the Specific Plan where specific land use designations can be found, in lieu of a General Plan map reflecting specific land uses. The land use designations in the Butterfield Specific Plan are similarly titled with similar densities to the land use designations identified and used in the General Plan.

20-aaaa. The comment also states that, in replacing specific land use designations for a single “Specific Plan” designation, the proposed Project is inconsistent with the General Plan’s Land Use Element Citywide Policy 1, which requires the City to maintain an appropriate balance of land uses, and with the Land Use Element’s Residential Policy 1, because the proposed Project would fail to provide a range of uses on the General Plan’s land use map.

A range of land uses and housing densities is provided in the proposed Specific Plan Land Use Plan. The Specific Plan designation is not intended as a single land use; rather it is intended as a reference from the General Plan to the Specific Plan for specific details on the land use designations approved with the Specific Plan and found to be consistent with the General Plan. Therefore, after the City adopts the General Plan Amendment to allow the land use map to reflect a Specific Plan overlay which would allow for the Specific Plan’s individual land uses, the Project would be consistent with the General Plan Land Use Element Citywide Policy 1 pursuant to Government Code Section 65359.

20-bbbb. The comment also states that, if the City’s General Plan is amended as proposed (without specific land use designations), the General Plan would violate Government Code Section 65302 by failing to include standards of population density and building intensity.

See Response 20.zzz, above. The General Plan Amendment would allow a single land use designation (Specific Plan overlay) that refers to the Specific Plan, where specific details regarding land use designations can be found. The Land Use Plan Development Standards are found in the Butterfield Specific Plan, Section 3, *Development Plan*, and include standards for the development of a range of uses, with a maximum total of 5,387 dwelling units. Section 5, *Development Regulations*, provides development standards related to building density, which provide population densities and intensity for each of the land uses, including permitted, conditional and prohibited land uses.

IIIF2 General Plan Policy Consistency

20-cccc. The comment states that the Specific Plan is inconsistent with numerous General Plan policies and programs. Particularly, the comment states that the City fails to ensure there would be adequate public facilities as a condition of approval.

The City, however, finds that they are taking a leadership role, ensuring that public services are provided. Section 3.7 (“Public Services and Project Phasing Plan”) of the Butterfield Specific Plan describes the various public and municipal services and utilities that will be developed as part of the proposed Project. Draft EIR Section 4.12 evaluates impacts related to these public services and utilities and imposes mitigation where appropriate. Sites are reserved for each of the proposed onsite public facilities, including two new school sites, numerous parks, the utility substation (already built), and the potential onsite wastewater treatment plant and fire station. The project provides funding for these facilities through school fees and other development fees and taxes. The timing of the construction of new facilities is dependent on many factors and requires cooperation between the developer and the various public agencies. PSU-1 requires the applicant to fund or construct a new fire station and sets aside a specific location on which to build the station when deemed necessary. PSU-3 conditions approval on setting aside schools sites for new schools. In addition, the developer has agreed to provide for an additional school site if Beaumont USD requires an additional site. Therefore, the Draft EIR is consistent with Land Use Element Public Services Policy 1 and 2 and Program 2.A.

20-dddd. The comment states that the Specific Plan fails to adequately mitigate traffic impacts and consistently implement the City’s circulation plan. The comment also references Comment Nos. 20.aaaaa through 20.jjjjj above (II.I. according to commenter’s numbering). Refer to the Responses to 20.aaaaa through 20.jjjjj below regarding roadways and their impacts in the northern portion of the Specific Plan area, particularly as they relate to the potential Brookside Ave./Highland Home Road extension. Also, refer to Master Response #2. The Banning General Plan describes two alternatives for the extension of Highland Home Road. Therefore, the Specific Plan’s circulation plan is consistent with the General Plan’s circulation plan.

Traffic impacts were conservatively analyzed assuming full buildout of the project under existing conditions. All improvements are required to be built prior to the increase in demand occasioned by new development. As the community is built out, periodic traffic updates must be prepared to confirm that improvements triggered by subdivision map approvals are either built or funded by the applicant as a condition of the tentative map approval. This ensures that road improvements occur in a timely manner to avoid significant effects on the existing road system.

The study intersections evaluated in the Traffic Impact Assessment (TIA) will function at acceptable levels of service with recommended mitigation (refer to Draft EIR, Section 4.13, pg. 4.13-20 through 21 and Table 4.13-13). Likewise, freeway segments on I-10 and SR-60 will operate at acceptable levels of service (LOS "E") as defined under the Riverside County Congestion Management Plan (CMP). (refer to Draft EIR Appendix I, pg. 14). For a definition of the LOS standards used in the TIA refer to Draft EIR Appendix I, pg. 13-14. While the comment cites General Plan Circulation Element Policy 6, which requires a LOS "C" or better, it is not appropriate to apply this standard to intersections that are already operating at an unsatisfactory LOS. The City does not have an adopted criterion for such intersections; therefore, the TIA uses the following conservative criterion: any delay due to the addition of one or more cars would constitute a significant Project impact.

The comment also states that traffic impacts could be fully mitigated by reducing the density of the Specific Plan area. Unfortunately the comment does not indicate what reduction in density would accomplish this. As discussed in the Draft EIR alternatives analysis, the Reduced Density Alternative (20% reduction) would result in reduced traffic impacts as compared to the proposed Project. It should be noted, however, that while the Reduced Density Alternative would reduce Project-generated traffic trips under the General Plan buildout scenario, the cumulative trips would nevertheless result in significant and unavoidable impacts similar to the proposed Project. This is because under existing General Plan buildout conditions improvements needed to maintain LOS "C" or above are constrained by existing ROW and would require taking of private property. In addition, many of the impacted intersections are outside the City's jurisdiction and the timely completion of improvements cannot be guaranteed or legally enforced.

See Draft EIR, 6.0-20 and 6.0-21. The comment also indicates that the Project is inconsistent with the General Plan Circulation Element, however as proposed, the Project is considered consistent with this Element and if a reduction in density occurs, the Project would be inconsistent with the General Plan Housing Element, which assumes 5,400 residential dwelling units would be developed within the Project site.

20-eeee. The comment states that the Specific Plan would be inconsistent with the City's General Plan Air Quality Element Policy 4. The City of Banning, as Lead Agency as defined by CEQA Guidelines, has reviewed the Project for local and regional air quality impacts. Mitigation measures, as appropriate, are listed in Draft EIR Section 1.0, *Executive Summary*. Because the proposed mitigation measures do not reduce impacts to less than significant levels for all air quality-related impacts, the Project has identified that the Project would generate significant and unavoidable impacts in this regard. If the Project is approved, the City will provide in writing in the Findings and Statement of Overriding Consideration the specific reasons for its support of its action based on the Final EIR and/or other information in the record. It should be noted that the Butterfield Specific Plan is very similar to the existing land use designations for the site which were considered in the City's most recent General Plan update.

20-ffff. The comment states that the Specific Plan would be inconsistent with the City's General Plan Flooding and Hydrology Element Policy 6. The comment states that the flood mitigation measures contained in the Draft EIR in effect defer adequate flood mitigation. Mitigation Measure HWQ-1 would not defer mitigation; it would ensure compliance with the Specific Plan's Drainage Plan Guidelines and sets forth an objective set of performance standards. While this mitigation would require future tentative tract maps, site plans, grading plans and improvement plans to include an assessment of size and flow patterns on a narrower scale, the overall Project site was evaluated in Draft EIR Appendix G, *Hydrology Studies*; it was determined that the proposed Project would not increase runoff when compared to existing conditions (refer to Draft EIR Section 4.9, Impact Statement 4.9-3).

20-gggg. The comment states that the Specific Plan would be inconsistent with General Plan Noise Element Policy 1. The Draft EIR has identified the significant and unavoidable impacts that will occur related to cumulative mobile noise. As stated above (Response 20.eee), if the Project is approved, the City will provide in writing in the Findings and Statement of Overriding Consideration the specific reasons for its action based on the Final EIR and /or other information.

20-hhhh. The comment states that the Specific Plan is inconsistent with General Plan Water Resources Element Policy 1, because it relies on "paper water" from the State Water Project. Refer to Response 20.mmmmm, below establishing that reliability of the projected SWP supplies.

Additionally, the comment asserts that the Specific Plan violates Water Resources Element Policy 7. Impact Statement 4.9-1 of the Draft EIR (pgs. 4.9-26 through 30) addresses impacts related to pesticides, herbicides, and fertilizers on the water supply. Without any specific concern regarding the adequacy of this analysis, no further response is necessary.

- 20-iii. The comment states that the Specific Plan is inconsistent with General Plan Open Space and Conservation Element Policy 2, because grading would occur in hillside areas. The General Plan defines the angle of slope at which structures should be prohibited in Program 2.A of this General Plan Element (pg. IV-26) and Title 18.12.180 of the City's Municipal Code. However, this Program does not state that grading cannot occur within these slopes, but only requires that the Project Applicant adhere to the City's grading parameters as defined in the Zoning Ordinance.

The Project grading will comply with these programs and will not construct permanent structures on developed slopes that are greater than 25 percent. In addition, the Project land use plan incorporates open space Planning Areas in the far northern and eastern edges of the Project site in order to ensure that the steeper slopes are visibly preserved. Refer to the Conceptual Mass Grading Plan, Specific Plan Exhibit 3.5, which illustrates how the Project grading limits will conform to the toe of the steeper slopes along the northern and eastern edges of the site.

- 20-jjjj. The comment states that the Specific Plan is inconsistent with General Plan Biological Resources Element Policy 2 and defers the evaluation of existing habitat and wildlife.

Refer to Draft EIR Section 4.4, Biological Resources, which includes an impact analysis concerning existing habitat and wildlife onsite, the applicable regulations affecting biological resources, impacts to habitat and wildlife associated with the proposed Project and imposition of compensatory and avoidance mitigation measures necessary to avoid/reduce these impacts. In addition, the Project would be required to comply with the Western Riverside County MSHCP. As stated on page 4.4-13 of the Draft EIR, an MSHCP Consistency Analysis is required for all discretionary projects within jurisdictions of MSHCP co-permittees such as the City of Banning. The additional MSHCP Consistency Analyses will be conducted as individual tract maps are submitted, which is consistent with the implementation of this plan.

IIIF3 Government Code Consistency

- 20-kkkk. The comment states that, by failing to include definitive and detailed information regarding the type of development that would occur, the Specific Plan fails to meet the requirements of Government Code Section 65451(a).

The Specific Plan provides flexibility as to where particular land uses, such as residential, commercial, and schools, can be located depending on market realities and school district decisions, but places a cap on residential development such that there will not be more than 5,387 dwelling units in the Specific Plan and a cap on commercial

development such that the Project will not exceed 88.3 acres, not including the golf course. Refer to Response 20.qqqqq through 20.rrrrr.

20-lll. The comment reiterates that the Specific Plan fails to provide definitive and detailed information regarding the type of development that would occur. Refer to Response 20.kkkk immediately above.

IIIF4 SCAG Blueprint Compass

20-mmmm. The comment states that the Specific Plan would result in an unacceptable jobs-housing ratio of 0.41 jobs per dwelling unit, which would worsen the City's existing significant jobs-housing imbalance, and therefore the Project is inconsistent with the SCAG Compass Blueprint Vision.

Refer to Response 17.vv above for a detailed analysis of the Project's effect on the jobs-housing in the City of Banning.

IIIF5 SCAG Regional Transportation Plan

20-nnnn. The comment states that the Specific Plan should include greater incentives to promote and use transit. The comment claims that without greater emphasis on transit, particularly with respect to cumulative traffic and air quality impacts, the Specific Plan is not consistent with regional transportation goals and air quality standards set forth by SCAG.

Refer to Response 17.vv, "Consistency with SCAG Forecasts", for a detailed analysis of the Project's effect on SCAG forecasts assumed under the Regional Transportation Plan (RTP). Transit agencies have not indicated where the bus stops shall be located. In the Specific Plan, Circulation Plan Development Standards require that the Project provide bus stops/turnouts wherever the transit agency desires them to be located as part of the future discretionary action process for tentative tract maps, site plans, and improvement plans. Additionally, the comment notes that there are no proposed bus lanes. City standards do not specifically include separate bus lanes in their standard street sections, bus routes would use the standard vehicle travel lanes. The Project incorporates NEV lanes to encourage mobility with reduced air quality impacts.

In addition, the comment notes that the Draft EIR states that the Project would exceed air quality standards and cause a significant impact. This is disclosed in Draft EIR Section 1.0, *Executive Summary*. Refer to Response 20.eeee above. If the Project is approved, the City will provide in writing in the Findings and Statement of Overriding Consideration, stating the specific reasons for its support of its action based on the Final EIR and/or other information in the record.

IIIF6 Affordable Housing

20-0000. The comment states that, while the Specific Plan does not require provision of any affordable housing units, the Draft EIR makes unfounded claims that the mix of housing densities allowed under the Specific Plan would provide housing in accordance with the Community Development Element and Plan Map and the Regional Housing Needs Assessment, and is therefore inconsistent with the General Plan Housing Element Policy 1.

Housing Element Policy 1 requires the following:

“Provide a variety of residential development opportunities in Banning, ranging from very low density to high density development as described in the Community Development Element and Plan Map in accordance with the Regional Housing Needs Assessment.”

The Draft EIR states that the Project is consistent with this policy, because the Specific Plan land use map would allow for a variety of density as is specifically required under Housing Element Policy 1. The higher range of the proposed densities would not preclude the ultimate development of affordable housing on the Project site. Therefore, the Project is consistent with this General Plan policy.

IIIF7 Adjacent Land Uses

20-pppp. The comment states that the Draft EIR improperly refers to the Specific Plan as an infill project, and states that the Project site abuts the Black Bench preserved open space and the San Bernardino National Forest on two sides. The comment explains that the Highland Springs Resort has had the Black Bench site approved as 100-percent certified organic land for farming and grazing, and is in the process of getting the land approved as an Agricultural Preserve. By failing to acknowledge that the Black Bench site will no longer be used for residential development, the comment states that the Draft EIR fails to accurately analyze the compatibility of the Specific Plan with surrounding uses.

While the Highland Springs Resort may be seeking approval/certification as 100-percent certified organic land, protection of this certification is not in the purview of the City and, thus, is not a recognized formal process for which the City is tasked under CEQA. According to the U.S. Department of Agriculture, USDA, Agricultural Marketing Service (AMS), the National Organic Program accredits private businesses, organizations, and state agencies to certify producers and handlers of agricultural products according to the program regulations.⁵

⁵ U.S. Department of Agriculture, Agricultural Marketing Service (AMS), modified 7/25/11.

The Project has incorporated measures to minimize polluted runoff to less than significant levels and reduce air quality impacts to the extent feasible (refer to Draft EIR Sections 4.9 and 4.3, respectively). And the Resort property immediately adjacent to the Project site is not described in this comment as supporting organic farming. The Resort site immediately adjacent already borders residential development to the northwest, west and southwest, and its lavender fields are located directly adjacent to Cherry Valley Boulevard. The City has imposed the measures described above to reduce environmental contaminants to the maximum extent feasible. However, it is not required to ensure the retention of the organic certification of the Resort site. Further, the City has not received an application for a General Plan Amendment to alter the Black Bench site from its residential land use designation.

Although the Black Bench Specific Plan previously approved by the city in 2006 has since been set aside and rescinded, the Banning General Plan and Zoning maps still designates the Black Bench site with a land use of Very Low Density Residential allowing up to 2 dwelling units per acre (du/ac) and as a potential Specific Plan Area. The city has not received a request to amend the General Plan and Zoning to designate this site as open space. The Black Bench site as identified in the General Plan is not immediately adjacent to the Project site, but located further northeast. The San Bernardino National Forest land is only immediately adjacent to the Project site at the upper most northeast corner of the site. This particular portion of the National Forest land is in private ownership and has a land use designation of Rural Mountainous (10 acre minimum lot size, but not open space) pursuant to the Riverside County General Plan and a designation of Rural Residential-Hillside (up to 1 du/ac) pursuant to the Banning General Plan. The Project Specific Plan has incorporated open space buffer areas along the north and northeast sides (Specific Plan Planning Areas 69, 73, 74 and 75), as described in Draft EIR, Section 3.0 (pg. 3.0-19). The entire west side of the Project adjoining Highland Springs Ave. (for a distance of approximately 2 miles) is adjacent to the approved and under construction Sundance Specific Plan in the City of Beaumont, which has similar land uses as those in the Project. Northwest of the Project are the existing residential developments of Highland Springs Country Club and Highland Springs Village, which are designated by the Riverside County General Plan as Medium Density Residential (up to 5 du/ac). The Highland Springs Resort property immediately adjacent to the north of the Project, although currently vacant, is designated by the County General Plan as Medium Density Residential. Property to the south and south east of the Project is developed with commercial, institutional and residential uses. The densities allowed in these residential areas pursuant to the Banning General Plan are 5 du/ac and in some cases higher, similar to the Project Specific Plan. Therefore, the Draft

<http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&navID=NationalOrganicProgram&leftNav=NationalOrganicProgram&page=NOPAccreditationandCertification&description=Accreditation%20and%20Certification&acct=nopgeninfo>, accessed on August 15, 2011.

EIR determined that the Project is compatible with neighboring uses as existing and planned.

IIIF8 Specific Plan Creates Conflicts with Adjacent Jurisdiction's Circulation Plans

20-qqqq. The comment states that the Specific Plan fails to account for, and in some ways creates conflicts with, the General Plan Circulation Element of the County of Riverside and the General Plan of the City of Banning. The comment states that the EIR does not provide information about Beaumont's plans for roadways. The comment further states that the Draft EIR deletes the connection of Highland Home Road to Cherry Valley Boulevard, but does not explicitly state that no such connection would be made in the future.

Draft EIR Appendix I, *Traffic Impact Analysis* (Section 4.4, pg. 60) discusses the connection to Brookside Avenue as it relates to the City of Banning, City of Beaumont, and Riverside County General Plan Circulation Elements. This section of the TIA presents the City of Beaumont Circulation Element map and describes the differences between the City of Beaumont and the City of Banning's Circulation Elements. Also, refer to Master Response #2 for a discussion of rationale behind the selection of Brookside Avenue as a connection.

IIIF9 Specific Plan Does Not Provide True Open Space

20-rrrr. The comment states that the open space provided in the Specific Plan is either unsafe for development or will not be publicly accessible as claimed in the Draft EIR, and cannot compensate for the Project's significant adverse impacts relative to open space.

As described in Draft EIR Section 3.0 (pg. 3.0-46), some of the 428.8 acres of open space are intended to be accessible, while other portions are not necessarily intended to be directly and fully accessible, but are none the less open space and can provide a viewshed. The Project will include 19 neighborhood mini-parks and 3 to 4-acre neighborhood recreation parks which would be accessible. The Project would also provide 41 acres for a larger community park with sports facilities with public access. The proposed network of trails into the open spaces would be accessible, as well, and could connect to hiking trails in the San Bernardino National Forest. The proposed 18-hole golf course and clubhouse, while privately owned and operated, would be open to the public. If a golf course is not developed in the Project's central open space (PAs 35 and 39), this area will still have a trail system accessible to the public.

The comment discounts the quantity of open space based on the presence of hazards and/or special conditions (e.g., SCE high-voltage power lines, steep slopes, and fault zones). However, the City of Banning General Plan clearly affirms that the Open Space

designation can include open space uses for public health and safety that require special management or regulation because of hazardous or special conditions.” The General Plan further expounds, stating that “these include earthquake fault zones, floodplains, watersheds, areas required for the protection of water quality and water reservoirs, unstable soils, and high fire areas (pg. IV-22).” Therefore, the Open Space uses identified in this comment are consistent with the General Plan’s definition of Open Space.

III G – Noise Impacts Must Be Reduced

20-ssss. As described in the Draft EIR, the proposed Project would exceed the allowable increase threshold along three segments (two segments along Highland Springs Avenue and one segment along Highland Home Road). Two of the segments along Highland Springs where potentially significant Project-related traffic noise increases may occur have sound attenuation features (perimeter walls) the effects of which are not reflected in the forecasted noise levels. The existing perimeter walls would provide sound attenuation from the projected traffic noise. A sound barrier that blocks the line of sight between a source and receiver can reduce noise levels by as much as 5 dBA⁶. Additionally, commercial uses that do not require attenuation are located along the third roadway segment.

In addition, Mitigation Measure NOI-4 requires an acoustical study to be performed prior to the issuance of grading permits/ encroachment permits for the improvement of Highland Home Road between Future “D” Street and Wilson Street. The purpose of this study is to utilize construction level plans and documentation to determine the noise mitigation necessary to effectively attenuate noise along this roadway segment. The mitigation measure requires acoustic levels at adjacent residential properties to meet the City of Banning’s exterior and interior noise standards. Appropriate attenuation measures could include a solid wall in the landscaped parkway between future Highland Home Road and the existing frontage street. This study is not feasible at this time because the study requires final improvement and grading plans to verify elevations, road geometry, and topography. The mitigation measure is appropriate as it provides timing and enforcement mechanisms, as well as a specific performance standard that requires that the City of Banning’s exterior and interior noise standards are met. Therefore, buffers along the rights of way are not necessary.

20-tttt. Reducing the residential density of the areas along these roadway segments would not necessarily reduce the noise impacts, as the comment suggests. This is mainly due to the nature of the impact. The Cumulative noise impact identified in the Draft EIR is related to mobile noise generation, which is associated with buildout of the General Plan. This buildout includes the proposed Project, existing development within the

⁶ California Department of Transportation, *Technical Noise Supplement to the Traffic Noise Analysis Protocol*, November 2009.

City, new development proposed in the City and surrounding areas and population growth anticipated within this period. This cumulative mobile noise generation is associated with all of the development listed above, not just the proposed Project, which accounts for less than 20% of the total General Plan buildout, anticipated within the City. Additionally, Draft EIR Section 6.0, *Alternatives*, analyzed a reduced density project alternative and determined that reducing residential density would not reduce noise impacts to a less than significant level.

IIIH1 – Public Services – Police Services

20-uuuu. The comment states that the Specific Plan should set aside land for and construct a police facility based on the projected increase in population and 28 additional officers needed. The growth identified in the Draft EIR (14,168 persons) is consistent with the City of Banning General Plan and General Plan 2008-2014 Housing Element projections as discussed in detail under Response 17.vv.

In accordance with the General Plan EIR Law Enforcement Mitigation Measure #3, the Butterfield Specific Plan and Draft EIR were reviewed by the Police Department. The Police Department did not identify the need for future police stations within the Project site.

The new police station at 125 East Ramsey Street, which was constructed after the completion of the General Plan Draft EIR, is anticipated to accommodate demand generated by build-out of the City, which it assumes could potentially generate up to 82,033 residents. Based on the potential 82,033 additional residents, the General Plan Draft EIR concludes that a total of 115 officers are needed. This total includes officers needed to service the Project site, because the General Plan EIR assumed an increase of 5,400 dwelling units on the Project site at build-out, slightly under the amount proposed. Therefore, the City has concluded that the proposed Project does not require the dedication of land for an onsite police station.

The comment also states that the \$4 million in impact fees would be insufficient; however, these impact fees would be coupled with City revenues, generated by property and sales taxes, which would increase incrementally as development in the City occurs. These combined revenues would be utilized to fund additional police services.

IIIH2 – Public Services – Recreational Impacts and Public Safety

20-vvvv. The comment states that the Project Applicant should commit to building a fence between the Specific Plan area and the Resort to keep people from trespassing onto the Resort property.

As stated in Response 20.h, the intent of the Specific Plan is not to suggest that access onto private property has been granted. During the Notice of Preparation (NOP) community meeting, a representative of the Highland Springs Resort communicated to the City that the Resort was concerned about maintaining access to its trails through the Project area. As such, the Project Applicant has sought to accommodate potential access to these trails, if the Resort desires such access and was to allow such access. Furthermore, Comment III.D.1. from this comment letter (see designated Response 20.vvv) seems to support reconstructing a trail between the Gilman Ranch and Highland Springs (Resort) stops, which could involve Resort property. Agreements with the Resort would be required in order to obtain the appropriate easements allowing access. In addition, the backyards of the residences within the Planning Areas along the northern and eastern edges of the Project site would be fenced with a limited number of potential trailheads located along this edge as shown on Specific Plan Exhibit 3.12, *Recreation and Open Space Plan*, if the Resort was to allow access and request trail access points. Apart from these limited access points the residential Planning Areas would be fenced and/or walled.

IIIIH3 – Public Services – Fire Safety

20-wwww. The comment states that Planning Areas 50, 51, 59, 60, and 61 should be preserved as open space because of wildfire hazards. Refer to Draft EIR Section 4.8, Impact Statement 4.8-5 for a discussion of impacts related to wildfire hazards. With Project Design Features noted in Section 4.8, adherence to the Fire Department requirements, applicable laws and regulations and implementation of these Mitigation Measures HAZ-11 through HAZ-13 and Mitigation Measures PSU-1a and PSU-1b, Project impacts related to wildland fires would be reduced to a less than significant level without the further preservation as open space of the Planning Areas identified in the comment.

20-xxxx. The comment reiterates the need to buffer the northern and eastern parts of the Specific Plan areas from wildfire hazards. Refer to Response 20.wwww for a discussion of wildfire impacts. In addition, the effects of climate change on wildfires are discussed in Draft EIR Section 4.5 (pg. 4.5-8).

20-yyyy. The comment asserts that homes constructed in high fire hazards areas should be assessed higher fees for fire services, or these homes should not be built in high fire hazard areas altogether. While certain neighborhoods within the City may potentially use more fire protection services than others, the City has not implemented a geographical or use-based impact fee schedule. As such, the Project Applicant will comply with the City's current fee schedule.

The report cited in the comment is based on information obtained from cities within Los Angeles County. It is speculative to assume that the findings of this report can be transferred onto cities within central Riverside County. Additionally, the comment cites an article from the Los Angeles Times. This article references a California Assembly Bill (ABX1 29) that requires homeowners in CalFire State Responsibility Area (SRA) zones to pay a \$150 annual wildfire protection fee. The new law requires the Board of Forestry and Fire Protection to adopt emergency regulations to establish this annual fire prevention fee.⁷ If and when this regulation is established, the rules of this law will be applied only to “habitable structures” within an SRA. According to the Riverside County Land Information System (RCLIS), the Project site is located entirely outside of a SRA. Therefore, this special assessment would not apply to homes within the Project site.

For a response to the comment regarding the removal of the proposed development in the eastern and northern areas of the Specific Plan, refer to Response 20.wwww.

20-zzzz. The comment requests that an additional hazard tax be assessed on homes in the northern and eastern parts of the Specific Plan area, or a community facilities district be formed to fund fire prevention activities. The comment also states that the low-density development in these areas of the Project site is likely to be affected by wildfires as they have been in the past.

For a response to the comment regarding the removal of the proposed development in the eastern and northern areas of the Specific Plan, refer to Response 20.wwww.

III1I Insufficient Information about Roads and Their Impacts in the Northern Portion of the Specific Plan Area

20-aaaa. The comment indicates that insufficient information is provided regarding the extension of Highland Home Road to Brookside Avenue. The comment is specifically concerned about impacts on Brookside west of Highland Springs Avenue where existing residences abut the roadway. The comment indicates that these residences would have to be purchased by the County of Riverside, or the County would need to exercise its power of eminent domain to widen Brookside Avenue to a four-lane road and that the Specific Plan should be revised to avoid impacts to neighboring land users and condemnation of private property. As identified in the Traffic Impact Analysis (Draft EIR Appendix, I), Highland Home Road is identified as a Major Highway, which has a 100 foot right of way with four lanes of travel, which is consistent with the County of Riverside Circulation Element, which identifies Brookside as a Secondary Highway, which has a 100 foot right of way with four lanes travel. Since this is the ultimate right

⁷ Board of Forestry and Fire Protection. “Board of Forestry & Fire Protection Moves Forward with State Responsibility Area Fee Regulations”. Published August 10, 2011. http://www.fire.ca.gov/communications/downloads/newsreleases/2011/BOF_SRA_Fee.pdf, accessed on August 16, 2011.

of way for this roadway, it is anticipated that the improvements to this roadway west of Highland Springs Avenue would be performed by the County of Riverside, including environmental analysis required under CEQA. At that time the issue regarding the widening of the roadway and potential take of properties would be analyzed and appropriate measures incorporated into the widening project. Based on the Traffic Impact Analysis, the widening of this roadway segment would be necessary at General Plan buildout, which is anticipated in the year 2042. In addition, since the Project Applicant and City do not have control over the portion of Brookside/ Highland Home Road alignment within Riverside County (east of Highland Springs Avenue), the Project Applicant has analyzed the impacts if this connection was not made. Based on this analysis, the Project would adequately mitigate traffic impacts through additional onsite improvements if the Brookside/ Highland Home Road connection was not made (refer to Master Response #2).

20-bbbbb. The comment states that insufficient information is provided about future roads that would likely serve the proposed Project. The study area for analyzing the Project-related traffic impacts was identified based on the Riverside County traffic study guidelines which state that “in general, the minimum area to be studied shall include any intersection of ‘Collector’ or higher classification street, with ‘Collector’ or higher classification streets, at which the proposed project will add 50 or more peak hour trips, not exceeding a 5-mile radius from the project site.” This criterion was applied to identify the study intersections within 5-mile radius of the project site that had 50 or more peak hour Project trips. Some of the streets (Lincoln Place, Grand Place, Hillside Place) referred to in the comment and shown in Exhibit G of the comment letter that are located adjacent to the Project are unimproved “paper” streets that were shown on an old subdivision map (Map of Glen Eyrie Heights) and never dedicated. These unimproved and undedicated “paper” streets are only shown on the old subdivision maps as local streets and hence were not included in the traffic impact analysis. Hence these streets are not included in the analysis. The local streets generally do not affect regional traffic patterns. Hence, the local streets outside the Project site will not substantially influence the traffic flow to and from the Project. Therefore, the construction of these local streets does not affect the proposed Project and vice versa. Furthermore, the Butterfield Specific Plan does not plan to provide any connection to these unimproved and undedicated “paper” local streets in any way. Also refer to Response 20.iiiiii below.

The comment also mentions Cherry Valley Boulevard, which is designated as a future “Urban Arterial”, but does not presently connect between Bellflower Avenue and Noble Street and does not connect between Highland Springs Avenue and the Project, and dedicated right-of-way for these missing connections does not exist. If the County of Riverside were to extend Cherry Valley Boulevard as a county road to the Project, the City of Banning could require Highland Home Road to connect with Cherry Valley

Boulevard, but only if the County extends Cherry Valley Boulevard. Black Bench Road as referred to in the comment is shown on the City of Banning and County of Riverside General Plans as a northeasterly extension to Highland Springs Avenue. Black Bench Road has no improvements and no right-of-way exists for this road. The Butterfield Specific Plan does not plan to connect with this Black Bench Road in any way.

20-cccc. The comment requests more information about future plans for roads at the northwest portion of the Specific Plan, specifically Cherry Valley Boulevard.

As shown in the Project plans, the extension of Cherry Valley Boulevard southeast to connect to Highland Home Road is not proposed. The Project assumes a connection between Highland Home Road and Brookside Avenue. Both these options are consistent with the City's General Plan Circulation Element. The analysis of alternative connections of roads in the northern portion of the Project site was included in the City of Banning General Plan Circulation Element traffic study, which concluded that, "from a traffic perspective, there appears to be little advantage of one over the other." Hence the Butterfield Specific Plan circulation is consistent with the City of Banning Circulation Element.

While the County of Riverside's General Plan shows Highland Home road connecting to Cherry Valley Boulevard, the Applicant and City Staff elected to use the Highland Home Road extension via Brookside for the reasons discussed in Master Response #2. Refer to Response 20.cccc above. If the County of Riverside were to extend Cherry Valley Boulevard as a county road to the Project, the City of Banning could require Highland Home Road to connect with Cherry Valley Boulevard, but only if the County extends Cherry Valley Boulevard.

20-ddddd. The comment states that Cherry Valley Boulevard would likely be extended and identifies potential impacts that would be associated with such an extension. In addition, the comment states that the EIR must analyze alternatives to the Cherry Valley Boulevard extension. The Project does not require extension of Cherry Valley Boulevard. The Draft EIR analyzes environmental impacts related to the proposed extension to Brookside Ave. only. Refer to Responses 20.bbbbb and 20.cccc above.

The comment states that impacts would occur with the extension of Brookside Avenue. The comment states that impacts related to the Resort's trail network, visual resources, air, mobile source noise, wildlife, and roadway safety would occur. All of these topic areas are addressed in the Draft EIR or the Responses to Comments provided herein. For analyses of impacts in these topic areas, refer to the following sections of the Draft EIR/Responses to Comments.

- Wilderness experience for hikers – Draft EIR Section 4.13 (Impact Statement

4.13-6)

- Visual Impact - Draft EIR Section 4.1 (Impact Statement 4.1-1 through 4.1-3)
- Roadway noise and vibrations - Draft EIR Section 4.11 (Impact Statements 4.11-1 through 4.11-5)
- Air pollution - Draft EIR Section 4.3 (Impact Statements 4.3-1 through 4.3-4)
- Plants and wildlife - Draft EIR Section 4.4 (Impact Statement 4.4-1 through 4.4-3)
- Roadway safety – refer to Master Response #2

Of these impact areas, the Draft EIR found that significant, unavoidable impacts would occur related to light and glare (Project/cumulative), construction and operational air emissions (Project/cumulative), noise from mobile sources (cumulative only).

20-eeee. The comment states that an explanation must be provided regarding any inconsistencies with existing regional plans related to Cherry Valley Boulevard. Refer to Master Response #2. The Project Applicant does not have a position as to which alignment should be implemented by the County, as either would work with the proposed Project's Land Use Plan. Either option would result in similar traffic flow patterns for Butterfield, in terms of overall trip distribution to the north, south, east and west. If the Brookside Avenue extension is ultimately selected and constructed, the City/Project Applicant will coordinate the potential deletion of the Cherry Valley Blvd. extension road alignment with the County from their General Plan.

20-ffff. The comment requests that Cougar Way be used as the northerly connection to Highland Home Road. At present, Cougar Way exists from just west of Beaumont Avenue to Cherry Avenue. Also it does not extend to the freeway (I-10) as Brookside Avenue does. Hence, assuming a connection between Highland Home Road to Brookside Avenue was a logical choice. The future intersection of Highland Springs Avenue/Cougar Way is analyzed in the traffic analysis (intersection # 21). The Project also has a direct connection to Oak Valley Parkway at Highland Springs Ave. from "B" Street as proposed.

20-gggg. The comment notes that Cherry Valley Boulevard does not exist between Noble Street and Bellflower Avenue. It states that Banning should require modification to the Specific Plan Circulation Plan to avoid this segment. Refer to Master Response #2. The Project Applicant has expressed that either Brookside Avenue or Cherry Valley Boulevard would work with the proposed Project's Land Use Plan. The road extension in question is a regional circulation improvement and as such would not be constructed by the Project Applicant. This extension is in the unincorporated area of the County of Riverside, and is therefore outside the control of the City of Banning and the Project Applicant. Therefore, the determination on whether Cherry Valley Boulevard should be extended easterly would be made by the County of Riverside.

20-hhhhh. The comment states that the recommended improvements located in jurisdictions outside the City of Banning should not be imposed on other jurisdictions through the Specific Plan. Refer to Master Response #2. Also, the TIA (Draft EIR Appendix I) notes that mitigation for freeway segments and freeway intersections cannot be directly implemented by the City, as the freeways and state highways are under the jurisdiction of Caltrans. Likewise, several roadway segments and intersections (refer to Table AN in the TIA) fall under the jurisdiction of the City of Beaumont or the County of Riverside. These improvements also cannot be directly implemented by the City either, but must be implemented by these outside jurisdictions. Thus, it is not feasible for the City to undertake these improvement projects. The Project site has had a Specific Plan for development approved on it since 1986. The regional circulation plans and traffic modeling for the area and the surrounding jurisdictions have recognized this.

20-iiii. The comment questions why particular roadways which are shown on Riverside County planning maps are not shown on the Vehicle Circulation Plan (Draft EIR Exhibit 3.0-5). Refer to Response 20.bbbbb above. The streets referenced in the comment are remnant “paper” streets of an old underlying subdivision map, titled the Glen Eyrie Heights Map (this subdivision Map does not have a County-assigned number, as it was recorded before the County’s numbering system was in place). Since this map recorded, both the Highland Springs Country Club development (TR 14209-1) and the Highland Springs Village development (TR 4636-1, the mobile home park) appear to have been approved. Neither of these two maps set aside the alignment of the streets mentioned by the comment within their tract map boundaries, but they do show the alignment of these streets outside of the map boundaries but within the older underlying Glen Eyrie Heights map (i.e., to the east of Cherry Valley Boulevard and Highland Springs Avenue).

These streets were never dedicated when any of the maps mentioned above were recorded or approved. The County and City of Banning do not show these “paper” streets on their Circulation Plans. Additionally, there are no requirements from either the City or County to dedicate rights-of-way for these “paper” streets in conjunction with the Project. The Butterfield Specific Plan does not plan to provide any connection to these unimproved and undedicated “paper” local streets in any way.

20-jjjj. The comment notes that the Riverside County planning maps show a road labeled S4078B connecting with Brookside Avenue from the west. The comment asks what the impact related to Brookside Avenue would be on the golf course.

It is likely that the number S4078B is a reference number utilized for purposes of the County’s GIS system and does not refer to a street label. The recorded street name is Brookside Ave as is shown on TR 14209-1.

If Brookside Avenue was extended east of Highland Springs Ave. to connect with Highland Home Rd. as assumed by the Butterfield Specific Plan, it would separate the most southerly existing golf hole of the Highland Springs Country Club east side course from the rest of the golf holes north of it. The Highland Springs Country Club golf course is presently separated by Highland Springs Avenue between the west and east sides. In addition, the southern end of two of the other existing golf holes could be impacted by the potential road extension, as well as other possible existing course facilities. Extension of the roadway would require acquisition of the right of way, which would require compensation to the property owners for the right of way and for impacts to the golf course facilities and property. The compensation might include reconstruction of the impacted golf holes and course facilities in the remaining Highland Springs Country Club property to the north of the potential roadway extension. The County would have to determine to pursue the road extension and compensation would be negotiated with the property owners.

III2 – Land Use Element is Not Correlated with the Circulation Element to Provide for Sufficient Future Infrastructure

20-kkkkk. The comment states that the Draft EIR predicts that 18 intersections would be at a LOS D after mitigation. The comment also asserts that the City cannot use a Statement of Overriding Consideration to override the General Plan policy requiring LOS C at City intersections.

The study intersections evaluated in the Traffic Impact Assessment (TIA) will function at acceptable levels of service with recommended mitigation. Refer to Response 20.dddd for a definition of the LOS standards used in the TIA. While the comment cites the LOS "C" standard in the General Plan, it was determined in the TIA that it is not appropriate to apply this standard to intersections currently operating at an unsatisfactory LOS. For those intersections that are currently operating at a deficient LOS (prior to project implementation), the City determined that it was appropriate to mitigate those intersections to the same LOS occurring in the existing condition scenario. This in effect, ensures that the Project is not degrading these intersections further.

The comment further states that the City has failed to correlate its Circulation Element with the Land Use Element in planning for future growth, stating that the Specific Plan cannot be approved until the Land Use Element and Circulation Element are properly correlated. The Draft EIR makes the statement that most intersections would be at LOS F in the future, under existing road conditions. This statement is given to show that under buildout condition without any mitigation from future projects (that is, assuming that buildout would occur without any further improvements to the roadway system) many intersections would operate at a LOS F. However, with implementation of the

recommended mitigation the intersections in Banning will operate as acceptable LOS. Moreover, future projects would undergo review similar to the proposed Project and would be required to implement mitigation to solve circulation network deficiencies. Therefore, it is not necessary that the Land Use Element and Circulation Element be revisited and revised prior to approval of the Butterfield Specific Plan.

IIII3 – Development of New Roads Should Not Be Allowed to Destroy Heritage Oak

20-IIIII. The comment states that the root zone and leaves of a specific oak tree on the Resort property would be impacted by the Cherry Valley Boulevard extension. Refer to Master Response #2 for an explanation regarding the selection of either Brookside Avenue or Cherry Valley Boulevard as the appropriate Project roadway extension. It should also be noted that the elimination of a Highland Home Road connection to Brookside Avenue (or Cherry Valley Boulevard) has been analyzed. Based on this analysis, neither connection is necessary for the Project to adequately accommodate traffic. As a result, the Project Applicant does not need to make offsite roadway improvements within the Highland Springs Resort property.

If Cherry Valley Boulevard were to ultimately be selected by the County, the roadway would be located approximately 200 to 300 feet from this oak tree, as indicated in this comment and as confirmed on aerial imagery.

The study listed in this Comment states on pg. 4 that beyond the root zone mature oaks are usually less affected by compaction, paving and trenching activities. The tree's protection zone which extends to the tree's dripline would not be affected by these activities due to the large distance between the tree and the roadway. While mature oak trees can still be impacted indirectly by drainage changes, this is not anticipated to occur onsite as the property surrounding the oak tree slope upward to the northeast. Thus, the oak tree would be located at a higher elevation and would not be affected by changes in the drainage pattern.

The *Biological Resources Assessment* (Draft EIR Appendix C1, Section 8.3) recognizes that indirect physical changes in the environment, such as air pollution from traffic, may occur as a result of the Project. However, the report determines that these indirect effects would be less than significant after mitigation.

The comment also questions the analysis and appropriateness of the proposed mitigation related to the Heritage Oak. Refer to Response 27.a and 20.f which characterizes this resource and discusses the less than significant impact determination reached in the Draft EIR.

IIIJ Water Supply

20-mmmmm. The comment states that given the inconsistent nature of rainfall in the State of California, reliance upon SWP deliveries, and especially *increased* SWP deliveries is inadequate. California Courts expressly prohibit reliance upon “paper water”.

The WSA, Section 6.3.6, provides an exhaustive discussion and analysis of the availability and reliability of imported water to serve the City’s present and future demands, including the Project.

First, the Pass Agency has a contract with the state of California (DWR) to purchase up to 17,300 AFY of SWP Table A water. The Pass Agency has requested delivery of its full 17,300 AFY Table A entitlement. (WSA Section 6.3.2.1.) As described in the WSA, this supply is not 100% reliable in all years. As a result, the Department of Water Resources (DWR) issues SWP reliability reports every two years to assist local agencies, cities and counties using SWP water for planning purposes. In August 2010, DWR released the final version of the *2009 SWP Delivery Reliability Report* (2009 Reliability Report), which estimates the current and future reliability of SWP supplies. To ensure a conservative analysis, the 2009 Reliability Report expressly assumes and accounts for the institutional, environmental, regulatory, and legal factors affecting SWP supplies. DWR’s reliability analysis for SWP Table A water is described in detail in Section 6.3.6 of the WSA. Further discussion and analysis of the reliability of SWP water is provided in WSA Appendix I. In summary, DWR has concluded that the long-term average reliability of SWP Table A water will be 60% under future conditions. As such, it is likely that Pass Agency will receive 10,380 AFY of SWP Table A entitlement, on average, over the long-term. In some years, the Pass Agency will receive less, and in some it will receive more.

Second, the Pass Agency’s method of taking delivery of imported water is assured. The East Branch Extension (EBX), Phase I project is constructed and operational. Phase II of the project (EBXII) has been approved and construction is anticipated to be completed by 2015. Accordingly, it is likely that no later than 2015, the Pass Agency will be able to take delivery of its full 17,300 AFY Table A entitlement when available.

Third, the City has and will continue to purchase imported water from the Pass Agency and to recharge that supply into the Beaumont Basin and stored for later use. (See WSA Sections 6.3.3, 6.1.5.10.) The majority of the Pass Agency’s, and thus the City’s, imported water supply is SWP Table A water. In 2009, the City purchased 2,741 AF of imported water from the Pass Agency; in 2010, the City purchased 1,338 AF. The City intends to continue and increase its imported water purchases up to 2,595 AFY, on average, beginning in 2015. (WSA Table 6.3.7.) The City’s application for the purchase of imported water from the Pass Agency requests up to 2,400 AFY through 2011. The City takes delivery of all imported water it purchases from the Pass Agency at the BCVWD

Noble Avenue Recharge Facility, where it is recharged into the Beaumont Basin and stored in the City's Stored Water Account. As described in Sections 6.3.4 and 6.3.7 of the WSA, given that: (1) the City has purchased more than 25% of the Pass Agency's available supply, (2) the Pass Agency is likely to receive 10,380 AFY, on average, of Table A water, in the future, (3) more than 25% of the developable acreage within the Pass Agency area lies within the City of Banning, (4) the City is one of only three customers of the Pass Agency, and (5) the City has an existing and reliable method of taking delivery of its imported water purchases, it is likely that the City will be able to continue to purchase 25% of the Pass Agency's available SWP Table A entitlement, or approximately 2,595 AFY, on average, for the study period. The EIR need not identify a guaranteed source of water. (*Western Placer Citizens for an Agric. & Rural Env't v. County of Placer* (2006) 144 Cap.App.4th 890, 908-909.)

The comment includes additional restatements of information contained in the WSA. No response is required.

20-nnnnn. The comment states that the Draft EIR mitigation measures should be stronger and more enforceable. Specifically, the comment states that drought-tolerant plants should be "required", not "emphasized". In addition, the comment argues that Mitigation Measure WS-1 does not require any future action and should include performance standards.

On January 26, 2010, the Banning City Council adopted Resolution No. 2010-06, making the required findings that the City's water efficient landscape ordinance and existing municipal code sections are as effective as the State's Model Water Efficient Landscape Ordinance, as required by law. The Banning Municipal Code now contains standards for water efficiency that must be implemented for all non-residential landscaping plans. In addition, the 2010 California Green Building Standards Code (CGBSC) now require new residences to install weather or soil moisture irrigation control starting in 2011 which will result in an additional reduction of 13 percent. In order to meet these current standards, drought-tolerant landscaping appropriate to the area and more water-efficient design will be required. Therefore, as a matter of compliance with existing regulations, an appropriate level of drought-tolerant landscaping will be required.

As described in Section 4.14 of the Draft EIR, the City's planned future uses of the Beaumont, Banning, Banning Bench, Banning Canyon and Cabazon Basins are not anticipated to result in significant adverse impacts. As described in Response to Comment 17 all groundwater production from the Beaumont Basin is subject to the Beaumont Basin Judgment, the Watermaster's Rules and Regulations, and the on-going monitoring and coordination performed by the Watermaster. Moreover, the City's future pumping from the Beaumont Basin is anticipated to be consistent with historical pumping (See Response to Comment 17).

The City does not intend to increase pumping from the three Banning Basins in the future above baseline historical conditions. As such, no significant impacts on the basin are anticipated. (WSA, Appendix D, p. 44.) Further, because the City is the only major producer in these basins, no significant impacts on other legal users are anticipated. (See WSA, Appendix D, Table 2.) Nevertheless, WS-1 requires the City to monitor groundwater levels to ensure that the City's pumping is within the safe yields of each of these basins over time.

As described in Geoscience's 2011 *Maximum Perennial Yield Estimates* report (WSA, Appendix D, Section 7.2) the City's proposed increased pumping from the Cabazon Basin is within the safe yield of that basin. As such, any increase in pumping to serve the Project will not result in significant impacts to the groundwater basin (WSA, Appendix D, Section 9.1) or cause significant interference with existing wells (WSA, Appendix D, Section 7.4.4). Nevertheless, to ensure the City's proposed increases in pumping do not significantly impact the basin in the future under future changing conditions, WS-1 requires the City to monitor groundwater levels to ensure that the City's pumping remains within the safe yield of the Cabazon Basin over time. Further, to avoid significant impacts on other legal users of the Cabazon basin in the future, WS-1 requires the City to site any new well so as to not result in material interference to existing wells.

20-00000. The comment asserts that impacts of landscape chemicals to the water supply must be address in the Draft EIR. Impact Statement 4.9-1 of the Draft EIR (pgs. 4.9-29 through 30) addresses impacts related to pesticides, herbicides, and fertilizers on the water supply. Impacts are mitigated through Best Management Practices set forth in a Water Quality Management Plan as a condition of Project approval. Without any specific concern regarding the adequacy of this analysis, no further response is necessary. Please also refer to Response 4.j of the Final EIR.

20-ppppp. The comment states that the Project's water supply improvements would affect and possibly take property from the Highland Springs Resort. The comment suggests that the ample Project area could provide the necessary infrastructure. Lastly, it states that impacts to adjacent property owners are unnecessary and would require compensation.

The SWP pipeline extension or "Banning Pipeline is an optional alternative only to the City's current and planned continued use of the BCVWD's Noble Avenue Recharge Facility – it is not required for the Project and is described in the Draft EIR only as an option in the event the City may wish to undertake that project in the future. If the City or Pass Agency elects to move forward with the Banning Pipeline, either as an alternative to use of the BCVWD Noble Avenue Recharge Facility, or in addition to that facility, the pipeline extension would need to connect to the existing SWP pipeline which

currently terminates just south of the Orchard Street and Noble Street intersection, and offsite improvement would be required. The Draft EIR (Section 3.0) presents three alternatives for this extension. The logical extension of the SWP pipeline would occur within the existing and/or proposed rights-of-way as the comment states. Each of the proposed pipeline routes are within the County and would require separate environmental review and approval should the City or Pass Agency choose to move forward on the extension. In addition, a portion of the pipeline would need to be constructed on private property in order to reach the proposed North Basin and an easement would be required for this portion of the alignment. However, while the Project provides a location for a potential future SWP storage basin, the future development of that basin would be subject to CEQA review and all required regulatory approvals.

Similarly, the Brookside Avenue extension is a potential future extension that would first require annexation of the area in question, and then require separate environmental review and approval. However, it is not required to maintain acceptable LOS within the traffic impact analysis study area. In the event the Brookside Avenue extension were developed, offsite improvements in the form of inlet structures on the north side of the Brookside Avenue would be required. The proposed North Basin would receive flows from Smith Creek and one of its tributaries, which would flow southward from the north side of the Brookside Avenue extension. Thus, in order to maintain a serviceable roadway, these inlet structures would be necessary to direct flows underneath the proposed roadway extension. Land owned by Pardee Homes to the south and west of the Specific Plan, as identified in the comment, would be irrelevant to addressing flows from Smith Creek and this tributary. If the extension is built, the inlet structures would collect drainage from Smith Creek and one of its tributaries and would convey flows into a pipe or box structure underneath the roadway. Prior to construction of these facilities, the an easement with appropriate compensation from the property owner would need to be obtained. If the extension is not built, it would not be necessary to develop inlet structures north of the road.

IVA1 Planning Areas are Unstable

20-qqqqq. The comment states that the Specific Plan provides so much flexibility that it is unclear what will ultimately be built. The comment goes on to identify several instances in which the Project Applicant would be able to convert residential land uses to non-residential uses and vice versa.

Section 3.0 of the Draft EIR has clearly laid out the potential land use conversions that may occur with implementation of the Butterfield Specific Plan. It is unclear in these paragraphs of this comment, which of the conversions is unclear to the commenter, since

each of the potential conversions mentioned appears to be understood by the commenter.

The Draft EIR, pgs. 3.0-15 through 3.0-17 (refer to subsections “Planning Areas 3, 4, 5, 26, and 27”, Commercial Development, and “Commercial Alternative Uses in Selected Residential Planning Areas”), clearly describes the allowed conversions from non-residential to residential uses that may take place in PAs 17 and 18 and the conversion from residential/park to commercial uses that may occur under the proposed overlay in PAs 3, 4, 5, 26 and 27.

The reasons for which conversion to residential uses for the school and fire station sites are described in Draft EIR pgs. 3.0-17 and 3.0-17 through 3.0-18, respectively. In addition, the allowed maximum residential density requirements are detailed for these PAs.

The golf course is also allowed to implement other recreational and open space uses to allow flexibility in case the golf course is not developed due to market conditions or other considerations.

20-rrrrr. The comment states that the Draft EIR contains no limit on commercial use, but later accounts that the Specific Plan would permit up to 88.3 acres (36 acres of PAs 17 and 18, 52.3 acres of PAs 3, 4, 5, 27 and 28) of commercial (refer to pg. 3.0-17). The comment asserts that conversions of residential uses to commercial only require allocation of residential units to other PAs.

Pages. 3.0-15 and 3.0-16 of the Draft EIR indicate that up to 88.3 acres (36 acres of PAs 17 and 18, 52.3 acres of PAs 3, 4, 5, 27 and 28) of commercial would be allowed. The “allocation to other PAs” (Draft EIR p. 3.0-17) the comment refers to is to the potential alternative if PAs 3, 4, 5, 26 and 27 are developed as commercial instead of residential, the residential units otherwise allocated to these PAs by the Specific Plan could be allocated to other residential PAs up to the maximum density allowed of those other PA’s and as long as the maximum 5,387 total dwelling units for the project are not exceeded.

Pursuant to Section 3.1.1.2 of the Specific plan, if Commercial or mixed use development is proposed in any portions of PAs 3, 4, 5, 26 and 27, review and approval by the City of either a Conditional Use Permit (CUP) or Planned Unit Development (PUD) application will be required and will comply with Mitigation Measure TRA-2 to ensure that impacts related to these conversions do not occur. Mitigation Measure TRA-2 states that a TIA Validation Report will be used to verify, as the Project builds out, that the Project’s total peak hour trips are consistent with the assumptions in the Project TIA.

IVA2 Deferral of Infrastructure Decisions

20-sssss. The comment states that the Draft EIR lists infrastructure alternatives that may be chosen by the City and asserts that these alternatives are contingent upon future environmental analysis. Later, the comment identifies specific infrastructure decisions it claims should be made and the subsequent analysis should be provided in the Draft EIR.

The intent of the Draft EIR is to analyze all Project infrastructure, regardless of whether the need for said infrastructure is contingent upon other factors (e.g., prior development of infrastructure by the City). The comment questions whether the culverts south of the Project along Smith Creek need to be expanded. The Project Description (Draft EIR Section 3.0) recognizes that the City of Banning could elect to reconstruct the Wilson Street culvert as a separate City project and would, in that case, complete a separate environmental analysis; however, to be conservative, the Project Description recognizes that the existing Wilson Street culvert may need to be enlarged. As such, the Draft EIR states that work could be completed as part of the Butterfield Project, analysis of the culvert expansion is included in this EIR.

Similarly, the potential satellite wastewater treatment plant was analyzed throughout the EIR and fully described as part of the "Project" in the Draft EIR, Project Description. Therefore, the Draft has provided a full representation of the Project, including optional elements, in the Project Description, and has not segmented the Project. Nevertheless, the potential satellite WTP requires further discretionary review and approval. See mitigation measure PSU-5.

Subsequent environmental analysis is reserved for those projects that are not a part of the proposed Butterfield Specific Plan.

IVB1 More Effective Mitigation

20-ttttt. The comment states that more effective mitigation measures are available but does not state what mitigation measures would be more effective. With regard to implementing the Smart Homes program, this would be done as part of the building permit process which includes compliance with the California Green Building Code, implementing additional energy conservation techniques included in the California Attorney General's Recommendations, plus additional energy conservation techniques listed in the mitigation measures, specifically, GHG-1 and GHG-2.

20-uuuuu. The mitigation measure language that the Specific Plan, "...shall allow for rooftop solar on all structures..." is intended to specifically state that the design regulations of the Specific Plan cannot be worded in a way that rooftop solar, electrical charging stations, and hydrogen vehicle fueling stations within the Commercial Zones could be

prohibited. The comment does not state where the use of solar should be required or how it would be a more effective mitigation measure. A requirement for all commercial structures to have rooftop solar or electric and hydrogen vehicle fueling stations would not be feasible as different commercial uses would have different energy needs, and differing numbers of automobile trips. Individual solar panels or alternative fueling stations may not be practical or efficient for all commercial uses. As such, no changes to the EIR were made as a result of this comment. See Master Response #5.

20-vvvvv. The City does not concur with this comment. The last bullet of the mitigation measure in the comment references the energy efficiency standards in the 2010 California Green Building Standards, and specifically the Tier 1 standards. The Tier 1 standards provide specific performance standards in order to qualify for meeting the energy reduction measures stated in the code. As such, no changes to the EIR were made as a result of this comment.

20-wwwww. The mitigation measure requires that all irrigation systems be required to be capable of computerized operation. The comment objects to the terminology “capable of being”. In response to this comment, this mitigation measure has been revised to remove the term “capable of being”.

20-xxxxx. The City does not concur with this comment. The mitigation measures require that drought-tolerant landscaping be emphasized in the Specific Plan area. As the Specific Plan includes a variety of land uses different types of landscaping will be required in different land use areas (e.g., commercial areas versus residential or recreational areas). With regard to the water efficient plumbing requirements on page 1.0-29; the last bullet of the mitigation measure in the comment references the energy efficiency standards in the 2010 California Green Building Standards, and specifically the Tier 1 standards. The Tier 1 standards provide specific performance standards in order to qualify for meeting the energy reduction measures stated in the code. As such, no changes to the EIR were made as a result of this comment.

20-yyyyy. The City does not concur with this comment. The use of pool covers and solar water heating may not be required for all pools, particularly if the pools are to be located indoors. The use of pool covers is not enforceable by the City and solar power water heating would be most effective in the summer months when heating is the least needed and therefore, is not condition of approval. The mitigation measures require the use of the energy efficient motors which can be approved and inspected during the building permit process. As such, no changes to the EIR were made as a result of this comment. See Master Response #5.

20-zzzzz. The City does not concur with this comment, please see Response 20.uuuuu above.

20-aaaaaa. The City does not concur with this comment. The EIR provides many specific mitigation measures to reduce water and energy consumption that would apply to the various land use types included in the Specific Plan. Furthermore, the project is required to comply with the California Green Building Code, which has been designed to implement energy conserving construction techniques, building materials, appliances, and other electronic controls (e.g., HVAC systems, motors, irrigation systems, etc.). The requirements for LEED design standards (administered independently by the US Green Building Council) are not required by the City of Banning and are not a requirement of approval of the Project. Project designs can implement energy reducing measures without entering or completing the LEED process. The City does concur that the Project should implement the California Attorney General's recommendations on conservation strategies as discussed in the EIR. No changes to the EIR were made as a result of this comment. For further information, refer to Response 17.hh through 17.nn regarding energy and water reduction.

IVB2 Incorporation by Reference/Summary of Existing Regulations Relied Upon

20-bbbbbb. The text on pg. 1.0-21 which refers to Draft EIR Section 4.3, *Air Quality*; Cumulative Impacts has been changed to say "..., such as compliance with existing regulations (including but not limited to National Ambient Air Quality Standards..." Please see Section 4.3.4 of the EIR for a discussion on the Air Quality impacts and analysis. No substantive changes to the EIR were made as a result of this comment.

20-cccccc. The City does not concur that the regulations and mitigation measures cited in the comment are intended to be incorporated by reference into the EIR document. The regulations and General Plan documents listed in the mitigation measures are listed to document existing regulations and mitigation measures that have been previously adopted. Listing these regulations provides the reader with information regarding what other development criteria is required and its effect on minimizing potential impacts on the environment. No changes to the EIR were made as a result of this comment.

IVB3 Feasibility of Future Actions

20-dddddd. The Final EIR has revised mitigation measures to remove the phrase "to the extent feasible".

20-eeeeee. GHG reduction associated with the GPS-controlled machine guided grading was not quantified in the GHG emissions analysis. At this time it would be speculative to assign GHG reduction associated with this technology. This Mitigation Measure was incorporated to ensure that mass grading was conducted efficiently onsite, however due to the commenter concerns the second sentence regarding use of the technology where

feasible has been removed and replaced with the requirement that the City Engineer approve the areas of the site where this technology shall be used.

IVB4 Deferral of Mitigation

20-fffff. The City does not concur with this comment. The comment does not specify which mitigation measures are deferred. Mitigation measures provide a timing mechanism to let the reader know at what point the mitigation shall be implemented. For example, street improvements cannot be completed before the Project is approved, but they do have to be completed before building permits are issued. Therefore, they are conditioned prior to the issuance of a building permit to ensure the roadway infrastructure is in place before the buildings are constructed. Where future studies are required or additional analysis, these measures are tied to specific performance standards and various measures that could be implemented to meet the standards. No deferred mitigation had been identified. No changes to the EIR were made as result of this comment.

IVB5 Timing and Fair Share of Infrastructure

20-gggggg. The City does not concur with this comment. As future development occurs within the Specific Plan, area specific Tract Maps or subdivision maps will be processed through the City of Banning. The roadway improvements listed in Table 4.13-9 will be implemented as they are associated with each Tract Map that is processed. This ensures that the roadway improvements are being completed commensurate with the construction activities and need for additional roadway infrastructure. The TIA validation report that is required during the Final Tract Map process, will ensure that the required roadway improvements are being implemented to support the uses associated with the Tract Map. Mitigation Measure TRF-1 assures that improvements in the City of Banning and portions of improvements in the City of Beaumont will be completed. Improvements outside of Banning are funded through the regional TUMF program as well as through local fee programs. No changes to the EIR were made as a result of this comment.

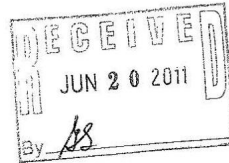
Conclusion

20-hhhhhh. The City does not concur with this comment. The EIR properly identifies the potential environmental impacts and provides mitigation measures to reduce or avoid those impacts. In the cases where the proposed mitigation does not fully reduce the impacts to less than significant (e.g., construction air quality or visual impacts), the EIR discloses those conclusions. Each of the mitigation measures included in the EIR is enforceable and provides a timing mechanism as to when it shall be implemented. No new information or new significant impacts have been identified that would require the

EIR to be re-circulated for public review. No changes to the EIR were made as a result of this comment.

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Public Comment Letter
No. 21



MORONGO
BAND OF
MISSION
INDIANS



June 14, 2011

City of Banning
Community Development Department
99 E. Ramsey Street
Banning, CA 92220
Attn: Zai Abu Bakar, Community Development Director

**SUBJECT: NOTICE OF AVAILABILITY
DRAFT ENVIRONMENTAL IMPACT REPORT
AND PUBLIC HEARING NOTICE
State Clearing House # 2007091149
Project Title: Butterfield Specific Plan
Draft Environmental Impact Report (EIR)**

Dear Ms. Abu Bakar:

Thank you for contacting the Morongo Band of Mission Indians regarding the above referenced project. The Tribe greatly appreciates the opportunity to review the project and, respectfully, offer the following comments.

The project is outside of the Tribe's current reservation boundaries but within an area that may be considered a traditional use area or one in which the Tribe has cultural ties (e.g. Cahuilla/Serrano territory). It appears that the Draft EIR adequately addresses the Tribe's concerns with the findings and conditions contained within the Cultural Reports chapter of the Draft EIR. Based upon this determination, the Morongo Band of Mission Indians has no comments at this time but reserves the right to review and comment upon any subsequent development and/or entitlement applications submitted.

If I may be of further assistance with regard to this matter, please do not hesitate to contact me at your convenience.

Very truly yours,

MORONGO BAND OF MISSION INDIANS

Franklin A. Dancy
Franklin A. Dancy,
Director of Planning

} 21.a

Franklin A. Darcy, Director of Planning
Morongo Band of Mission Indians

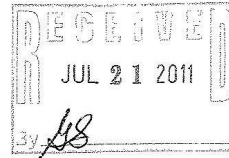
Response No. 21

- 21.a This letter confirms that the Morongo Band of Mission Indians has assessed the project and has determined the project site lies outside of the Tribe's current reservation boundaries, but within an area that may be considered a traditional use area or one in which the Tribe has cultural ties. The Tribe has no specific concerns regarding the project, but reserves the right to review and comment upon any subsequent development and/or entitlement application submitted. This request has been duly noted by the City. The Morongo Band of Mission Indians will be placed on the mailing list to receive future notices and distributions for the Project.

**Public Comment Letter
No. 22**



July 21, 2011



Ms. Zai Abu Bakar, Community Development Director
City of Banning
99 E. Ramsey Street, Banning CA 92220

RE: Notice of Availability of a Draft Environmental Impact Report (DEIR) for Butterfield Specific Plan; State Clearinghouse # 2007091149

Dear Ms. Bakar:

Southern California Edison (SCE) appreciates the opportunity to comment on the Butterfield Specific Plan (Specific Plan) DEIR. The project is described as a proposal for a mixed-use development on 1,543 acres, located north of Wilson Street, between Highland Springs Avenue and Highland Home Road crossing Brookside Avenue to the north. The Specific Plan allows for a maximum of 5,387 dwelling units, 36 acres of commercial/office sites, two school sites, a potential fire station site, a golf course, 66.5 acres of parks and a 1.5-2.0-million-gallon-per-day satellite treatment plant to be phased over a 30-year period. The project site also contains an existing City of Banning utility substation. In addition, SCE has two right-of-ways located on the subject site: a 50-foot-wide right-of-way containing 115 kilovolt (kV) overhead subtransmission lines and wood poles located in the northern portion of the project site and a 430-foot-wide right-of-way containing multiple 220 kV transmission lines supported by a combination of metal and wood structures running through the central portion of the site.

22.a

SCE's West of Devers Upgrade Project

The 430-foot wide easement noted in the DEIR contains four existing 220 kV transmission lines and associated structures that play a vital role in transmitting and delivering energy across southern California. The proposed Specific Plan appears to conflict with SCE's planned upgrade of these lines as part of SCE's West of Devers Upgrade Project.

22.b

The West of Devers Upgrade Project is necessary for SCE to meet Federal Energy Regulatory Commission (FERC) and California Independent System Operator (CAISO) requirements to interconnect large generators into SCE's CAISO-controlled transmission grid (summarized in the Large Generator Interconnection Procedures, which can be

Ms. Bakar
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found on CAISO's website at
<http://www.caiso.com/planning/Pages/GeneratorInterconnection/Default.aspx>).

SCE's West of Devers Upgrade Project includes the removal and replacement of approximately 184 circuit-miles of existing 220 kV transmission line facilities (48 corridor-miles) with new double-circuit construction between the existing Devers, El Casco, Vista, and San Bernardino Substations. These existing 220 kV transmission lines currently run through an SCE right-of-way that traverses the proposed Butterfield Specific Plan project area.

As part of the West of Devers Upgrade Project, SCE would remove and replace the existing 220 kV transmission lines with new facilities between now and late 2017. As a result, SCE would require adequate construction area within the West of Devers corridor as well as permanent Operation and Maintenance (O&M) access to completed facilities. SCE would also need to coordinate construction schedules as the Butterfield Specific Plan Development is constructed in phases. Additionally, development plans for the Planning Areas surrounding the West of Devers corridor would need to take into consideration any future SCE plans to further upgrade its infrastructure located in the the transmission line right-of-way easement.

22b
cont.

Potential Project Conflicts

In addition to the above noted conflicts, the Specific Plan notes Planning Areas (PAs) 36, 37, and 38 located within the West of Devers right-of-way are to be developed as large community parks allowing for the following uses: ball fields, sports courts, golf-oriented public use and related facilities, playgrounds, trails, restrooms, off-street parking and adaptive community farming. In addition, PA 35 traversing the same right-of-way is planned for a golf course and open space. Allowable golf course uses include incorporating Smith Creek into the design with potential mitigation areas for sensitive plant species. The Specific Plan also offers a "No Golf Course Alternative" that would allow for the development of additional park areas, trails, native habitat development, drainage facilities, water quality improvements, groundwater recharge areas and wetland mitigation areas.

22.c

SCE does not permit high-intensity secondary land uses within its right-of-ways, i.e., those involving the placement of permanent structures. In addition, active recreational land uses such as active trails, parks and sports fields may also not be compatible land uses within SCE's easements due to SCE's O&M requirements for its facilities, and because once these uses are established in corridors, they may become unavailable to the public for extended periods of time during SCE system construction and/or maintenance work (for example, SCE's planned West of Devers Upgrade Project). Furthermore, any proposed use cannot conflict with the rights owned by SCE.

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Therefore, SCE requests the specific plan state no permanent structures are to be permitted within SCE easements and only passive open-space uses and other similar low-intensity land uses approved by SCE are allowed within SCE easements. It is also advisable that the Specific Plan indicate early consultation with SCE is necessary for any proposed use of SCE right-of-ways.

In like manner, when groundwater recharge areas and/or environmental mitigation is proposed adjacent to or includes SCE operating property, SCE's ability to continue to provide safe and reliable electricity service through the operation, maintenance, modification or upgrading of facilities may be seriously compromised. For example, allowing legally protected species to grow or be introduced, or habitat to be established, on an SCE transmission corridor could inhibit SCE from performing necessary repairs and/or from upgrading facilities to meet increased customer demand for electricity. SCE requests the specific plan include language clearly indicating that utility lands, including rights-of-way, are not compatible as locations for environmental mitigation. Further, we recommend that any project design creating habitat or water features adjacent or in proximity to SCE's utility lands be subject to early joint review between the developer and SCE, so that SCE can ensure its ability to conduct O&M on its facilities is maintained.

In summation, please note SCE Company right-of-ways and fee-owned properties are purchased for the exclusive use of SCE to operate and maintain its present and future facilities. Any proposed use will be reviewed on a case-by-case basis by SCE. Approvals or denials will be in writing based upon review of the maps provided and compatibility with SCE right-of-way constraints and rights. Please forward six (6) sets of plans (along with a disk with PDF type files) depicting SCE's facilities, associated land rights, and the proposed uses of those properties in detail to the following location:

Real Properties Department
Southern California Edison Company
2131 Walnut Grove Avenue
G.O.3 – Second Floor
Rosemead, CA 91770

Relocation of SCE's 115 kV Facilities

The Specific Plan includes a proposal to relocate approximately 2,700 linear feet of SCE's existing 115 kV transmission line from PA 73 and the eastern portions of PAs 60, 69, 67, and 52 to the boundary between PAs 60 and 73 and the east side of PA 67. SCE has not fully assessed the proposed 115 kV line route identified in the DEIR; therefore, the final location may vary from the current project description. Preliminary concerns regarding the proposed line route include potential conflicts between SCE's right-of-way and proposed streets/cul-de-sacs and grading and access issues relative to our right-of-way.

22.c
cont.

22.d

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Please be advised when development plans result in the need to build new or relocate existing SCE electrical facilities that operate at or above 50 kV, the SCE construction activities may have environmental impacts subject to CEQA review. If those environmental consequences are identified and addressed by the local agency in the CEQA process for the larger project, SCE may not be required to pursue a later, separate, mandatory CEQA review through the California Public Utilities Commission (CPUC) and its General Order 131-D (GO 131-D) process. If the environmental impacts of the scope of SCE's facilities work are not adequately addressed in the CEQA review for the larger project, however, and the new facilities could result in significant environmental impacts, the required additional CEQA review at the CPUC could delay approval of the SCE power line portion of the project for up to two years or longer.

22.d
cont.

Electric and Magnetic Fields (EMF)

The EMF discussion is currently placed under Section 4.8, "Hazards and Hazardous Materials" of the DEIR. This is incorrect since EMF exposures have not been established as a health hazard, and thus should not be included in the context of CEQA. Our recommended approach is to follow the lead of the CPUC, and discuss EMF for informational purposes only. The following paragraph could be added to the EIR to address this point:

"This section does not consider power-frequency magnetic field (MF) exposures in the context of CEQA or to assess impacts from MF. This is because there is a clear scientific consensus that health risks associated with EMF exposure have not been established. In addition, there are no Federal or California standards limiting human exposure to EMF from transmission lines or substation facilities. Therefore, there are no defined or adopted CEQA standards for defining health risk from EMF. As a result, EMF information is presented for the benefit of the public and decision-makers."

22.e

Potential Impact to an SCE Historic Electric Facility

The Specific Plan project site may include an SCE potentially historic transmission line called Boulder No. 3. If this or any other historic electric infrastructure is present on the subject site, please address this project's potential to impact the historic resource in the Final EIR for this project.

22.f

Once again, SCE appreciates the opportunity to comment on the Butterfield Specific Plan DEIR. As the planning continues for SCE's West of Devers Upgrade Project, SCE will need to coordinate closely with the City, the project applicant, and any future developers of the Butterfield Specific Plan Planning Areas to minimize impacts to SCE's capacity to upgrade and maintain its facilities and to coordinate construction schedules

22.g

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between the two projects. Further, it is highly advisable that future residents of the Specific Plan are made aware that SCE expects to apply to the CPUC for a Certificate of Public Convenience and Necessity to construct electrical facilities associated with the West of Devers Upgrade Project (or similarly defined project), as well as any other future utility project(s) that require construction of new or upgraded facilities within the SCE right-of-way easement. SCE recommends the Specific Plan and associated subdivision maps be conditioned to employ a mechanism to inform residents.

In closing, please be advised this letter contains SCE's preliminary concerns based on the potential land uses identified for the Planning Areas and their relationship to SCE's existing right-of-ways and SCE's current working description of the West of Devers Upgrade Project. Additional concerns may be noted with further planning, design, development and construction of SCE's West of Devers Upgrade Project.

SCE suggests a meeting with the project applicant and the City to discuss future coordination efforts to address the concerns noted in this letter. SCE is available to meet regarding these issues. Please feel free to call me at (760) 202-4288 to set-up this meeting.

Sincerely,



Lin Juniper
Local Public Affairs Region Manager
Southern California Edison Company

Southern California Edison

Response No. 22

- 22.a The comment states that Southern California Edison has utilities within the vicinity of the proposed Project. This comment does not identify a specific deficiency in the environmental analysis presented in the Draft EIR.
- 22.b The comment provides information on SCE's West of Devers Upgrade Project involving the existing transmission lines through the 430-foot wide easement located in the middle of the Project property. The comment states that the proposed Specific Plan appears to conflict with SCE's planned upgrade of these lines as part of the SCE project. The comment does not provide any specific information on how the Specific Plan Project would be in conflict with SCE's West of Devers Upgrade Project other than to indicate that SCE would require an adequate construction area within the West of Devers corridor as well as permanent Operations and Maintenance access to completed facilities and that SCE would also need to coordinate construction schedules with the planned phased construction schedule of the Butterfield Specific Plan Development.

The Project Applicant, Pardee Homes, has provided copies of the easement documents for the 430-foot total width easements granted by previous property owners, that Pardee Homes is successor to, as granted to SCE and parties that SCE is now successor to. The documents include a 330-foot wide easement recorded in 1946 in Book 754, Page 84, of Official Records, and an adjacent 100-foot wide easement recorded in 1961 as Instrument No. 5433 of Official Records, County of Riverside. The development contemplated by the Specific Plan is consistent and will be required to be consistent with the allowances and prohibitions in these easement documents, and SCE's West of Devers Upgrade Project is required to be consistent with the allowances in these easement documents; therefore, it is expected that the Specific Plan and SCE's project should not be in conflict. The City of Banning will require that subsequent more detailed development plans associated with the Specific Plan involving areas in and immediately adjacent to the easements be reviewed by SCE as part of the normal review process. The City acknowledges SCE's and the Project's developers need to coordinate construction schedules as their respective projects move forward. The comment also mentions consideration of any future SCE plans to further upgrade its infrastructure in the easements, but without identifying what the further upgrades might include. It is expected that any further upgrades would also need to be consistent with the allowances in the easement documents as is the Specific Plan as previously noted.

- 22.c These comments indicate that SCE does not permit high intensity secondary land uses within its rights-of-ways, i.e., those involving permanent structures. In addition the

comments note that active recreational land uses may also not be compatible with SCE's operation and maintenance requirements for its facilities. The requested prohibition of permanent structures within the easements appears to be consistent with prohibitions stated in the recorded easement documents referred to above in Response 22.b. The City will require that the Specific Plan be revised to state that no permanent structures are to be permitted within the SCE easements. The subject easement documents do not appear to prohibit active recreational uses within the easements, unless, of course, they involved permanent structures. The comments also indicate that environmental mitigation areas and groundwater recharge areas are not compatible with SCE's operation and maintenance of its facilities. Smith Creek presently drains through the SCE easements and has done so prior to the existence of the easements or SCE's facilities. Smith Creek, including through the SCE easements, has currently delineated natural resources. Development of the Specific Plan will maintain the Smith Creek drainage through the SCE easements, including preservation and restoration of the immediate creek area as a natural resource. The City acknowledges that areas elsewhere in the SCE easements are not appropriate as environmental mitigation areas. Exhibit 3.10B, *Conceptual Groundwater Recharge Plan*, in the Butterfield Specific Plan and Exhibit 3.0-7, *Master Drainage Plan*, in the Butterfield Draft EIR do not propose any specific groundwater recharge facilities within the SCE easements. The City acknowledges that the SCE easements are not appropriate areas for specific groundwater recharge facilities. Other portions of the existing project site presently drain through the SCE easement area and will continue to do so in the proposed developed condition. The comment further notes that SCE Company rights-of-ways and fee-owned properties are purchased for the exclusive use of SCE to operate and maintain its present and future facilities. The recorded easement documents referred to above in Response 22.b do not appear to indicate the subject easements are property fee-owned by SCE. The documents appear to indicate these are easements only to SCE and that the easement grantor and their successors (i.e., the Project Applicant), the underlying fee-owner, retain significant rights. As further noted above in Response 22.b, the City of Banning will require that subsequent more detailed development plans associated with the Specific Plan involving areas in and immediately adjacent to the SCE easements be reviewed by SCE as part of the normal review process.

- 22.d The Draft EIR fully analyzed the environmental impacts of relocating the existing SCE electrical facilities. In addition, utility specialists, on behalf of the Project Applicant, reviewed the preliminary relocation plans with SCE.
- 22.e The additional language has been added to the Final EIR. Refer to Section 3.0, *Errata*, of this document.

- 22.f The comment requests that the Final EIR address the Project's potential to impact the SCE potentially historic transmissions line. Refer to Response 20.vvv and 20.www for a discussion of this transmission line.
- 22.g The comment notes that SCE will need to coordinate with the City, the Project Applicant, and any future developers of the Project site to minimize impacts to SCE's capacity to upgrade and maintain its facilities and to coordinate construction schedules between the West of Devers Upgrade Project and the proposed Project. The comment recommends the Specific Plan and associated subdivision maps be conditioned to employ a mechanism to inform residents. An additional condition of approval will be added to inform future residents and persons acquiring property within the Specific Plan area that SCE expects to apply to the California Public Utilities Commission (CPUC) for a Certificate of Public Convenience and Necessity to construct electrical facilities associated with the West of Devers Upgrade Project (or similarly defined project), as well as any other future utility project(s) that require construction of new or upgraded facilities within the SCE right-of-way easement. Refer to the text below for what the COA will look like.

Every transferor of property within the Project site shall, upon transfer, also provide to any transferee the notice of future Southern California Edison (SCE) improvements recited below in writing. This notice may be contained in any form of agreement or contract; however, the notice need be given only once in any transaction. The transferor shall acknowledge delivery of the notice and the transferee shall acknowledge receipt of the notice. The notice shall read as follows:

*NOTICE OF SOUTHERN CALIFORNIA EDISON (SCE)
RIGHT-OF-WAY FUTURE PROJECTS*

You are hereby notified that the property you are acquiring an interest in is located within close proximity to Southern California Edison right-of-way easement. SCE expects to apply to the California Public Utilities Commission (CPUC) for a Certificate of Public Convenience and Necessity to construct electrical facilities associated with the West of Devers Upgrade Project (or similarly defined project), as well as any other future utility project(s) that require construction of new or upgraded facilities within the SCE right-of-way easement.

As background information regarding the West of Devers Upgrade Project, SCE is proposing as a separate, independent project to deliver electricity from renewable generation resources in order to help meet California's goals for a clean, green energy future. To meet those important goals, SCE is proposing the West of Devers Upgrade

Project. The project will primarily consist of upgrading existing transmission lines within an existing transmission corridor. These upgrades will provide additional capacity to allow new renewable generation to be delivered to the power grid.

The West of Devers Upgrade Project will remove and replace approximately 48 miles of existing 220 kilovolt (kV) transmission lines with new double-circuit 220 kV transmission lines between the existing Devers Substation (located near Palm Springs), Vista Substation (located in Grand Terrace), and San Bernardino Substation (located in San Bernardino). SCE is currently conducting preliminary project planning activities for this project and anticipates the in-service date to be in year 2017.

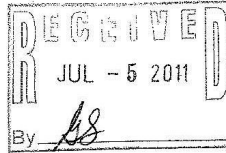
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Public Comment Letter
No. 23



A Semptra Energy utility®

Mr. Zai Abu Bakar
Community Development Direct
City of Banning; Community Development Department
99 E. Ramsey Street
Banning, CA 922220



James Chuang
Environmental Specialist/Land Planner

Land Planning & Natural Resources
Mail Location G11603
555 W. Fifth Street
Los Angeles, CA 90013-1036

Tel: 213.244.5817
E-mail: WCChuang@semprautilities.com

June 28, 2011

Re: **Butterfield Specific Plan Draft Environmental Impact Report**

Dear Mr. Zai Abu Bakar:

Southern California Gas Company (SoCalGas) appreciates the opportunity to review and respond to the Project's Draft Environmental Impact Report. We respectfully request that the following comments be incorporated in the subsequent Draft Environmental Impact Report (DEIR).

SoCalGas recommends that the DEIR include a discussion of activities associated with the relocation/replacement of the existing natural gas pipeline. This additional discussion should include:

- Identification and description of any temporary areas required for construction and/or staging of material related to new gas pipeline relocation or construction.
- Identification of any actions that would require permitting or acquisition of new right-of-way or easements for natural gas relocation project.
- Any proposed grading and/or drainage improvements that would redirect drainage in a manner that would increase the potential for erosion around SCG facilities.

The DEIR should also recognize that, in order to provide service, natural gas lines may have to be extended from existing off-site locations to the project site. A discussion of these issues with appropriate diagrams, including specific environmental impact analyses related to these activities, if necessary, may help to reduce the time and cost associated with the extension of new natural gas service to the project. In addition, if any field monitoring for cultural or biological resources is required during construction of the natural gas facilities, the monitoring should be mentioned in the DEIR as a requirement and responsibility of the ("larger") Butterfield development project. Likewise, any environmental mitigation required for the potential impacts associated with the construction of gas service to the project should also be addressed as part of the responsibility of the "larger" Butterfield development project.

Once again, we appreciate the opportunity to comment on the DEIR. If you have any questions, please feel free to contact me at (213) 244-5817 or WCChuang@semprautilities.com.

Sincerely,

James Chuang
Environmental Specialist
Southern California Gas Company

} 23.a
} 23.b
} 23.c
} 23.d

Southern California Gas Company

Response No. 23

- 23.a The comment states that the Draft EIR identify and describe any temporary areas required for construction and/or staging of materials related to new gas pipeline relocation and construction. The gas pipeline relocation/replacement would occur during the initial construction mass grading phase, as described in Section 3.6.2.6, *Project Description*, and Section 3.7 (“Project Phase I”) of the Draft EIR. This relocation/replacement would take place prior to the start of construction of the golf course, dwelling units, and roadways in the area where the pipeline is to be aligned. As pipeline relocation/replacement occurs, there will be more than sufficient area within the Project site outside of sensitive areas (i.e., jurisdictional waters, cultural resource areas, etc.) for staging of construction materials. In addition, construction impacts of the gas pipeline relocation/replacement were analyzed throughout the Draft EIR as part of the overall Phase I construction.
- 23.b The comment requests that the Draft EIR identify any actions that would require permitting and/or acquisition of new rights-of-way or easements for natural gas relocation projects. Permitting will be part of the overall permitting process for Project construction, as described in Draft EIR Section 3.9, “Required Permits and Approvals”. The Project Applicant will provide for all of the adequate easements and right-of-way within the Project site.
- 23.c The comment states that any proposed grading and/or drainage improvements that would redirect drainage in a manner that would increase erosion around SCG facilities should be discussed in the Draft EIR. All improvements will be designed to prevent erosion around SCG facilities subject to SCG approval.
- 23.d The comment requests information about offsite pipeline extensions. The comment also requests a diagram and discussion of environment impact analysis of these activities, as well as onsite replacement/relocation. Lastly, the comment states that the Draft EIR should mention any field monitoring for cultural or biological resources that is required.

Potential connections to existing gas pipelines are anticipated to occur within existing rights-of-way of immediately adjacent streets. Dry utilities connections currently exist at locations along Wilson Street, Highland Home Road, and Highland Springs Avenue. Therefore, no further analysis or diagrams concerning offsite pipeline extensions are necessary. As described above, environmental impacts and mitigation associated with the onsite pipeline replacement/relocation is addressed as part of the overall Project’s Phase I development. Cultural monitoring for Project construction is described under

Mitigation Measures CUL-1, CUL-2 and CUL-3 (refer to Draft EIR Section 4.6).
Biological monitoring for Project construction is described under Mitigation Measures
BIO-1, BIO-2, and BIO-5 (refer to Draft EIR Section 4.4).

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**Public Comment Letter
No. 24**

Rejecting the Circulation Element of the May 25, 2011 Draft
Butterfield Specific Plan

Submitted by Edward C. Ball
4678 West Hoffer Street, Banning, CA 92220

The value of my home will be negatively impacted by the poorly designed Circulation Element of the May 25, 2011 Draft Butterfield Specific Plan. The Circulation Element of should be rejected because

1. The design standards encourage high speed driving which is unsafe in and near residential areas;
2. It wastes Padee's money and land by requiring very wide roadways;
3. It increases the project's storm water runoff which will impact the flood control system; and,
4. It increases the City's carbon footprint.

24.a

Skinnier streets with tighter corner radii shorten crosswalks, use less land, reduce storm water runoff, and cut construction and maintenance costs. These factors contribute to less expensive initial housing prices, lower long-term taxes for the home-owner, and lower life-cycle costs for the street department. Narrow, pedestrian-friendly streets reduce speeds more reliably than just speed limit signs, traffic calming devices, or irregular enforcement. And slowing traffic to 30 mph can actually move more cars through an area per hour than faster speeds, which compel drivers to increase gaps between vehicles. Safe, smoothly flowing traffic should be the goal for street design. (See the Burden Street Design Guidelines found at http://www.sacog.org/complete-streets/toolkit/files/docs/StrengtheningCenters_SlowerSaferStreets.pdf)

24.b

Specifically:

1. Arterial Highways are proposed adjacent to all residential areas. These roadways are four-land divided highways. The design makes them slightly wider than Highway 60 through the Badlands and Interstate 10 from Indio to Phoenix. Posted speed limits range up to 70 MPH. The safety of our residents and visitors will be compromised by having roadways adjacent to residential areas that are designed for vehicles travelling at 65MPH. This is unsafe and is grounds for rejecting the Circulation Element.

24.c

The Local Residential Street design equates with many sections of Highway 395 between Interstate 15 in Hesperia and Reno, Nevada. Many sections of

Rejecting the Circulation Element of the Draft Butterfield Specific Plan
Edward C. Ball
Page 2 of 2

395 are posted at 55 MPH. Such roadways in the project's residential areas seem a virtual guarantee for pedestrian-vehicular collisions.

Having the equivalent of Highway 60 only 307' from my property line will negatively impact the value of my home and all of the homes in my neighborhood.

} 24.c
cont.

2. The excessive width of each level of roadway requires the developer to take land that could be developed for private ownership and turn it into City maintained asphalt roadways. It takes away from the developer at the front-end and requires on-going maintenance by the City. Roadways can be designed for less than freeway speeds. These safer and narrower roadways will require less developable land and not cost as much to build or maintain. The Circulation Element should be rejected for monetary as well as safety concerns.

} 24.d

3. The wider and high-speed roadways proposed in the Circulation Element will be collecting more storm water than the safer narrower streets that could be the basis of the Circulation Element. The additional storm water run-off should be a red flag requiring the rejection of the Circulation Element.

} 24.e

4. The excessive width of the proposed roadways unnecessarily increases the City's Carbon Footprint. This increase may have a fiscal impact on the City and affect the quality of life of the residents.

} 24.f

The proposed Circulation Element should be rejected in the interests of safety, waste, and that elusive issue know as quality of life. The Specific Plan should have roadway design standards based on the Burden Street Design Guidelines at http://www.sacog.org/complete-streets/toolkit/files/docs/StrengtheningCenters_SlowerSaferStreets.pdf.

} 24.g

Edward C. Ball

Response No. 24

- 24.a The comment states that the design of the Circulation Element should be rejected, because it would encourage high-speed driving, require very wide roadways, increase stormwater runoff, and increase the City's carbon footprint.

Widths for roadways proposed in the Project Specific Plan are intended to comply with the City's basic minimum design standards and the General Plan. Some streets proposed by the Project within the Specific Plan include a modified standard street section that has a reduced right of way width and pavement width from the normal city standards, but still comply with the intent of the basic city standards. The intent of the reduced width is to use less land, reduce traffic speeds by traffic calming due to reduced width, and reduce the amount of runoff produced. Some of the proposed streets have added width to allow lanes for neighborhood electric vehicles with a lower carbon footprint and encourage their use instead of standard automobile use. In addition, other aspects of the comment's concerns are addressed in the Draft EIR: (1) stormwater runoff is addressed in Section 4.9, Impact Statements 4.9-2 and 4.9-3 and (2) the greenhouse gas emission are discussed in Section 4.5, Impact Statement 4.5-1. As stated in the Draft EIR, the Project would result in less than significant impacts with mitigation related to runoff and potentially significant and unavoidable impacts with mitigation incorporated related to greenhouse gas emissions. See Master Response #5.

- 24.b The comment asserts that the Project would benefit from the implementation of narrower streets and cites the alleged benefits of narrow street design. The title of the article referenced by the commenter is "Design Narrow Streets in Cities, Villages, and Hamlet Centers with Buildings Close to Sidewalks, Street Trees, and Other Pedestrian-Friendly Features that Promote Slower Speeds." See Response 24.a above. As suggested by the title, the description regarding narrow streets included in the comment can apply to cities, villages, and hamlet centers with buildings close to sidewalks. The proposed Project is not located in an area that is necessarily similar to the one described in the article and, hence, the design standards are not necessarily applicable. Additionally, the Project is consistent with the City of Banning's adopted roadway design standards.

- 24.c The comment states that the safety of the local residents and visitors will be compromised by having roadways adjacent to residential areas that have design speeds of 55 mph to 65 mph.

The circulation in the proposed Specific Plan is consistent with the City's General Plan Circulation Element and the roadway cross-sections and engineering design criteria are

consistent with City standards. Highland Home Road is planned as a four-lane arterial and will require a 100 to 110-foot right-of-way, which is similar to Wilson Street from just west of McGovern Avenue to just west of Kingswell Avenue. Note that Wilson Street is located just south of the Project site and it also provides access to residential areas. Once constructed, the speed limit on Highland Home Road should be similar to Wilson Street. Residential areas proposed in the Project Specific Plan would not front arterial or collector roadways.

The comment also asserts that the presence of these nearby roadways will devalue his property. Financial or other issues unrelated to physical impacts on the environment need not be covered by the Draft EIR pursuant to State CEQA Guidelines, § 15382.. Additionally, due to the proximity of the property to existing Wilson Street (a roadway similar to the planned Highland Home Road) it would be speculative to assume that the commenter's property value would be negatively impacted by the Project.

- 24.d The comment states that safe narrower roadways would require less developable land upfront and would not cost as much to build and maintain. The proposed circulation system within and immediately adjacent to the Project site is not designed for freeway speeds, but rather designed for local and regional access for the Project traffic and, further, is consistent with City design standards and the City General Plan Circulation Element. Refer to Response 24.a above.
- 24.e The comment states that narrower streets would generate less runoff. Refer to Response 24.a; the Draft EIR identifies impacts related to runoff and concludes that less than significant impacts with mitigation would occur. In addition, as stated above, the circulation components in the proposed Specific Plan are consistent with the City's General Plan Circulation Element, and the roadway cross-sections and engineering design criteria are consistent with City standards.
- 24.f The comment states that narrower streets would generate less carbon emissions and the proposed wider roadways may fiscally impact the City and decrease the quality of life of residents. Refer to Response 24.a; the Draft EIR identifies impacts related to greenhouse gas emissions and concludes that potentially significant and unavoidable impacts with mitigation incorporated would occur. Additionally, financial or other issues unrelated to physical impacts on the environment need not be covered by the Draft EIR. Refer to Responses 24.a and c, above.
- 24.g The comment affirms that the proposed Circulation Element should be rejected due to safety, waste, and quality of life issues. Refer to Responses 24.a through f above. Refer to Response 24.c regarding safety concerns. Refer to Response 24.d and 24.f regarding fiscal waste. The City of Banning has adopted roadway design standards. The Project

has followed the City's standards as modified in designing the roadways within and adjacent to the Project site.

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Public Comment Letter
No. 25



June 8, 2011

Zai Abu Bakar
Community Development Dept.
99 E. Ramsey Street
Banning, CA 92220

Mr Bakar,

As a resident of Banning near Highland Springs Avenue and Wilson Street, and as a former employee of the County of Riverside Transportation Department, I wish to note the significant impact the proposed Butterfield Specific Plan Project will have on the traffic congestion in the surrounding neighborhoods.

Currently, it is not uncommon for traffic to be backed up from the traffic signal at Highland Springs and Fifth Street all the way to Ramsey Street by people attempting to access either the westbound or eastbound 10 Fwy or to shop at Sun Lakes Village and Beaumont Marketplace on Second Street in Beaumont. This situation often causes delays for traffic trying to cross Ramsey on southbound Highland Springs and for exiting the shopping center located NW of the westbound 10 onramp. Imagine the additional traffic from 5000+ dwelling units! Traffic

25.a

	<p>backups from the freeway to Wilson Street should be contemplated.</p>	} 25.a cont.
	<p>Not only would this situation impede access to San Geronimo Memorial Hospital, but it would necessitate drivers diverting onto Wilson Street (a mostly two-lane street in residential area) to the east all the way to Sunset Avenue, or to the west (past a school!) to find another access to the 10. Another alternate route would be westbound on Brookside Avenue (another two-lane which is prone to flooding) which is within the boundaries of Cherry Valley and not presumably within the project for improvements.</p>	} 25.b
	<p>You may be aware of the project to build on the southside of Hwy 74 in the Lake Perris area. The City of Riverside has joined in a suit with other entities in addressing environmental concerns, but also in the fear that overflow traffic from Hwy 74 will overwhelm Van Buren Blvd. due to this project. Van Buren Blvd. is VASTLY superior in handling traffic loads than any street near the Butterfield Project.</p>	} 25.c

This of course does not even touch
upon the subjects of Air Quality and Noise
this will engender on the surrounding
neighborhoods.

} 25.d

Robert Brezinske
5237 Prospector Circle
Banning, CA 92220

Robert Brezinske

Response No. 25

25.a The comment states that the proposed Butterfield Specific Plan Project will have a significant impact on traffic congestion in the surrounding areas before mitigation. The Draft EIR concurs with this statement, specifically under the impact discussion for Impact 4.13-1 and 4.13-2 in Section 4.13, *Traffic and Transportation*. While the *Traffic Impact Assessment* (TIA) (Draft EIR Appendix I) identifies mitigation to achieve acceptable levels of service, in these two impact discussions it is stated that the Project will have a potentially significant impact due to the uncertainty of mitigation feasibility and lack of control of mitigation implementation in jurisdictions other than Banning. For clarity, Master Response #2 summarizes improvements deemed infeasible and the basis for the determination.

The comment also states that queuing at the intersection of Highland Springs Avenue and Fifth Street can at times extend to Ramsey Street, as the result of cars attempting to access Interstate 10 or the shops at Sun Lakes Village and Beaumont Marketplace on Second Street. Section 4.13, *Traffic and Transportation*, of the Draft EIR concludes on page 4.13-6 that the intersections of Highland Springs Avenue/6th Street-Ramsey Street and Highland Springs Avenue/I-10 Westbound Ramps currently exceed level-of-service (LOS) thresholds. Also refer to Response No. 10 regarding interim improvements that the City and applicant are pursuing with Caltrans, to mitigate existing circulation issues as well as alleviate future traffic conditions. These interim improvements are not factored into the TIA as they are a separate project and will proceed regardless of the Project, therefore making the TIA a “worst case” assessment.

A LOS analysis was conducted to evaluate existing (baseline) plus Project a.m. and p.m. peak hour traffic operations at the intersections along Highland Springs Avenue (among others). Table 4.13-8 of the Draft EIR summarizes the findings of this analysis. The following intersections along Highland Springs Avenue are identified below with their respective anticipated LOS:

- Highland Springs Avenue/6th Street-Ramsey Street – LOS “D”
- Highland Springs Avenue/I-10 Westbound Ramps – LOS “C”
- Highland Springs Avenue/I-10 Eastbound Ramps – LOS “C”
- Highland Springs Avenue/1st St.-Sun Lakes Boulevard – LOS “C”

Table 4.13-8 shows that with the recommended mitigation all intersections will function at acceptable LOS. However, as stated above, certain Project-related impacts in other jurisdictions (besides Banning) are outside of the control of the Applicant and the City of

Banning, and/or would require substantial right-of-way or otherwise may not be feasible to construct. Therefore, the Draft EIR determined that these locations may have potentially significant impacts associated with either the Project or cumulative traffic levels.

The City of Banning, along with the City of Beaumont and Caltrans, is currently reviewing options for short- and long-term improvements along Highland Springs Avenue, especially at the I-10 ramp intersections. Additionally, the Highland Springs Avenue/I-10 interchange is included in the Traffic Uniform Mitigation Fee (TUMF) program. The TUMF Program is a Riverside County-wide regional transportation improvement program. This program is currently in place implementing planned improvements and is administered by the Western Riverside Council of Governments (WRCOG) representing its member agencies, including the City of Banning.

- 25.b The comment notes that congestion at the intersection of Highland Springs Avenue and Fifth Street which can extend to Ramsey Street would impede access to San Gorgonio Memorial Hospital and would divert drivers onto adjacent roadways to find another access to the I-10 Freeway (i.e., Wilson Street, Sunset Avenue, 8th Street, Brookside Avenue). As noted above in Response 25.a, the TIA concluded that the LOS at all study intersections along Highland Springs Avenue between 1st Street-Sun Lakes Boulevard and Brookside Avenue and the adjoining roadways can operate at an acceptable LOS with the recommended mitigation. In addition, the TIA presents the existing (baseline) traffic volumes along with the Project-generated trips to show the combined trip distribution at each study area intersection. As noted in Response 25.a, with the recommended mitigation, all study intersection will function at acceptable LOS, but certain Project-related mitigation measures are outside of the control of the Applicant and the City; therefore, the Draft EIR concluded that potentially significant impacts may occur if the planned improvements in other jurisdictions are not implemented. Also refer to Response 25a above regarding interim improvements to alleviate current and future circulation issues on Highland Springs Avenue.
- 25.c The comment notes a similar project on the south side of State Route 74 (SR 74) in the Lake Perris area of Riverside County and compares the impacts of that project on Van Buren Boulevard with impacts that would occur on streets near the Butterfield Specific Plan Project. The TIA prepared for the Draft EIR did not analyze the project mentioned in this comment. Riverside County traffic study guidelines only require analysis of intersections of General Plan roadways and freeway segment to which the Project will contribute 50 or more peak hour trips not exceeding a 5-mile radius from the Project site. SR 74 does not meet these criteria.

Additionally, for the Butterfield Specific Plan, a traffic impact analysis was conducted to analyze the impacts of Project traffic on the existing circulation system. The analysis

reviewed the freeway segments along I-10 and I-60 in the vicinity of the Project. The study also analyzed General Plan build-out conditions which identify circulation needs when the City is completely built out.

Because this comment does not identify a specific deficiency in the traffic analysis presented in the Draft EIR and/or TIA, this comment does not directly address the environmental impacts of the Project. The Project TIA analyzes traffic volumes on nearby streets pursuant to Riverside County traffic study guidelines described above. Therefore, no further response is warranted.

- 25.d The final comment states air quality and noise impacts on surrounding neighborhoods will occur, but does not specifically identify any concerns with the adequacy of the analysis presented in the Draft EIR. Impacts to air quality and noise resources are analyzed in full both on a project-specific level and cumulatively in the Draft EIR. Refer to Sections 4.3, 4.5, and 4.11 of the Draft EIR.

Public Comment Letter
No. 26

FORMAL RESPONSE BUTTERFIELD DEVELOPMENT



Banning City Council Member
Banning City Hall
99 E. Ramsey
P O Box 998
Banning, CA 92220

RE: Draft EIR: Butterfield Specific Plan

Thank you for the opportunity to respond to the Draft EIR for the proposed Butterfield Development on Highland Springs Avenue. This response is part of my belief that all proposed development plans must be evaluated carefully and should never be approved without careful study by not only the elected officials, but anyone who has an interest in – and a concern for – their community. Development plans can no longer be “rubber-stamped” as has been done in the past by other cities anxious for growth of any kind. Mitigations NEED to be required for negative impacts specified in the EIR. In addition developers should be held accountable for what they have promised to provide. All significant environmental impacts need careful consideration before any approval might be given to this housing tract or any others. When infrastructure and impacts to the environments are not addressed BEFORE the development is approved then it is too late for all of us.

In addition, each development plan presented is a unique opportunity for everyone to look at the “big picture” represented in long-range planning of what the Pass area will look like for decades to come. The question needs to be asked whether another “cookie-cutter” development is what the Pass area needs or wants. Growth can be good, but not when it is indiscriminate and based solely on what a developer wants to build. Usually developers do not have the best interests of the current residents of an area at heart when their plans are presented. However, elected representatives of those residents should consider what will benefit those already living here, and to require the developer to adjust his plans to fit those requirements.

CEQA guidelines governing a development of this magnitude can – and should – be used to help city leaders make informed decisions which will protect us all from the environmental impacts which Butterfield Development will bring to the Pass area. I am hoping that your decision will not be based solely on the money dispensed by this developer, but that those decisions will be weighed against the costs that come with that money. When an EIR demonstrates that a project will cause substantial adverse changes to the environment, the developer should not be allowed to simply state that it is “unavoidable” and move on with little or no mitigation.

26.a

According to CEQA law, the City Council can – and should – respond to the significant environmental impacts in several ways.

- They can change the proposed project. Developers are notorious for writing into their Specific Plans exactly what they think will make them the most money which usually means building the highest number of units to an acre they can get away with. This rationale will only benefit the developer and therefore, no developer should be given “*carte blanche*” on any building plans they propose.
- They can impose conditions on the approval of the project. This would mean that before the project is approved, certain criteria must be met. Perhaps road improvements made, or recycled water treatment plants built. When these pre-conditions are made it would mean that the developer would have to come through with some of the mitigations promised before any actual building is allowed.
- Finally, the council can choose an Alternative to the project as a way of meeting the same need. All EIR's, by law, must present several alternatives to the project that would not have the same substantial adverse effects. Naturally the developer is reluctant to do any of these alternatives – primarily because they would not make as much profit. However, almost always, these alternatives are better for both the community and the environment and should be given serious consideration by city leaders.

The following are comments on several elements of the Draft EIR which I believe do not adequately address the impacts this development will cause.

AIR QUALITY: Section # 4.03

Looking at **Table 4.3-10** five of the six emission levels substantially exceed the SCAQMD Thresholds for what is considered healthful and will have *significant impacts* on the health and well-being of the residents of the Pass area. The conclusion of the developer that the impact will be “significant and unavoidable,” should not be allowed to pass without mitigations. For one thing, all impacts are avoidable if the project is not built, thus before this housing tract is approved, the developer should be required to find better ways to ensure that these emission impacts are reduced to lower levels. Of course the best way is to simply build fewer houses—the *Lower Density Alternative* on **page 6.0-16** for example – although this developer seems to think that with a 30-year build out all these problems will be so gradual that no one will notice. Of course when we do notice – it will be too late for any solutions.

26.a
cont.

26.b

One of the major benefits of living in the Pass area has been our good air quality. We have all seen that eroded as more and more cars are on the roads because of “bedroom communities” already built in the Pass area. Since most of the residents in these new developments work in other areas, the majority of householders need to get on the freeway to get to their jobs. And really it doesn't matter that the developer states on page 4.13-13 that there will be a variety of uses within the development which could reduce vehicle miles traveled, they still predict an average of 62,000 trips a day. On that same page is listed a catalog of ideas which the developer says might reduce the number of trips. However, any time a developer says something “**may be included**” instead of “**WILL BE DONE**,” I'm not sure we should count on it being implemented.

26.c

I was present at the meeting on July 14, 2011 when a representative from Pardee Developers said that one of the ways they were going to reduce trips (and thereby reduce auto emissions) was by building commercial stores within the development. And on the large tract map he indicated those areas designated as commercially zoned. However, I would like to point out that in the Sundance development across Highland Springs Avenue there is a large parcel on the corner of 8th and Highland Springs which is also earmarked for commercial buildings. At the moment it sits vacant, but back when this development was approved, Pardee Developers made similar promises and commitments to build businesses at that location. Commercial development equates to jobs and sales revenue for the city, as well as fewer auto trips, however, in 2006, Pardee wanted to scrap that plan and change it to high-density (up to 20 per acre) condos because the housing market had already started its downturn and the mega-houses they had been building weren't selling. As I stated above, if a development is approved with certain commitments made by the developer, then those commitments should be considered binding regardless of the “change in the markets.”

26.d

The statement at the top of page 4.3-29 is what I deem to be unacceptable. The developer writes: “However, due to the magnitude of development and associated mobile source air quality impacts, impacts in this regard remain significant and unavoidable.” This is what we should all object to – a developer who simply states about almost every item in this Draft EIR which has significant impacts and will erode the quality of life of the residents, “Sorry, can't be remedied or helped.” Citizens need to be able to depend on their elected officials to ensure that everything has been done to mitigate these significant impacts.

26.e

TRAFFIC AND CIRCULATION: Section # 4.13

As already mentioned, Butterfield housing tract is basically another “bedroom” community. The added traffic of those householders who leave the area for work or any other reason (62,000 daily trips) is the significant impact acknowledged by the developer that I believe most residents are concerned with. This would especially apply to those who use Highland Springs Avenue as their primary route any time they leave their homes. As can be clearly seen by the chart on page 4.13-44 most of the intersections along that very busy thorough-fare are rated a Level of Service “F”

26.f

which is the worst level on any traffic study. I don't believe that anyone who travels through those intersections at peak times would argue with that rating. They are currently at capacity and the frustration with traffic at a standstill is a daily fact of life for those drivers traveling south on Highland Springs Avenue.

} 26.f
cont.

And yet, there is that wonderful chart on page 4.13-46 along with another one on page 4.13-21 which shows NOT ONE of those same intersections rated LOS F. That is the result of all those mitigations that have been put into place. I think it is marvelous how traffic experts can prove that the addition of more than 5000 houses to an already overcrowded highway will actually IMPROVE the traffic at all the intersections studied or adversely affected. Although when it comes time to make the determination on the actual impacts to the Circulation plans and the Congestion Management Program, the writers of the Draft EIR have to admit that their proposed development will be potentially significant and unavoidable even with the mitigations incorporated (page 4.13-26 and 4.13-31)

} 26.g

I can see why the developers were compelled to come to that conclusion – many of the mitigations mentioned are nebulous to say the least. They depend on things like “County Long-range Circulation System Planning,” or improvements only being implemented when enough money has been collected through property tax, sales tax, or other Project-related revenue. Of course some of the mitigations might be accomplished with TUMF money, but even that is uncertain – although the developer indicated at the July 14 traffic study meeting, that Banning officials will definitely fight for these TUMF projects.

Under CEQA guidelines, mitigation measures must be specific, feasible actions that will *actually improve* the adverse environmental conditions (basically explaining the who, what, where, why and when of the measure.) Mitigation measures must also be fully enforceable. Residents want, and should be given, assurance from the developer and the city planners that all mitigation measures will actually happen. However, since there are many mitigations in this Specific Plan dependent on others beside the developer and therefore out of his control, the Draft EIR covers that contingency also. As stated on page 4.13-24: “... neither the City of Banning nor the Applicant can guarantee that the mitigation measures identified in jurisdictions other than Banning will in fact be constructed in a timely manner.” In addition, as noted in the Potential Impacts Due to Traffic Mitigation, “certain improvements may not proceed due to other problems.” And in case you missed the implications of those statements, there is an additional caveat with embellishments on page 4.13-55:

} 26.h

Also, due to the speculative nature of the timing of implementation and availability of funding to implement the planned improvements to less than significant levels cannot be guaranteed, and as such, remain potentially significant and unavoidable. Further, many of the recommended improvements

are located in jurisdictions outside the City of Banning. Most of these improvements have been, can be and should be implemented by those other agencies, but successfully completing the improvements in a timely fashion cannot be guaranteed.

That's a reiteration of the "significant but unavoidable" refrain. Another instance of the developer saying "Sorry, we know the traffic is going to be a huge mess, but it can't be helped and it's not our fault. Everyone should just put up with it."

However, simply saying that there will be a "potentially unavoidable significant impact" should be unacceptable. The time to insist on mitigations is **BEFORE** the development is approved. In too many instances, infrastructure and impacts to the environment are shelved until a later date and that is never a good solution.

On April 18, 2005, R.W. Clark, commander of the California Highway Patrol for the San Geronio Pass Area wrote a letter to the City Council of Beaumont expressing his concerns relative to traffic management. Although the letter was addressed to the council members in Beaumont, what the commander had to say is important for everyone concerned with the traffic in the Pass area. In his letter, Commander Clark first stated that there was a need to "build-in" traffic management mitigations with every proposed development. He then went on to express his disappointment that projects continued to be approved without those needed mitigations. Finally he said, and I quote: "I believe such *lack of vision* has the potential to create congestion and commute grid-lock and will result in unsafe traffic conditions and the erosion of quality of life for local residents." (Emphasis added) That letter was written in 2005, I wonder what he's thinking now.

WATER SUPPLY: Section # 4.14

On page 4.14-3 the Draft EIR states that the city's public water system relies on local groundwater supplies and imported water from the SWP to meet its water demands. My first question is: Exactly how much water did Banning get from the SWP during the previous two years? Not how much was allocated, but how much did the city actually buy? That figure would certainly impact any of the charts used to show ample water availability.

And then on page 4.14-4 there is another statement that concerns me:

Historically, the City of Banning has been able to meet the water demand of its customers with available groundwater supplies; however, with additional population growth, demand has increased to the level where production limitations are being realized in certain portions of the City during dry years.

26.h
cont.

26.i

26.j

26.k

Declining water levels have been detected in the Beaumont Basin, Banning Canyon, and Banning Bench since 1995.

} 26.k
cont.

I thought that statement sounded rather ominous and could only conclude that those levels have declined even further with the 500% jump in population which has occurred since 1995. However, it didn't seem to concern the Draft EIR writer since the Impact Analysis on page 4.14-24 indicates there is "Less than Significant" chance of the project substantially depleting supplies of groundwater. Come to think of it, I have yet to read an EIR that says that there is less than ample water to supply any and all developments proposed. Of course, there have been several subsequent law suits which have ruled otherwise. This developer will need to be absolutely certain of the charts and graphs used in this analysis of the Water Supply in Banning – along with the Beaumont Basin – and be prepared to defend them.

} 26.l

One of the substantiating statements the writer uses to ensure the prudent use of water resources is on page 4.14-17 where it states that Policy 3 in the Banning General Plan, Environmental Resource Element will "balance development in such a way that assures the maintenance of the water supply and its continued high quality." Balancing development against other considerations should always be a top priority with city leaders. In addition, Policy 3 goes on to state that there will be a requirement that all new developments must use recycled wastewater and build the infrastructure (purple pipes) necessary. Another important requirement in today's water conscious world. However, my concern here is that you can have all the purple pipe you will ever need, but when there is no wastewater treatment plant all you have are the pipes and the signs – exactly what has happened in the Sundance Development. I was pleased to read that Banning has a definite goal to build a wastewater treatment plant. Hopefully they will not be as short-sighted as the City of Beaumont which has had that same goal since 1989 and certainly has had millions of dollars which could have been used to build the plant anytime during the past decade of development. Nevertheless, that city still doesn't have one and all water being used for every purpose is pumped from the Beaumont Basin. I would hope that Banning will quickly meet their goal of a wastewater treatment plant and all those required purple pipes will be utilized.

} 26.m

MITIGATION MEASURES

As indicated on page 4.0-3, all of the mitigation measures need to be addressed. As already stated, CEQA requires that the measures need to be specific, feasible actions that when implemented will actually improve the adverse environmental condition. If an impact in an element has been deemed "Significant and Unavoidable" those areas must have an Overriding Consideration by the city council prior to approving the project. It is my feeling that these should not be given lightly since the impacted element will only get worse over time. Also, since the problem was created because of the development, it's only logical and reasonable to require the developer to solve it.

} 26.n

I believe that City Leaders also need to be aware of all the other developments that will add a cumulative significant impact in many areas but notably in traffic, water supply, and air quality. According to the charts (on page 4.0-7,8,and 9) in Beaumont alone there are a total of 7818 houses already approved in nearby developments which at buildout will seriously affect all the elements of this Draft EIR. When you add the houses proposed in the Butterfield housing tract, that makes a total of 13,205 houses. EIR's never seem to address this issue of "other" developments adding to the total of development, but responsible city leaders will take them into consideration when they are being asked for approval of any new housing tracts.

26.o

ALTERNATIVE TO THE PROJECT: Section #6

In Section 6 of the Draft EIR are listed the alternatives to the project required by CEQA Law when there are Significant and Unavoidable Impacts in the Draft EIR. These alternatives need to describe a range of reasonable alternatives to the Project which will facilitate informed decision making and public participation. In accordance with CEQA Guidelines, the discussion of these alternatives must focus on those that would avoid or substantially reduce any significant impact from this project. These alternatives can be considered even if they would be more costly or hinder to some degree the attainment of the project objectives. The ultimate alternative – not building at all --also must be evaluated and objectively considered.

26.p

I write all that because sometimes, people who are reading the EIR never seem to make it to this section. It is my feeling, however, that this information should be read first and the ideas presented could then be considered while reading the rest of the EIR. The two important sub-sections are #6.3 and #6.4. These give the overall project objectives and also a re-listing of those areas that are significantly impacted by the project as presented.

The **REDUCED DENSITY (20% reduction) ALTERNATIVE (Page 6.0-16)** has several points in its favor. Under this alternative, the project would be reduced by 1,069 units which would mean that 4,318 units would be built in the same Planning Area which brings the density down from an average of 3.5 to 2.8 per acre. However, even this reduction in houses built will not bring the emissions level to within acceptable levels since the project impacts are 4-14 times greater than the thresholds. Unfortunately, this project, no matter how configured, will still have significant unavoidable air quality impacts. This alternative with the reduced number of units will still be sufficient to provide enough housing to meet the needs identified in the Regional Housing Needs Assessment. In addition, fewer residential units and residents would have a corresponding reduced demand for public services and utilities. Concerning the traffic evaluation of this Alternative, improvements could be reduced at some of the Study Area locations and eliminated from others. Overall impacts related to water supply, including groundwater depletion would be reduced with implementation of this Alternative, as compared to the proposed project. This Alternative needs to seriously be considered when looking at this Draft EIR.

26.q

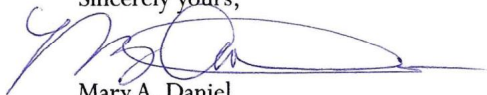
CONCLUSION

With the presentation of this proposed housing tract there is a unique opportunity to look at the “big picture” of what Banning will look like in the decades to come, and require that any developer's plans adjust to that vision. City leaders need to ask the tough questions – is Banning going to be just another city with identical developments -- one on top of each other -- along with all the problems that these endless developments seem to bring with them – traffic snarls, poor air quality, additional noise, depleted water supplies, and crowded schools to name a few. Growth can be good – but when infrastructure and impacts to the environment are not addressed BEFORE the development is approved, then the quality of life for everyone in the community is eroded.

Again, thank you for the opportunity to respond to this Draft EIR. As a long time resident of the Pass area, I am seriously concerned with what has been happening here during the past several years, and I feel that it is part of my responsibility as a resident to speak out against the indiscriminate building that has had such significant consequences for all of us who live here. I have spoken many times at the council meetings in Beaumont asking for reasonable, rational, and responsible growth. Now, I would also like to urge the city leaders of Banning not only to give this Draft EIR the important attention that it deserves, but to listen to the comments of those of us who already live here. Then you will have the information you need to make your informed decision as to whether this development should be built on the massive scale proposed or whether there are alternatives which would be better.

Thank you for your consideration of these comments.

Sincerely yours,



Mary A. Daniel
14250 So Beaumont Ave, Hwy 79
Beaumont, CA 92223

} 26.r

Mary A. Daniel

Response No. 26

- 26.a The comment states that all proposed development plans must be evaluated carefully, and provides CEQA Guidelines criteria for responding to significant environmental impacts. This comment does not identify a specific deficiency in the environmental analysis presented in the Draft EIR.
- 26.b The comment states that the significant and unavoidable air quality impacts should not be allowed by the City. The comment is correct that the Project would result in significant and unavoidable air quality impacts as identified in Section 4.3, *Air Quality*, and, as such, if the Project is approved, the City of Banning would have to adopt a Statement of Overriding Considerations for all significant and unavoidable impacts associated with the proposed Project. The comment is incorrect in suggesting that no mitigation has been proposed in response to the significant, unavoidable impacts identified in Table 4.3-10. Within Impact Statement 4.3-1, seven mitigation measures (AQ-1 through AQ-7) are identified which specifically address the Project's impact on air quality standard. It should be noted, however, that the proposed Specific Plan is generally consistent with the previously approved Deutsch Specific Plan, and therefore the City of Banning General Plan's assumptions regarding population and housing growth. On a regional scale, the emissions from the Specific Plan have been considered in the forecasts presented in the 2007 AQMP. The Project would meet the second AQMP consistency criterion. As stated on page 6.0-33 of the Draft EIR, the Reduced Density Alternative would have the same types of significant and unavoidable impacts, including impacts to air quality, when compared to the proposed Project (although reduced). Additionally, the Reduced Density Alternative would not fulfill certain Project objectives to the same degree as the proposed Project. It nonetheless is viable, and is considered the Environmentally Superior Alternative.
- 26.c The comment expresses concern about trip-reducing measures identified in the Draft EIR. As identified on page 4.13-13 of the Draft EIR, all development in the City of Banning is required to adhere to the City of Banning Municipal Code. As identified on pages 4.13-12 and 4.13-13 of the Draft EIR, all applicable developments, including the proposed Project, shall incorporate facilities and/or programs in their development plans sufficient to attain a 12 percent work related trip reduction. The list of facilities identified on page 4.13-13 of the Draft EIR were taken by the City from the Trip Generation Handbook published by the Institute of Traffic Engineers. The City sets the requirements and provides the list of potential facilities for developers to implement. Moreover, all of the Air Quality mitigation measures "shall" be implemented and are fully enforceable.

- 26.d The comment expresses concern about the possibility that commercial land uses may not be built within the Project site. It is anticipated that all of the land designated commercial will be fully developed. However, it is possible that the Specific Plan could be built without the commercial uses, although this is unlikely given the increased demand for commercial facilities associated with new residential development. The comment also states that commercial development equates to more jobs and sales revenue for the City, as well as fewer auto trips, indicating that if residential uses are ultimately constructed within these Planning Areas fewer jobs and more auto trips would occur. To fully understand these impacts, the Draft EIR analyzed the “worst-case” scenario for auto trips and evaluated the various scenarios allowed under the proposed Specific Plan zoning and overlays. Under this worst case analysis the traffic and corresponding air quality impacts were estimated due to the increased residential development to ensure that impacts associated with these types of land use changes are analyzed under CEQA.
- 26.e The comment states that significant and unavoidable air quality impacts would occur without mitigation should not be allowed by the City. Refer to Response 26.b.
- 26.f The commenter is comparing existing congestion levels (driving conditions experienced by drivers using Highland Springs Avenue during the peak hours) to the LOS results listed on page 4.13-44 of the Draft EIR, which lists the results of LOS analysis for General Plan Build out conditions. The results for existing conditions are listed on page 4.13-7 of the Draft EIR, which shows that under existing conditions all but five (5) intersections are within acceptable LOS. Highland Springs Ave./6th St. Ramsey St. and Highland Springs Ave./I-10 Westbound Ramps are currently operating at unacceptable levels in the pm peak hour. The City is currently reviewing options for short term and long term improvements along Highland Springs Avenue especially at the I-10 ramp intersections that will relieve congestion (also refer to Response 25b).
- 26.g The comment questions the validity of the traffic analysis, and in particular, information identified in Table 4.13-8 of the Draft EIR. The table on page 4.13-21 (Table 4.13-8, *Existing Plus Project Mitigation Intersection Levels of Service*) refers to the LOS at study intersections in the existing plus project conditions after mitigating the failing intersections. The chart on page 4.13-46 refers to the LOS at study intersections in the General Plan Build out conditions after the implementation of proposed improvements at the failing intersections. The proposed mitigation measures at each intersection are listed on pages 4.13-51 through 4.13-54 of the DEIR as well as shown in Figure 33 of the Traffic Impact Analysis (Appendix I of the DEIR). Additionally, the proposed mitigations for both existing and General Plan Build out scenarios are summarized in Table 4.13-9 of the DEIR.

Contrary to the comment, the DEIR does not assert that "...addition of more than 5000 houses to an already overcrowded highway will actually improve the traffic at all the intersections..." The reason all the study intersections improve is due to the proposed mitigation measures. However, as addressed in Section 4.13 of the Draft EIR, mitigation of certain Project-related traffic impacts in other jurisdictions (besides Banning) are outside the control of the Applicant and the City of Banning, and/or would require substantial right-of-way or otherwise may not be feasible to construct. Therefore, these locations may have unavoidable significant impacts associated with either Project or cumulative traffic levels.

- 26.h The comment is correct that mitigation of certain Project-related traffic impacts in other jurisdictions (besides Banning) are outside the control of the Applicant and the City of Banning, and/or would require substantial right-of-way or otherwise may not be feasible to construct. Therefore, these locations may have unavoidable significant impacts associated with either Project or cumulative traffic levels. Therefore, the City must adopt a Statement of Overriding Considerations for all significant and unavoidable impacts associated with the proposed Project should the Project be approved.
- 26.i The comment refers to information provided in a 2005 letter from the commander of the California Highway Patrol regarding implementation of mitigation measures in the City of Beaumont and in general. The Butterfield Specific Plan is responsible for implementing (constructing) several mitigation measures that are required to mitigate project related traffic impacts in the baseline (existing) conditions. These mitigation measures are listed in Table 4.13-9 in the Draft EIR. This project would not be approved without the imposition of these mitigation measures. This is consistent with R.W. Clark's request in the letter dated April 18, 2005.
- 26.j The comment asks how much water the City received from the State Water Project (SWP) during the previous two years. Table 6.3.4B of the WSA (Draft EIR Appendix J) lists the quantity of SWP water that the City purchased and received from the San Gorgonio Pass Water Agency (SGPWA) for calendar years 2008, 2009 and 2010. WSA Section 6.3.6 analyzes the reliability of the imported water supplies in future years. Table 6.3.6.3 (WSA, pg. 124) demonstrates that the City can reliably expect to purchase and receive 2,595 AFY of imported water supplies, on average over the long term.
- 26.k The comment expresses concern over a statement in the Draft EIR stating that "demand has increased to the level where production limitations are being realized in certain portions of the City during dry years".

The quoted comment refers to the analysis performed by Geoscience for the City (see WSA Appendix D (*Maximum Perennial Yield Estimates for the Banning and Cabazon Storage Units*, March 29, 2011) that concludes that "it is observed that there is a direct

relationship of precipitation trends and ground water elevation trends.” (WSA Appendix D Section 5.4.3. (“Historical Groundwater Trends”).) In other words, in dry years, some City wells have experienced lower capacities. (See WSA Table 6.1.1. identifying the historic low flows or worst case scenario pumping capacities to account for dry year conditions.) The Pass Agency’s 2010 UWMP also reports that dry year conditions have caused declines in well capacity. (WSA, p. 94, n.346.) However, as described in WSA Section 6.1.6.5., Geoscience concludes that in the three Banning Basins and in the Cabazon Basin historical groundwater trends show no evidence of long-term declines – i.e., water levels appear to remain the same (no long-term declines or increases). (See WSA Appendix D, p. 46.)

As described in Section 6.1.6.7, the City does not propose increasing groundwater production from the Banning, Banning Canyon or Banning Bench Basins to serve the Project. The City’s planned increases in pumping from the Beaumont Basin is supported by the City’s pumping of water stored in the City’s Beaumont Basin Storage Account, including imported SWP water. The City’s planned increases in pumping from the Cabazon Basin is supported by the safe yield analysis performed by Geoscience (WSA Appendix D, Section 7.4) and the City’s recharge operations in the Cabazon Basin (WSA, Section 6.4.2.2.)

While production limitations may occur in particular supply sources, overall the WSA demonstrates that the City will have sufficient water supplies available during normal, single dry, and multiple dry years during a 35-year projection to meet the projected water demand associated with the Project, in addition to the City’s existing an planned future uses. Therefore, sufficient water supplies are available to serve the Project. Refer to WSA Section 1.8 for a comparison of the projected City water supplies and demands.

- 26.1 The comment states that the Draft EIR passage referenced in Comment No. 26.k indicates that water levels have further declined in the Beaumont Basin, Banning Canyon, and Banning Bench Basins since 1995. The comment asserts that the developer must be certain of its analysis of groundwater levels. In terms of the state of the Beaumont Basin, refer to Response 17.y. For information regarding the data collection and compilation procedures used to ensure data accuracy and thoroughness in the analysis of the Banning Bench and Banning Canyon basins as it relates to the maximum perennial yields of the these basins, refer to Response 17.x. This Response affirms that the Geoscience 2011 *Maximum Perennial Yield Estimates* report projects the quantity of water available to be developed by the City in the future. These figures were used in the analysis contained in the WSA.

The water level data contained in the Draft EIR and WSA is based on the 2011 Geoscience *Maximum Perennial Yield Estimates* report (WSA Appendix D), which is the most comprehensive and recent analysis of the Banning, Banning Bench, Banning

Canyon and Cabazon Basins. (See WSA Appendix D, Appendix B: Well Hydrographs for Banning, Banning Bench, Banning Canyon and Cabazon Basins.) For information regarding the data collection and compilation procedures used to ensure data accuracy and thoroughness in the analysis of the Banning, Banning Bench and Banning Canyon basins as it relates to the maximum perennial yields of the these basins, refer to Response 17.x. For the Beaumont Basin, refer to Response 17.y. This Response affirms that the Geoscience 2011 *Maximum Perennial Yield Estimates* report projects the average annual quantity of water available to be developed by the City from the Banning, Banning Bench, Banning Canyon, Cabazon and Beaumont Basins in the future.

- 26.m The comment expresses hope that Banning quickly realizes its goal of a wastewater treatment plant and that all the required recycled water pipelines will be used. The City has approved plans to expand its treatment plant and recycled water capacity. The City's wastewater treatment plant (WWTP) Phase I Upgrade is on schedule to be constructed and able to produce approximately 1,680 AFY of recycled water by 2015. (See WSA, Section 6.4.2.2.1.)
- 26.n The comment states that all mitigation measures need to be addressed. Without additional information as to how the mitigation measures need to be addressed, no further response is possible.
- 26.o The comment states that City leaders need to be aware of cumulative impacts associated with other development within the area, and that the EIR does not address this issue. As stated in Section 4.0, *Environmental Impact Analysis* of the Draft EIR, the cumulative impacts analyses uses a blended approach to ensure adequate analysis. A cumulative projects list (Table 4-1 of the Draft EIR) identifies a list of known major development projects in the City of Banning, Beaumont, and unincorporated County of Riverside. In addition, the cumulative impacts analysis also incorporates the adopted plan method, which includes development associated with buildout of the General Plan.

The proposed Project is consistent with the City of Banning General Plan, and the Project's overall density and nature of development would be consistent with regional growth projections reflected in the Riverside County General Plan and those of applicable regional, State and federal agencies. Therefore, on both a local and regional level, the Project's cumulative impacts have been accounted for in the City of Banning General Plan Final EIR (2006), and the Riverside County Integrated Project Final EIR (2003) as well as in the various population-dependent regional plans adopted by such agencies as the Southern California Association of Governments (SCAG), the Colorado River Basin RWQCB, and the South Coast AQMD. The City and County General Plan EIRs are incorporated by reference into this EIR. Additional projects in the region were analyzed within these associated planning documents.

- 26.p The comment describes CEQA Guidelines discussions of alternatives, and states that the alternatives should be read before reading the rest of the EIR. This recommendation is a personal opinion and requires no further response.
- 26.q The comment states that the Reduced Density Alternative needs to be seriously considered when looking at the Draft EIR. City staff will analyze all alternatives associated with the proposed Project prior to approval or denial of the Project.
- 26.r The comment requests that City leaders carefully look at proposed Project impacts, and make an informed decision for the Project. City staff will consider this and all relevant comments during Project deliberations.

**Public Comment Letter
No. 27**

**Butterfield Specific Plan Draft EIR
Public Meeting
Tuesday, June 21, 2011**

This form may be used to submit comments in regard to environmental issues raised in the Draft EIR for the proposed Butterfield Specific Plan Project.

Name (please print) FRANCES FLANDERS
Mailing Address 41045 MOHAWK CIR.
Telephone No. (daytime) (951) 845-6689
Fax No. _____
E-mail address hal_fran@YAHOO.COM
Organization/Affiliation Self

Comments:

Memorial Tree on Highland Springs } 27.a

Circulation Plan -
Expt development on
Cherry Valley Blvd. } 27.b

Signature Frances Flanders

Thank you for your assistance.

Written comments will be accepted until **July 21, 2011** and may be directed to City of Banning, Community Development Department, 99 E. Ramsey Street, Banning, California 92220, Attn: Zai Abu Bakar, Community Development Director.

To Mail, Fold and Staple

Frances Flanders

Response No. 27

- 27.a This public comment card refers to potential impacts related to the “Memorial Tree”. The Memorial Tree refers to a single scrub oak tree (*Quercus berferidifolia*) along the northwestern edge of the Project site, north of PA 40 along Highland Springs Avenue, which is a visually prominent foreground feature and the site of an informal veteran’s memorial.

Impact to this single scrub oak tree as a visual resources is discussed under Impact 4.1-1 of the Draft EIR (refer to Section 4.1, *Aesthetics, Light, and Glare*). Even though the tree is not a protected visual resource as defined by the City of Banning Municipal Code (e.g., tree preservation ordinance) and is not a federally, State, or locally protected plant species pursuant to *CEQA Guidelines* (refer to Table II of the *Biological Resources Assessment*, Appendix C-1, of the Draft EIR), because it has sentimental value to members of the community, efforts will be made to avoid or lessen impacts to the tree. The Draft EIR concluded that impacts related to the oak tree will be reduced to a less than significant level by requiring avoidance or preservation (or in the event preservation is not feasible, relocation or replacement at a suitable size) (refer to Mitigation Measure AES-6 of the Draft EIR). Typically, the relocation of mature oak trees is not recommended based upon the low potential for long-term viability of the tree; therefore, if avoidance or preservation is infeasible replacement would be the preferred mitigation method. In response to comments, this measure has been modified to provide additional objective standards for mitigating impacts to the oak tree.

- 27.b This comment is assumed to be referring to potential impacts related to the Project Circulation Plan. The comment specifically reads “exit development on Cherry Valley Boulevard.” Without further information about the commenter’s concern regarding Cherry Valley Boulevard, no further response is possible. However, for a general response concerning the selection of Brookside Avenue for Highland Home Road extension, instead of Cherry Valley Boulevard, refer to Master Response #2.

Public Comment Letter
No. 28

Concerns with Pardee's Butterfield Development EIR
Traffic Circulation
Barbara Hanna

As a homeowner who lives just over 300 feet from Highland Home near Wilson, I am concerned about the impact the poorly designed the Butterfield Pardee specific plan's circulation element will have on my home with the resultant decrease in my home's value.

} 28.a

Offsite traffic for this project are 62,263 average daily traffic trips (ADT) (page 6.0-20). I recommend approval of the Reduced Density (20% Reduction) Alternative. In this scenario the traffic would be reduced to 50,000 ADT.

} 28.b

Essentially the Butterfield Pardee project is a major island with very few "bridges" to the surrounding community.

- No roads from the project are planned north or east of the development.
- To the direct south there are three roads: Highland Springs Avenue, Highland Home Road and Ajax. Only Highland Springs Avenue will ever have direct access to the I-10.
- Even after the currently proposed improvements to Highland Springs Avenue are made there is no way that a 70% increase in peak hour traffic can be accommodated on Highland Springs at Ramsey. Even more people will want to avoid Highland Springs Avenue then
- The proposed Highland Home Road will be the major arterial and dead-ends at Ramsey. Caltrans has indicated that the Highland Home Road on-ramp for the I-10 will never be allowed. That means that all freeway bound traffic funneled on Highland Home will be forced to turn west toward the dreaded Highland Springs intersection or east to Sunset Avenue.
- The roads going to the west are presently poorly developed except for Oak Valley Parkway. Brookside's expansion, if it occurs, will impact existing homes on both the north and south side. There are homes where Cherry Valley dead-ends at Bellflower two blocks west of Highland Springs Avenue.
- Oak Valley Parkway has to accommodate the existing Beaumont Pardee development and will have stoplights every few blocks until it reaches I-10.

} 28.c

} 28.d

} 28.e

} 28.f

} 28.g

Pardee defends its project circulation by saying that the circulation plan is consistent with the existing general plans for the City of Banning and the County of Riverside. But if it is inadequate, as it certainly appears to be, the development will be a failure and the existing community will be negatively impacted.

} 28.h

Of the 19 circulation improvements with potentially significant impacts and/or feasibility concerns (page 4.13-52 - 54), seven have a phrase similar to: "**This improvement may not be feasible due to extensive right-of-way acquisition and commercial and residential impacts, including substantial changes to access, frontage, parking and possible direct or indirect structure takes.**" It

} 28.i

appears that this same phrase could have been added to most of the other potentially significant impacts.

} 28.i
cont.

The last statement in this section of the EIR (page 4.13-55) should be the basis for not approving the EIR:

"Also, due to the speculative nature of the timing of implementation and availability of funding to implement the planned improvements listed above to less than significant levels cannot be guaranteed, and as such, remain potentially significant and unavoidable. Further, many of the recommended improvements are located in jurisdictions outside the City of Banning. Most of these improvements have been, can be and should be implemented by those other agencies, but successfully completing the improvements cannot be guaranteed."

} 28.j

This specific plan should not be approved since the developer acknowledges that there are unavoidable impacts that cannot be mitigated. If it is approved I believe our traffic will be worse than Temecula's. I recommend the 20% reduction as a preferred approach.

Barbara Hanna Response

No. 28

- 28.a The comment states concerns with the design of the Butterfield Specific Plan circulation element and its effect on home value. As for home values, financial or other issues unrelated to physical impacts on the environment need not be covered by the Draft EIR pursuant to State CEQA Guidelines, §15382.
- 28.b In this comment, the number of average daily trips for the proposed Project is identified, as well as the number of ADTs for the Reduced Density Alternative. The comment recommends the approval of the Reduced Density Alternative. This preference will be considered by the City during Project deliberations. It should be noted, however, that while the Reduced Density Alternative would reduce Project-generated traffic trips under the General Plan buildout scenario, the cumulative trips would nevertheless result in significant and unavoidable impacts similar to the proposed Project. This is because under existing General Plan buildout conditions improvements needed to maintain LOS "C" or above are constrained by existing ROW and would require taking of private property. In addition, many of the impacted intersections are outside the City's jurisdiction and the timely completion of improvements cannot be guaranteed or legally enforced.
- 28.c The comment states that no roads from the Project are planned north or east of the development and only Highland Springs Avenue will have direct access to the I-10 on the south side of the Project area. The following roads as proposed would provide regional connection to the Butterfield Specific Plan Project area: Highland Springs Avenue, Highland Home Road, Wilson Street, Brookside Avenue, and Oak Valley Parkway. These connections will ensure that the Project is not considered a major island with very few "bridges" to the surrounding community. The Project is consistent with both the City and County General Plan circulation elements.
- Potential regional connections to the Project from the north and east are provided via Brookside Avenue and Oak Valley Parkway. Connections to the south are provided via Highland Springs Avenue, Highland Home Road, and Apex Avenue. Connections to freeways are provided by Brookside Avenue in the north, Oak Valley Parkway in the east, Highland Springs Avenue in the south, and Sunset Avenue (via Wilson Street and Ramsey Street) in the south-west.
- 28.d The comment argues that a 70-percent increase in peak hour trips cannot be accommodated on Highland Springs at Ramsey. Project impacts are identified in the existing plus Project conditions, and the improvements to mitigate those impacts are

directly or indirectly funded by the Project (refer to Draft EIR pg. 4.13-53). As shown in Table 4.13-3 of the Draft EIR, existing without-Project a.m. and p.m. peak hour traffic operations for the intersection of Highland Springs Avenue and Ramsey Street are currently at a level-of-service "C" and "F", respectively. According to Table 4.13-13 of the Draft EIR, this intersection will operate at a level-of-service "C" and "D" during a.m. and p.m. peak hour operations, respectively, in the General Plan build-out condition with mitigation. As shown in Table 4.13-9 of the Draft EIR, the proposed improvements at the intersection of Highland Springs Avenue and Ramsey Street are currently funded through the City's traffic fee program in the existing plus Project conditions and WRCOG TUMF program in the General Plan build-out conditions.

However, it was noted in the Draft EIR that the proposed mitigation for this intersection may not be feasible due to extensive ROW acquisition and commercial property impacts on Highland Springs between the I-10 westbound off-ramp and Wilson Street. As such impacts to this intersection are identified in the Draft EIR as potentially significant and unavoidable for cumulative impacts.

Refer to Response 25.b regarding interim improvements being pursued by the City and applicant to address existing circulation deficiencies on Highland Springs Avenue, which will also alleviate future traffic conditions.

- 28.e The comment states that CalTrans has indicated that the Highland Home Road on-ramp for the I-10 will not be constructed, which would mean that traffic would be funneled west to the Highland Springs intersection or east to Sunset Avenue. The traffic impact analysis for the Butterfield Specific Plan analyzes impacts at study intersections assuming a circulation system that does not include a Highland Home Road/I-10 interchange, for a variety of reasons noted in the Draft EIR and further clarified in Master Response No. 1. It should be noted that there are several streets such as Highland Springs Avenue, Brookside Avenue and Oak Valley Parkway that connect to the freeway from the Project site.
- 28.f The comment identifies right-of-way concerns regarding the Brookside expansion or a potentially Cherry Valley expansion. The expansion of Brookside Avenue and extension of Cherry Valley Boulevard are part of the Riverside County Circulation Plan, and as such are County road improvement projects. Refer to Response No. 19 and Master Response No. 3 for additional discussion.
- 28.g The comment asserts that Oak Valley Parkway needs to accommodate the existing Project and should include stoplights every few blocks until reaching I-10. The traffic forecast volume was developed based on the traffic model which included projects (land uses) within the City of Beaumont, City of Banning and unincorporated Riverside County (including the proposed Project). Traffic signals are provided as warranted by

the City of Beaumont for this road section, and are reflected where determined appropriate in the TIA.

28.h The comment recognizes the Draft EIR's conclusion that the Project circulation plan is consistent with the City of Banning and the County of Riverside's General Plan. The comment asserts, however, that the Project's circulation plan is inadequate. The City's Project Draft EIR does not indicate the City's or the County's General Plans or the Project circulation plans are inadequate. However, it does recognize that the implementation of the Project may result in significant and unavoidable cumulative impacts.

28.i The comment states that most of the potentially significant impacts should include the following phrase:

This improvement may not be feasible due to extensive right-of-way acquisition and commercial and residential impacts, including substantial changes to access, frontage, parking and possible direct or indirect structure takes (Draft EIR pg. 4.13-52 though 54).

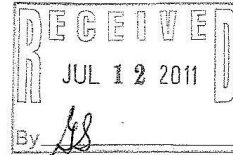
The phrase is only added at locations where the proposed improvement cannot be accommodated within the existing right-of-way. Hence, it is only added to specific locations where the widening would encroach on adjacent properties.

28.j Lastly, the comment states that the Specific Plan should not be approved, since the developer acknowledges there are unavoidable impacts that cannot be mitigated. The comment recommends approval of the Reduced Density Alternative. Pursuant to CEQA Guidelines §15093, a CEQA Lead Agency may approve a project with unavoidable significant impacts, provided that Findings are made for each significant impact and a "Statement of Overriding Considerations" is adopted for any Project with unavoidable significant impacts. This Statement of Overriding Considerations sets forth the Project benefits that, in an agency's opinion based on substantial evidence, outweigh the Project's unavoidable significant impacts.

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Public Comment Letter
No. 29

Butterfield Specific Plan Draft EIR
Public Meeting
Thursday, July 14, 2011



This form may be used to submit comments in regard to environmental issues raised in the Draft EIR for the proposed Butterfield Specific Plan Project.

Name (Please print) MARJORIE HOFFMAN
Mailing Address 1376 D SAN GABRIEL
Telephone No. (Daytime) 951-849-6135
Fax No. _____
E-Mail address _____
Organization/Affiliation PRIVATE CITIZEN

Comments:

WHERE IS THE WATER COMING FROM?
I BELIEVE WE ARE STILL IN A DROUGHT! } 29.a
5,387 X 2 CAR MINIMUMS = 10,774 VEHICLES.
HIGHLAND SPRINGS IS ALREADY CONGESTED. } 29.b
LET AVOID ALL THE POLLUTION. WHO IS

Signature _____

Thank you for your assistance.

Written comments may be directed to the City of Banning, Community Development Department, Attn: Zai Abu Bakar, Community Development Director, P.O. Box 998, Banning CA 92220

To mail: Fold, Address and staple

GOING TO PURCHASE THESE HOMES?
WHERE ARE THE LOADS GOING TO COME FROM. BANNING HAS ENOUGH EMPTY HOMES !! HOMES MUST BE OCCUPIED } 29.c

PAID. PAYMENTS MUST BE MADE TO
GENERATE TAX REVENUE. IS THIS
GOING TO TURN INTO ANOTHER PIECE
OF LAND THAT STARTS OUT BUT IS
NEVER FINISHED?

29.c
cont.

MY QUESTION IS WHO IS GOING
TO POSSIBLY BENEFIT FROM THIS?
WHO IS PAYING OFF WHO?

29.d

Majorie Hoffman

Response No. 29

- 29.a The comment asks where the water for proposed Project will come from and claims that the City or region is in a drought. For a response to this inquiry, refer to Master Response #4. As stated in this Master Response, the City will have sufficient water supplies available to meet the projected water demand associated with the Project, in addition to the City's existing and planned future uses.

The WSA identifies that supplies for the City and proposed Project will come from various sources throughout the 35-year study period, including, predominantly, groundwater produced from five local groundwater basins; imported water purchased through the Pass Agency and recharged into the Beaumont Basin and stored in the City's Stored Water Account; and recycled water. Refer to Section 4.14, *Water Supply*, of the Draft EIR for further information regarding source of supply and Section 1.7 of the *Water Supply Assessment*, Draft EIR Appendix J.

With respect to all anticipated existing and future supplies, the WSA assesses the reliability of those supplies during a variety of hydrologic conditions – wet, single dry and multiple dry years, not just present hydrologic conditions. Moreover, the WSA assessment of reliability of each anticipated supply is based on an analysis of the long-term availability of the given supply. For example, the WSA analysis of the reliability of the City's groundwater supplies was based, in part, on the long-term historical record of precipitation and recorded groundwater levels under those conditions. (See Geoscience, *Maximum Perennial Yield Estimates* report, WSA Appendix D, Sections 3.3.2 and 6.0.) Similarly, the WSA analysis of the long-term reliability of the City's imported water supplies is based on the Department of Water Resources' August, 2010 *Reliability Report*, which takes into account long-term precipitation cycles in setting its projections for water supply availability. (See WSA, Section 6.3.6.)

In response to the specific comment that "we are still in a drought," this response provides supplemental information regarding current hydrologic conditions in the state. California experienced three consecutive dry years during 2007–09. By summer 2010 (water year 2010), hydrologic conditions had improved significantly. Late spring storms in 2010 brought statewide precipitation to slightly above average levels and resulted in above average runoff forecasts for all major Sierra Nevada watersheds. By the end of June 2010, statewide runoff was forecasted to be 121 percent of average. Storage in most major in-state reservoirs had rebounded. On March 30, 2011, Governor Brown lifted California's Drought Declaration and declared the drought over, after the Department of Water Resources reported that the water content in the statewide snowpack was 165

percent. (Governor Edmund G. Brown's Proclamation (March 30, 2011)). Current water conditions throughout the State are at normal levels. According to the Department of Water Resources, "No drastic water conservation measures are necessary, and the state's reservoirs are full or nearly full and runoff across the state is at normal levels." (Department of Water Resources, California's Drought Conditions, Year 3.) As of September, 2011, the State Water Project allocation is at 80 percent. (California Natural Resources Agency, Notice to State Water Project Contractors, Number 11-06 (April 20, 2011).)

- 29.b The comment calls attention to the existing congestion along Highland Springs Avenue and indicates that the addition of 5,387 homes will produce additional congestion. A level-of-service analysis was conducted to evaluate existing (baseline) plus Project a.m. and p.m. peak hour traffic operations at the intersections along Highland Springs Avenue (among others). Table 4.13-8 of the Draft EIR shows that with the recommended mitigation all intersections analyzed along Highland Springs Avenue will function at acceptable LOS. However, as stated above, certain Project-related impacts in other jurisdictions (besides Banning) are outside of the control of the Applicant and the City of Banning, and/or would require substantial right-of-way or otherwise may not be feasible to construct. Therefore, the Draft EIR determined that these locations may have potentially significant impacts associated with either the Project or cumulative traffic levels. Also refer to Response 25.a and 25.b.
- 29.c The comment asks who will purchase the proposed residential units and from where will the loans come. The comment also states that it is essential for the Project to generate property tax payments, but questions the viability given the current state of the market. While it is true that the region is currently experiencing a high level of foreclosures and vacancy rates, one of the primary objectives of the proposed Project is to develop a diverse range of housing products that is responsive to market demand and the developing economic profile of the community. The development sequence presented in the Draft EIR (Section 3.0, *Project Description*) will be subject to change over time in response to various factors including the cyclical nature of the housing market. Further, the Project is estimated to reach full build-out in 30 years; therefore, the vacancy rates are likely to fluctuate over the life of the Project and, if so, the Project would serve to meet the potential future housing demand.
- 29.d The comment regarding who will benefit from the proposed Project does not pertain to the adequacy of the environmental analysis. As stated above, financial or other issues unrelated to physical impacts on the environment need not be covered by the Draft EIR pursuant to State CEQA Guidelines, §15382. Because these aspects of the Project have no physical impacts to the environment, this comment does not need to be addressed further.

Public Comment Letter
No. 30

Butterfield Specific Plan Draft EIR
Public Meeting
Tuesday, June 21, 2011



This form may be used to submit comments in regard to environmental issues raised in the Draft EIR for the proposed Butterfield Specific Plan Project.

Name (please print) PENNY ANN RANDEL
Mailing Address 4971 West Sherman St. Banning
Telephone No. (daytime) 951-845-6363
Fax No. None
E-mail address None
Organization/Affiliation Banning resident

Comments:

While attending the meeting of June 21, 2011, I did not understand the term "moderate density" area. This area as shown on the map is not to my knowledge I would like to know what this means. Is this low cost housing? What?

} 30.a

Signature Penny Ann Randel

↑
IS THIS LOW COST HOUSING?

Thank you for your assistance

Written comments will be accepted until July 21, 2011 and may be directed to City of Banning, Community Development Department, 99 E. Ramsey Street, Banning, California 92220, Attn: Zai Abu Bakar, Community Development Director.

To Mail, Fold and Staple

Butterfield Specific Plan Draft EIR

Public Meeting
Tuesday, June 21, 2011



This form may be used to submit comments in regard to environmental issues raised in the Draft EIR for the proposed Butterfield Specific Plan Project.

Name (please print) PENNY ANN RANDEL
Mailing Address 4971 W. Hillman St, Banning, Ca. 92220
Telephone No. (daytime) 951-845-6363
Fax No. None
E-mail address None
Organization/Affiliation Banning Resident

Comments:

Re: traffic
I do not approve of the impact this
development would have on traffic in and
on Cherry Valley and Highland Springs Ave.
into the Lee Way. It would cause a major
traffic jam. Not to mention the problems
it will cause on Brookside next to Bannock
High School.

} 30.b

Signature

Penny Ann Randel

Thank you for your assistance.

Written comments will be accepted until July 21, 2011 and may be directed to City of Banning, Community Development Department, 99 E. Ramsey Street, Banning, California 92220, Attn: Zai Abu Bakar, Community Development Director.

To Mail, Fold and Staple

Butterfield Specific Plan Draft EIR

Public Meeting
Tuesday, June 21, 2011

JUN 27 2011

ES

This form may be used to submit comments in regard to environmental issues raised in the Draft EIR for the proposed Butterfield Specific Plan Project.

Name (please print) PENNY ANN RANDEL
Mailing Address 49711 West Gilman St.
Telephone No. (daytime) Banning, Ca. 92220
951-845-6363
Fax No. None
E-mail address None
Organization/Affiliation Banning resident

Comments:

Re: Water treatment plant
I do not approve the proposed water treatment
plant being placed at corner of Wilmore
and Highland Home Road. This location can be
placed across the freeway on the east side
of Sunbaker.

} 30.c

Signature Penny Ann Randel

Thank you for your assistance.

Written comments will be accepted until July 21, 2011 and may be directed to City of Banning, Community Development Department, 99 E. Ramsey Street, Banning, California 92220, Attn: Zai Abu Bakar, Community Development Director.

To Mail, Fold and Staple

Butterfield Specific Plan Draft EIR
Public Meeting
Tuesday, June 21, 2011

JUN 27 2011

This form may be used to submit comments in regard to environmental issues raised in the Draft EIR for the proposed Butterfield Specific Plan Project.

Name (please print) PENNY ANN RANGEL
Mailing Address 4971 West Gilman Street
Telephone No. (daytime) 951-845-6363
Fax No. None
E-mail address None
Organization/Affiliation Banning resident
Re Water

Comments:

After attending the meeting held on June 21, 2011, I have concerns regarding Banning's water supply and the impact of what is the residence of Banning outside of the Butterfield development. We are currently getting our water from Banning. This is absolutely putting a lot of pressure on Banning's water supply. I didn't feel this question was thoroughly answered at the meeting.

30.d

Signature Penny Ann Rangel

Thank you for your assistance.

Written comments will be accepted until July 21, 2011 and may be directed to City of Banning, Community Development Department, 99 E. Ramsey Street, Banning, California 92220, Attn: Zai Abu Bakar, Community Development Director.

To Mail, Fold and Staple

Penny Ann Rangel

Response No. 30

- 30.a The comment requests clarification of the term moderate density, and questions if the Project site would include low cost housing. There is no moderate density land use designation within the Butterfield Specific Plan. However, there is a medium density land use designation. The medium density land use designation would be developed at approximately 0-10 dwelling units per acre. A total of 1,960 medium density residential units could be developed as part of the proposed Project, and would encompass approximately 324 acres of the Project site. All housing units would be sold at fair market value for current market conditions. No housing within the Project site would be marketed as low income housing. The Project is consistent with the General Plan with respect to housing density.
- 30.b The comment states that the Project would impact traffic. Refer to Response 18.d.
- 30.c The comment states that the resident does not approve of the placement of the potential satellite wastewater treatment plant. The commenter's preference that the water treatment plant be moved across the freeway is noted, and will be considered by the City if it decides to develop a satellite plant.
- 30.d The comment expresses concerns regarding local water supply. Refer to Master Response #4 (water supply) for additional information regarding water supply.

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Public Comment Letter
No. 31



June 16, 2011

TO WHOM IT MAY CONCERN:

Re: Butterfield Specific Plan/Pardee Homes

This is my letter of opposition to the development of property bounded by Highland Springs Ave/Wilson St/Highland Home Rd. Why is such a development desirable when there are hundreds of homes, in any price range & category for sale in the Banning/Beaumont area??

} 31.a

Already the maintenance budget is not efficient to properly maintain the streets, traffic flow, traffic lights, animal control and other aspects too numerous to mention. The noise factor would be increased and the water supply would be very questionable to inadequate.

} 31.b

This is not a big city and residents here do not want a big city. There is a glut of homes new and almost new to be offered to the buyers. The economy and the banks already are denying loans. Sure, the developers wish to build and sell for their own economy, but a glut of homes and foreclosures hinders the economy of the city. This is short sightedness!

} 31.c

This area needs areas of recreation (such as in Beaumont) and bike paths which have been promised for forty-five years. Look at midway!! We don't need more homes we need commercial and industrial development. Where do all the people in central, north and east Banning buy groceries? They have to drive or "bus it" all way to Beaumont! This is a tragedy

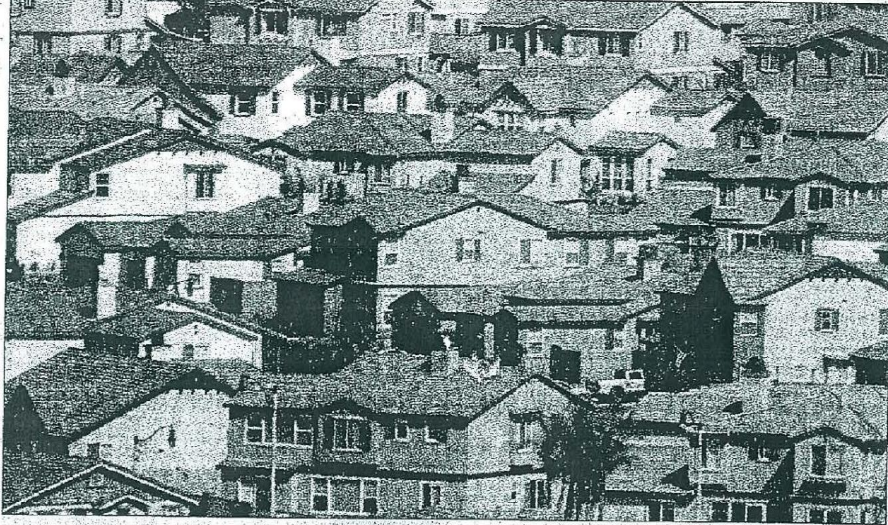
} 31.d

If this is the only idea you can come up with then Banning needs a new city council consisting of realistic visionaries instead of day dreamers. The same goes to the planning commission.

Thank you for the letter I received and for the opportunity to speak to the issue.


Janelle Singleton
924 Highland Home Rd
Banning CA 92220

HOUSING MARKET



LaFonzo Carter Staff Photographer

Southern California home sales last month were 29 percent below the May average, and new homes sold at their lowest level for a May since at least 1988. San Bernardino County home sales dropped 18.1 percent from last year.

Note

Sales hit 3-year low

Janelle Singleton

Response No. 31

- 31.a The comment questions why the proposed Project is desirable. This comment does not pertain to the adequacy of the environmental analysis in the Draft EIR; therefore, no further comment regarding this particular matter is necessary.
- 31.b The comment states that the maintenance budget is not adequate to properly maintain public services. The comment does not specify what maintenance budget is not sufficient, but it is assumed the comment could be referring to the City's General Fund budget.

As stated in the Draft EIR, Section 4.12, in a number of locations, the Project in addition to creating greater demand for services, would also generate additional sales and property tax revenue as a direct and indirect contribution to the City's General Fund.

The Project would also create a homeowners association (HOA) for the Project that would fund and maintain private streets, HOA-owned parks and open spaces, and private drainage facilities within the Project (most parks and open spaces in the Project would be HOA owned). Furthermore, the Project would set up or join an existing City Landscape, Lighting and Maintenance District (LLMD) to provide further funding for street lighting and landscaping within public rights-of-way of the Project. Refer to Section 3.7.3, Community Facilities Financing and Maintenance, of the Draft Specific Plan.

The comment also states that noise would be increased. The Draft EIR fully analyzed impacts associated with noise. As identified in Section 4.11, *Noise*, of the Draft EIR, the Project would result in cumulative noise impacts. All other noise impacts would be reduced to a level of less than significant with the implementation of mitigation. Please refer to Section 4.11, *Noise* of the Draft EIR.

The comment also states that water supply is questionable. Please refer to Master Response # 4 (Water Supply) for additional information regarding water supply.

- 31.c The comment states that there are existing new and almost new homes within the community. This comment does not pertain to the adequacy of the environmental analysis in the Draft EIR; therefore, no further comment regarding this particular matter is necessary.

- 31.d The comment states that the area needs recreation. As identified in Section 4.12, *Public Services and Utilities*, of the Draft EIR, the Project proposes approximately 428 acres of parks, open space, and recreational uses for the City, not just residents of the Project. The comment also states that the City does not need more residential development but more industrial and commercial development. While the Project does not include industrial development, it does include approximately 36 acres of commercial development, and a commercial overlay allowing opportunities for additional commercial development, that would service not only the Butterfield community but surrounding communities as well.

The comment infers that the City needs a new City Council and Planning Commission. This comment does not pertain to the adequacy of the environmental analysis in the Draft EIR; therefore, no further comment regarding this particular matter is necessary.

**Public Comment Letter
No. 32**

**ORAL COMMENTS/QUESTIONS
Butterfield Specific Plan
Draft Environmental Impact Report
EIR Review Period Public Meeting
June 21, 2011
6:00 – 8:00 P.M.**

Barbara Hanna:

1. Stated a conflict of interest because of being on City Council and lives 500 ft. from project site boundary. Stated that she is attending public meeting and speaking as a citizen. } 32.a
2. RBF Consulting is being paid by Pardee Homes and is the author of the Specific Plan and EIR. Is it a typical procedure to author both documents when being paid by the developer? } 32.b
3. How can traffic work? What does it mean that some improvements may be infeasible (right-of-way requirements and impacts to existing land uses, etc.)? How will traffic flow? } 32.c
4. What happens on Oak Valley Parkway? } 32.d
5. Where does traffic go at north and south ends of Highland Home Road? } 32.e
6. How many traffic lights will be needed to I-10 Freeway along Highland Springs Avenue? } 32.f
7. What if the city can't get right-of-way to make traffic level "D"? } 32.g

Jeff Davis, SGPWA General Manager:

8. What does the Water Supply Assessment commit project to (e.g. use of recycled water)? } 32.h
9. Is there a project commitment to recycled water? } 32.i
10. Is there a project commitment to receiving/connection to State Water Project deliveries? } 32.j
11. Would the State Water Project pipeline extension be constructed by City or Pardee? } 32.k

Patsy Reeley – CVAN & CVEPG:

12. I've never seen an EIR with so many "would be", "could be" language. EIR should be specific, no options. There will be Oak Valley & Brookside traffic issues. I've lived here 30 years and have been trying to get Brookside improved and have tried working with County & Cities. Homes will be displaced with right-of-way acquisition. School commute will be difficult on Brookside – It's impossible today. There will be 10,000 new cars through Cherry Valley to school and highway. The project needs to consider rural community outside of the city. The project EIR was bad then (1980's & 1993) and still is now. The project is too dense. The EIR should discuss effect on animals in National Forest. } 32.l

Frances Flanders:

13. Where is the alternative route going down Cherry Valley Blvd.? } 32.m

14. What is going to happen to the memorial oak tree? Where are you going to put it?
People have feelings for it. } 32.n
- Luwana Ryan:
15. Project is to add 5,000+ homes with lack of roadways. How bad traffic will be is not discussed. Page 4.12-5 states the high school exceeds capacity. There is traffic for students in rural Cherry Valley. Cherry Valley Blvd. And I-10 is dangerous. Page 4.13-18 states 62,263 daily project vehicle trips which is a big deal for the region, not just on Highland Springs Ave. } 32.o
- Daniel Dorazi:
16. When will Pardee build north of SCE easement in Sundance, Beaumont? } 32.p
17. Is there a plan for dust control with the development of the Butterfield project? } 32.q
18. Traffic on Highland Springs Avenue is currently bad. Is there a plan for widening this road, including under the I-10 Freeway? } 32.r
- Carol Salazar:
19. Why was I not notified of this meeting? } 32.s
20. What about wilderness fire concerns in Mill Creek area. There could be a huge fire. There has been no fire for 65 years. Hunters use this area. Wilderness from San Gorgonio is visible from Mias Canyon } 32.t
21. Wasn't there a horned toad on site at one time? } 32.u
- Jan Kielmann:
22. Why is there high density located in the northern portion of the site? It should be located in the south. High density in the northern portion of the site does not fit with existing environment. } 32.v
23. Who owns the land that aligns with the future extension of Cougar Way west of Highland Springs Avenue? } 32.w
24. Why not connect Cougar Way in Beaumont/Sundance development with Highland Home Road instead of Brookside? } 32.x
25. Business/Commercial uses should be at the southern portion of the project site along Wilson Street, not on Highland Springs Avenue. } 32.y
26. There may be a wildlife preserve conflict in the low density area in the northern portion of the project site. Will there be trail access through Gillman Ranch? Is Bradshaw Trail protected by an ordinance, because it is a historic trail? } 32.z

Summary of Oral Comments at June 21, 2011 Draft EIR Public Meeting

Response No. 32

Barbara Hanna

- 32.a The commentor discloses that she is attending the public meeting and speaking as a citizen. The commentor also states that she lives 500 feet from the Project boundary. This comment is noted. No further response is necessary.
- 32.b The comment asks whether it is a typical procedure to author both a Specific Plan and an EIR when being paid by the developer. Refer to Master Response #1 for a discussion of the role and relationship of the City, Project Applicant and Consulting Team.
- 32.c The comment asks how will traffic flow. Refer to Master Response #2 for an explanation of the overall conclusions of the *Traffic Impact Analysis* (TIA) (Draft EIR Appendix I). The comment also asks for a further explanation regarding the potential infeasibility of improvement. In addition, the TIA offers maps (TIA Figure 13A-13B, 16A-16B, 19A-19B, 21A-21B) showing how the Project-generated traffic volumes will be distributed throughout the area under each of the study year conditions (including opening year and General Plan build-out conditions) and at each study area intersections.

The phrase in the Draft EIR referenced by the comment is only added for locations where the proposed improvements cannot be accommodated within the existing right-of-way. Hence, it is only applicable to specific locations where the widening would encroach on adjacent properties.

- 32.d The comment asks about Oak Valley Parkway. As shown on Specific Plan Exhibit 3.2, *Vehicle Circulation Plan*, Oak Valley Parkway will connect to the Project site via proposed 'B' Street. Additionally, the summary of future improvements on Oak Valley Parkway was provided in the Draft EIR, Table 4.13-9, *Summary of Future Improvements*. The LOS for the existing Highland Springs Ave. /Oak Valley Pkwy.-14th St.-B St. Intersection is C for the A.M. Peak Hour and B for the P.M. Peak Hour. The LOS for the intersection with the Project would be F for both the A.M. and P.M. Peak Hour. With mitigation, the LOS for the intersection with the Project would be improved to C for both the A.M. and P.M. Peak Hour. In addition, the LOS for the Highland Springs Ave. /Oak Valley Pkwy.-14th St.-B St. Intersection at General Plan build-out, including the Project mitigation, would also be C for both the A.M. and P.M. Peak Hour. For additional information regarding the projected level-of-services related to Oak Valley Parkway intersections, refer to TIA Tables X thru AB.

- 32.e The comment asks where traffic goes at the north and south ends of Highland Home Road. Refer to Master Response #2 which discusses the feasibility of a connection to the I-10 freeway at Highland Home Road. Traffic at the south end of Highland Home Rd., without a connection to or over the I-10 freeway, would go east and west on Wilson St. or Ramsey Street. For the north, refer also to Master Response #2, which details the history and decision behind the connection to Brookside Avenue or Cherry Valley Boulevard. Either connection would serve as the regional connection in the north and a route to the I-10 freeway to the west. If neither connection is built, traffic would be routed to Highland Springs Avenue and north to Brookside Avenue.
- 32.f The comment asks how many traffic lights will be needed along Highland Springs Avenue from the Project site to the I-10 freeway. The proposed improvements at all study intersections along Highland Springs Avenue are listed in Draft EIR Table 4.13-9, *Summary of Future Improvements*, including improvements involving the installation of 15 traffic signals. In addition, Highland Springs Avenue mitigation requirements at each study intersection, including signalization improvements, are described in fuller detail in Section 6.0 of Draft EIR, Appendix I (TIA).
- 32.g The comment asks how traffic will be affected if the City cannot obtain right-of-way to ensure intersections operate at a LOS 'D'. As noted in Draft EIR, Section 4.13, Impact Statement 4.13-1 and 4.13-2, certain improvements may not proceed due to this very reason, in addition to feasibility issues associated with improvements outside the City's jurisdiction. Jurisdictions outside the City and state and regional organizations would be expected to plan and develop roadway improvements to meet their LOS standards. Therefore, as noted in Section 4.13, this represents a "potentially significant impact" even with identified mitigation. This determination was disclosed in Section 1.0, *Executive Summary*, and Section 4.13, *Traffic and Transportation*.

Jeff Davis, San Gorgonio Pass Water Authority, General Manager

- 32.h The comment asks what the *Water Supply Assessment* (WSA) (Draft EIR Appendix J) commits the Project to do. Refer to Master Response #4. In addition, refer to Section 1.7 of the WSA, which discloses the sources of water supply relied upon in the WSA. The commitments (e.g., funding, permit acquisition, Project-related construction) associated with these water supply sources are described throughout the WSA, Section 6.
- 32.i The comment specifically asks if there is a commitment to use recycled water. The City will develop approximately 1,680 AFY of recycled water supply to meet existing and future potable and non-potable demands, including some or all of the Project's non-potable demands. This supply will come from the City's wastewater treatment plant (WWTP) Phase I Upgrade, anticipated to be completed by 2015. (See WSA Table 1.7A.)

The Project includes construction of the infrastructure necessary to accept delivery of the City's recycled water supply and to use recycled water when it becomes available for irrigation on the Project site.. Additionally, the Project Applicant has committed to making a portion of the Project site available for the construction of a satellite WWTP, in the event the City elects to construct a satellite treatment plant as an alternative to, or in addition to, the Phase I Upgrade.

- 32.j The comment also specifically asks if there is a commitment to receive/connect to State Water Project deliveries. The City intends to purchase as much imported water as the Pass Agency makes available to it, to recharge that supply into the Beaumont Basin where it will be stored in the City's Beaumont Basin Stored Water account to serve existing and future demands. Table 6.3.7 (WSA, pg. 127) summarizes the City's projected imported water supply purchases for the study period analyzed in the WSA. The City's water supply and distribution system is fully integrated. As such, any combination of the City's water supplies (including groundwater, imported water and recycled water), may be used to serve the Project. The City will produce its imported water supply from storage in the Beaumont Basin via wells located in the Beaumont Basin. No new wells are required to serve the Project.

Additionally, the Project Applicant has committed to making a portion of the Project site available for the potential future recharge of imported water. In addition to, or as a potential alternative to, the City's historical and existing use of the BCVWD Noble Creek Recharge Facility, the City may elect to construct a pipeline extending the existing SWP pipeline from the Pass Agency's spreading grounds on Little San Gorgonio Creek near Orchard Street to the North Basin reservoir on the Project site to permit the delivery and recharge of imported water supplies a location within the City's boundaries. The Project site is a potential location for the delivery, storage and recharge of State Water Project deliveries, but its use is not necessary to meet Project or City projected water demands. The SWP extension would be a City project and require a separate approval and additional CEQA review.

- 32.k The comment asks whether the SWP pipeline extension would be constructed by the City or Pardee. The City would determine whether to construct the extension. Funding for the extension would come from the City's connection fees. The City may use that funding to construct the extension itself or may contract with a third party to construct the extension. The City may also elect to enter into an agreement to have Pardee construct and fund the SWP extension, subject to consideration of future City water connection fees.

Patsy Reeley, Cherry Valley Acres and Neighbors (CVAN) and Cherry Valley Environmental Planning Group (CVEPG)

32.1 The comment states that the EIR is not specific enough and contains too many options. It is not clear whether the comment is referring to the Project description itself or to the required mitigation measures. However, for a response regarding the Project description, refer to Response 20.qqqqq through 20.sssss. For information regarding Project mitigation measures, refer to Response 20.ddddd through 20.eeeee.

The comment states that there will be Oak Valley Parkway and Brookside Avenue traffic. If the comment is referring to the intersection of these two street, the TIA (Draft EIR Appendix I) contains pertinent LOS analysis for this intersection. TIA Tables AI through AL shows that this intersection will operate at an acceptable LOS during a.m. and p.m. peak hours for all study years.

The comment also states that homes would be displaced with right-of-way acquisition. Master Response #2 discloses that right-of-way acquisition would occur from implementation of the proposed Brookside extension. Refer to Master Response #2. In addition, the expansion of Brookside Avenue and of Cherry Valley Boulevard are part of the City of Beaumont and County of Riverside General Plans and Circulation Elements Per these General Plan these infrastructure improvements are proposed to support the long-range local and regional traffic growth.

The comment states that school commutes will be difficult on Brookside Avenue. As discussed above, the LOS analysis for all study intersections on Brookside Avenue were determined to be within an acceptable LOS.

Lastly, the comment states that the Project is too dense and that the Draft EIR should consider the rural community. Refer to Master Reponses #6 for a discussion regarding the density of the proposed Project.

Frances Flanders

32.m The comment asks about the alternative route on Cherry Valley Boulevard. Refer to Master Response #2.

32.n The comment request information regarding the memorial oak tree. Refer to Response 27.a for an explanation regarding impacts on the memorial oak tree.

Luwana Ryan

32.o The comment states that the Draft EIR does not analyze the impacts of traffic and states that the 62,263 average daily trips would be a significant impact on the region. Refer to

Section 4.13 of the Draft EIR and Draft EIR Appendix I, *Traffic Impact Analysis* (TIA), for a detailed traffic analysis and determination of impacts. Also, refer to Master Response #2, which contains a summary of the conclusions reached in the TIA. However, as stated in Draft EIR Section 1.3, the Project would result in potentially significant impacts related to traffic after the implementation of feasible mitigation measures.

Daniel Dorazi

32.p The comment asks when Pardee Homes will build north of the SCE easement in Sundance, Beaumont. The timing of this development depends on a number of factors, including funding and market conditions. However, the proposed Butterfield Specific Plan Project does not rely on the development of the Sundance property in the Draft EIR's environmental analysis, but assumes build-out of this development for quantifying cumulative impacts, such as those related to traffic, air, and greenhouse gases.

Because the most conservative assumptions regarding the Sundance project were assumed in the environmental analysis (as described above), the actual timing of this development does not change the level of significance determination identified in the Draft EIR.

32.q The comment asks whether a dust control plan is proposed. A stand-alone dust control plan is not being submitted at this time with the Specific Plan. However, mitigation measures identified in Section 4.3 would be imposed on grading operations to reduce or suppress dust generation. Refer to Mitigation Measures AQ-1 and AQ-2 on pg. 4.3-29 through 30 and AQ-5 on pg. 4.3-31. This would require the Project Applicant to indicate dust management measures on the grading plans which will identify viable dust control measures and include a monitoring plan to be implemented throughout the construction phases of the Project.

32.r The comment asks whether there is a plan for widening Highland Springs Avenue, including the portion under the freeway.

The Butterfield Specific Plan, Section 3.2.1.1 explains that the total right-of-way width of this Arterial Highway will be at least 102 feet. Exhibit 3.3A of the Specific Plan shows the proposed cross section of this roadway.

In addition, Draft EIR Appendix I, *Traffic Impact Analysis* (TIA), Section 6.0 provides a summary of all future improvements along Highland Springs Avenue intersections. This Section also notes that the Highland Springs Avenue and I-10 Interchange is scheduled for future improvements in the 2008 Pass Cities TUMF Zone Transportation Improvement Program. However, design plans showing how this improvement will be

constructed have not been completed at this time. TIA Section 10.2 notes that this intersection is also to be funded by the City of Beaumont Road and Bridge Fee.

TIA Section 10.1 states that under the WRCOG TUMF program Highland Springs Avenue between Cherry Valley Boulevard and Wilson Street would be widened to a 4-lane facility and between Wilson Street and Sun Lakes Boulevard would be widened to a 6-lane facility. Refer to the above-mentioned sections of the TIA for further details regarding Highland Springs Avenue improvements.

Tables AN and AO of the TIA summarize funding sources for the improvements in the existing plus Project and General Plan build-out plus Project scenarios for intersections in multiple jurisdictions.

Carol Salazar

- 32.s The comment questions why they were not noticed. In accordance with the City's adopted noticing procedures, only those residents located within a 300-foot radius from the Project site were given a formal written notice via USPS mail. The 300-foot radius list was prepared by First American Title Company and was mailed to residents by the EIR preparer. Without knowing the commentor's exact address, the City cannot determine whether she should have received a notification by mail. However, in addition to the radius mailing, the public meeting was noticed in the Record Gazette and Press Enterprise.
- 32.t The comment asks about wilderness fire concerns and views of open space. Refer to Draft EIR Section 4.8, Impact Statement 4.8-5 for a detail analysis of impacts related to wildland fires and Section 4.1, Impact Statement 4.1-1 for impacts related to scenic vistas.
- 32.u The comment asks whether a "horned toad" was present on site at one time. During the 2005 to 2010 field investigation conducted by the biological consultant, the coast horned lizard, also referred to as "horned toad", was not observed. Only marginally suitable habitat for this species is present on site (refer to Draft EIR Appendix C1, Table II - pg. 5).

Jan Kielmann

- 32.v The comment questions why there is high density in the northern portion of the site. As noted in Draft EIR Exhibit 3.0-3, *Land Use Plan*, the Planning Areas in the northern portion of the Project site (PA 61 and 60) are designated Low Density Residential (LDR) – 10,000 square feet minimum. Thus, these Planning Areas would not be developed at high densities. Planning Area 59 located south of the proposed extension of Highland Home Road in the northern portion of the Project would allow high density residential

- uses as proposed and is designated High Density Residential on the Land Use Plan. In addition, higher densities are proposed within the southern portion of the Project site as the comment recommends. The land use designations in the southern portion include Medium Density Residential (MDR) and High Density Residential (HDR).
- 32.w The comment asks who owns the land that aligns with the future extension of Cougar Way west of Highland Springs Avenue. The land within this future alignment immediately to the west of the Project site is within the approved Sundance Specific Plan area (as illustrated on Draft EIR Exhibit 4.0-1, Surrounding Development) and is owned by Pardee Homes. The property immediately west of the Sundance Specific Plan area is owned by Beaumont Unified School District.
- 32.x The comment asks why the Project circulation plan does not connect Cougar Way to Highland Home Road, instead of Brookside Avenue. The City of Banning General Plan Circulation Element (Page III-71) allows the connection of Highland Home Road at Highland Springs Avenue to either Brookside Avenue or Cherry Valley Boulevard. Based on consultation between the City and Applicant, the traffic analysis assumes that Highland Home Road would be connected to Brookside Avenue and not Cougar Way. In addition, an existing housing development, "Estates of Oak Valley", approximately 2.5 miles west of the Project site is located perpendicular to the path of Cougar Way, preventing any future extension of the street from reaching the I-10 Freeway corridor. Also, refer to Master Response #2.
- 32.y The comment states that business/commercial uses should not be located along Highland Springs Avenue. The comment is referring to Planning Area 17, which is designated Commercial in the Butterfield Land Use Plan (Draft EIR, Exhibit 3.0-3). The intent of the Butterfield Specific Plan is to generally conform to the land uses shown on the Deutsch Specific Plan Land Use Plan, which included a Commercial land use-designated Planning Area along Highland Springs Avenue at the then-proposed extension of 16th Street. Thus, locating a Commercial land use along Highland Springs Road is generally consistent with the City of Banning General Plan and Deutsch Specific Plan in this regard.
- 32.z The comment states that a wildlife preserve may be located in the northern portion of the Project site. The potential for conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or any other approved local, regional, or state habitat conservation plan are analyzed in Draft EIR, Section 4.4, Impact Statement 4.4-3. It was determined in the Draft EIR that with implementation of Mitigation Measures BIO-1 through BIO-5, Project impacts related to Habitat Conservation Plans would be reduced to a less than significant level.

The comment also asks whether Bradshaw Trail is protected by an ordinance and whether there will be trail access through Gillman Ranch. The Bradshaw Trail is not protected by an ordinance. The Project site will continue to provide trail access along the northern and eastern boundary of the Project site as illustrated in Specific Plan Exhibit 3.4.

4.0 ERRATA

These Errata consist of minor technical changes, clarifications and updates to existing analysis; none of which constitute significant new information or trigger the need for further environmental review.

DRAFT EIR TEXT

Changes to the Draft EIR are noted below. Underlining indicates additions to the text; striking indicates deletions to the text. The changes to the Draft EIR do not affect the overall conclusions of the environmental document. These errata represent changes to the Draft EIR to provide clarification, corrections, or revisions as needed as a result of public comments on the Draft EIR, or due to additional information received during the public review period. These clarifications and corrections are not considered to result in any new or more severe impacts than identified in the Draft EIR, and are not otherwise deemed to warrant Draft EIR recirculation pursuant to CEQA Guidelines §15088.5. Changes are listed by page and where appropriate by paragraph. Added or modified text is shown by underlining (example) while deleted text is shown by striking (~~example~~).

SECTION 1.0, EXECUTIVE SUMMARY

Note: Table 1.0-1: Environmental Impact Summary has been updated in response to comments. Please see the Mitigation Monitoring and Reporting Plan attached to the Final EIR for changes to the mitigation measures.

CHAPTER 3.0, PROJECT DESCRIPTION

Page 3.0-1, First Paragraph

The proposed Project site (hereinafter the “Butterfield Specific Plan” or “Project”) consists of 20 existing legal lots, covering approximately 1,522 acres, owned by Pardee Homes. The EIR also analyzes the impacts of development of ~~and~~ an additional 21-acre lot owned by the Highland Springs Country Club Owner’s Association. However, the potential future annexation is not part of the proposed Project and, if proposed in the future, would be subject to a separate and independent review process.

Page 3.0-19, Fourth Paragraph

In addition to the above identified open space areas, a 30.4-acre multi-use basin is proposed in PA 71, where Smith Creek enters the site. This basin would be designed to detain flows from Smith Creek. Additionally, the City may elect to use the basin ~~and~~ to provide water storage for

~~irrigation and other needs. The area could potentially function as a recreational amenity for viewing, hiking, fishing and/ or picnicking. This multi-use basin is described in greater detail in Section 3.6.2.5, Infrastructure.~~

Page 3.0-20, Second Full Paragraph

~~While the Butterfield Specific Plan proposes a golf course other types of open space and recreational uses are also permitted as alternatives in the event the golf course is not developed due to market conditions or other considerations. These alternative uses include various combinations of parks, trails, native habitat, drainage facilities, water quality improvements, groundwater recharge areas, and wetland mitigation areas. The potential impacts of a “no golf course” Alternative are discussed in greater detail in the “Alternatives” section of this document.~~

Page 3.0-26, First Full Paragraph

The Project site ~~also sits above a portion of~~ lies entirely over the Beaumont groundwater basin. In its undeveloped condition, the site allows precipitation to percolate through the underlying soil and rock to recharge the basin. To replicate that function, the proposed drainage system also includes groundwater recharge areas located within the golf course/open space area and along the Smith Creek drainage alignment. Several detention basins are proposed to be located along the northern and eastern perimeter of the Project area adjacent to PAs 50, 51, 52, 60 and 61, and adjacent to the foothills. These basins would serve to control and contain debris associated with stormwater runoff reaching the site from off-site areas. Exhibit 3.0-7, *Master Drainage Plan*, illustrates the overall Project drainage concept and shows the location of the PA 71 multi-use North Basin described below. Exhibit 3.0-8, *Proposed Water Quality / Infiltration Areas Map*, shows the locations of debris basins, detention basins, storm drains, infiltration areas, and post-construction Best Management Practices (BMPs).

Page 3.0-26, Third Paragraph

~~In addition to the detaining of stormwater, t~~The North Basin (PA 71) ~~might~~ may also be used to store recycled water (if the City elects to construct the on-site “satellite” wastewater treatment plant (“WWTP”)) and/or raw (i.e., pre-treated) State Water Project (SWP) water (if the City elects to construct the SWP Pipeline Extension) ~~that could be imported to the site. From whatever source, the stored water would be used for direct irrigation on the Project site and could be considered for groundwater recharge purposes in the future, subject to the appropriate review and approval processes. The City has been considering the construction of an off site water pipeline that would convey SWP water into the North Basin as a separate City project;~~ ~~Refer to Section 3.6.3, Offsite Project-Related Infrastructure.~~

Page 3.0-27, Second Paragraph

The Project proposes a total of 13 acres of recharge basins located throughout the proposed golf course/open space area. The golf course is designed so that, during significant storm events, the channelized storm flows can spill over the creek banks and spread onto the golf course fairways, to be detained there. In addition, as needed, limited detention facilities may be constructed along Smith Creek to ensure additional on-site control of stormwater.

Pages 3.0-28 to -29, Fifth Paragraph

The Butterfield Project proposes ~~ed~~ to reduce its consumption of potable water through the use of recycled water, if made available to the Project by the City, for irrigation of the golf course, landscaped medians/parkways, parks, landscaped open spaces and hillside fuel modification zones ~~to the greatest extent feasible~~. To accomplish this goal, the Project ~~would~~ includes necessary infrastructure to either receive recycled water treated to tertiary standards from the City's expanded and upgraded main Wastewater Treatment Plant (WWTP). Refer to Section 3.6.3, Off-site Project-Related Infrastructure.

As a potential alternative source of recycled water, the City might choose to construct ~~or would construct~~ an on-site "satellite" WWTP, which would be owned and operated by the City of Banning. R₇ refer to the description of the Project's Wastewater (Sewer) System for additional detail. ~~If the on-site WWTP is not constructed, off site recycled water pipelines would be constructed in existing City right of ways to the City's main WWTP so that recycled water produced at that facility could be conveyed to the Project site for use; refer to Section 3.6.3, Off-Site Project Related Infrastructure.~~

Page 3.0-29, First Paragraph

To provide a new source of water to the City, thereby help partially offsetting the Project's anticipated demands ~~impact on City water supplies and groundwater basins,~~ the Project would include a ground water recharge system that would replenish the City's Beaumont Basin supply. ~~is proposed to be incorporated into the Butterfield Project. Planned recharge would help replenish groundwater supplies in the Beaumont groundwater basin, from which the City draws a portion of its water supply.~~ The Beaumont Basin is an adjudicated ground water basin and the City of Beaumont Basin Watermaster is responsible for managing and protecting the water quality within the basin. ~~Accordingly, a~~ Any potential recharge activity associated with the Project would require Watermaster approval pursuant to the Beaumont Basin Judgment. ~~coordination between the City of Banning, the City of Beaumont, the State Water Quality Control Board, and the Beaumont Basin Watermaster.~~

Minimally, the proposed groundwater recharge system for the Project will permit the recharge of stormwater. Additionally, the City may elect to utilize the Project site for the recharge of imported water, primarily ~~may utilize a portion of the City's State Water Project~~

(SWP) allocation, delivered by the San Gorgonio Pass Water Agency via a pipeline extension connecting the SWP pipeline and the North Basin on the Project site. Refer to Section 3.6.3, Off-Site Project-Related Infrastructure. Accordingly, potential impacts associated with the construction of the off-site SWP extension pipeline are addressed in this EIR. Imported water delivered to the Project site would be stored in the North Basin temporarily and then conveyed through an on-site distribution system to groundwater recharge areas within the Project, located primarily within the Smith Creek drainage. The choice of whether to use imported water for groundwater recharge and the responsibility for building the infrastructure needed to deliver imported water and facilitate the recharge are the City's. It would constitute a separate project, which the City would review and approve separately.

The City may also elect to utilize the Project site for the recharge of surplus, in addition to potential surplus recycled water, conveyed to the North Basin from either the on-site "satellite" WWTP or the existing City WWTP. If recycled water is used, it would have to be blended with another water source, such as SWP water, to achieve an acceptable level of water quality for groundwater recharge. Uses of recycled water for groundwater recharge in the Butterfield Specific Plan area would require the approval and permits from the Regional Water Quality Control Board, Santa Ana Region, because it overlies the Beaumont (groundwater basin) Management Zone, as well as complying with California Department of Public Health Title 22 regulations. The recharge system would be facilitated in part by extending a SWP pipeline from the Noble Creek Spreading Grounds to the proposed North Basin through the Brookside Avenue right of way; refer to Section 3.6.3, Off Site Project Related Infrastructure. As a potential component of the Project's water system, impacts associated with the construction of the off-site SWP pipeline are addressed in this EIR, although as previously noted, the City of Banning may construct the pipeline as a separate City project. SWP water stored in the North Basin would be conveyed through an on-site distribution system to groundwater recharge areas within the Project, located primarily within the Smith Creek drainage.

Page 3.0-30, First Paragraph

The City is presently pursuing expansion and upgrade of its main WWTP to provide capacity for the treatment of waste water to tertiary standards. Alternatively; however, to ensure the availability of recycled water to the Project, the City may elect Butterfield Specific Plan proposes the to construction of an optional or alternative on-site satellite WWTP. To accommodate this alternative, the Specific Plan designates an which would be located on a approximately 3-acre site at south end of PA 11 for a on-site "satellite" WWTP. If constructed, the satellite WWTP would receive wastewater from the Project and potential off-site locations, would treat the wastewater to tertiary standards, and would pump recycled water through an on-site recycled water distribution system to the golf course irrigation lake located north of PA 38 or to the North Basin in PA 71, where it cwould be stored for irrigation or for potential groundwater recharge use. Recycled water cwould also be stored in an above-ground one million gallon steel storage tank located on the satellite WWTP site.

~~If constructed, the satellite WWTP treatment process~~ would be confined to a fully enclosed building. All buildings on the WWTP site would be constructed of decorative masonry with residential roof treatments. The site would be enclosed by a minimum 6-foot high decorative masonry wall and landscaping to provide visual screening. All operations and maintenance vehicle parking would be located inside the walled area.

~~If built, the plant WWTP~~ would likely operate on a 24-hour basis, with approximately 16 hours of operational staff time per week. The on-site WWTP would use a membrane bioreactor (MBR) process to treat up to approximately 1.75 to 2.0 million gallons per day (mgd) of wastewater. The biosolids removed during the treatment process, together with a remaining percentage of unused partially treated water, would be pumped into a new off-site sewer line to be built as part of the Project in Wilson Street and Highland Home Road or Omar Street that would convey this discharge to the existing City sewer trunk line at Ramsey and Omar Streets, where it would then be conveyed to the City's existing WWTP for further treatment and disposal.

Page 3.0-32, First Full Paragraph

~~Currently, the City takes delivery of all purchased imported water at the BCVWD's Noble Recharge Facility. As a possible alternative to, or in addition to, the City's use of the BCVWD Noble Recharge basins, To accommodate potential increases in historical SWP water for groundwater recharge purposes on the Project site and within Banning City Boundaries, the Project includes proposed groundwater recharge basins that could be used for delivery and recharge of SWP water on-site. To utilize these proposed potential on-site recharge basins, a connection between the Project's North Basin and the current SWP pipeline terminus, and San Geronio Pass Water Agency (SGPWA) spreading ground facilities at Little San Geronio Creek, northwest of the Project site, would need to be constructed. This option would only be pursued if determined preferable by the City of Banning, instead of or in addition to using the existing Beaumont Cherry Valley Water District (BCVWD) Noble Creek spreading facilities for SWP ground water recharge, as the City is currently doing under agreement with BCVWD. To accomplish the connection, a 24-inch or 36-inch diameter transmission pipeline would need to be constructed to convey SWP water, and a pump station would be needed constructed at the connection to facilitate conveyance.~~

If constructed, the SWP pipeline extension would connect to the existing terminus of the pipeline within Orchard Street and likely follow one of three potential alignments, illustrated in Exhibit 3.0-11, State Water Project Pipeline Extension: (1) **SWP Alternative A** would carry water south beneath the Noble Street right-of-way and east beneath the Brookside Avenue right-of-way to the Project site; (2) **SWP Alternative B** would convey water south beneath Noble Street, east beneath Dutton Street, south beneath Cherry Avenue and east beneath Brookside Avenue, all within the public street right-of-way, to the Project site; and (3) **SWP Alternative C** would convey water south beneath Noble Street, east beneath Dutton Street, south beneath Bellflower Avenue and east beneath Brookside Avenue to the Project site, all within the public street right-of-ways.

Pages 3.0-33 and -34, Fourth Full Paragraph

As noted above, ~~the Project would be served by the City's Main WWTP in some capacity, whether to accept all wastewater flows generated on-site as an alternative to an on-site satellite WWTP or as a means of transporting residual wastewater with biosolids from the on-site alternative satellite WWTP to the City's WWTP for further treatment and disposal, the Project would be served by the City's Main WWTP.~~ An infrastructure connection to the City's Main WWTP would require construction of approximately 22,400 linear feet of off-site sewer main within portions of the Wilson Street, Omar Street, Ramsey Street, Sunset Avenue, Lincoln Street and San Gorgonio Avenue right of ways as illustrated in Exhibit 3.0-13, *Off-Site Sewer Plan*. A new gravity sewer line conveying residual wastewater and biosolids from ~~the Project an on-site satellite WWTP, if the City builds one,~~ to the existing City sewer trunk line at Ramsey and Omar Streets would follow one of the same alignment alternatives as the proposed force sewer diversion main described above and would bypass the proposed lift station connecting to the existing sewer downstream of it.

Page 3.0-38, Second Full Paragraph

- The ~~potential alternative on-site "satellite" WWTP optional wastewater treatment facilities~~ would be located, if built, at the intersection of Highland Home Road and Wilson Street. ~~Refer to Exhibit 3.0-3, Land Use Plan.~~ All treatment processes would be contained within an enclosed structure that incorporates residential design features including roofing materials, surrounded by a decorative masonry wall and landscaping to screen the facility. The 1-million gallon storage reservoir would be a maximum of 26 feet in height, similar to the height of a residential structure and would have a matte, earth-tone exterior finish and landscape screening to allow the reservoir to blend into the surrounding neighborhood. The treatment plant would observe a building setback of 20 feet for all property lines.

Page 3.0-42, Fourth Paragraph

- ~~If the City decides to build a The Alternative On Site Satellite WWTP Wastewater Treatment Plant~~ on the Project site, the plant will store all potentially hazardous materials (primarily chlorine) in a separate building with appropriate safeguards as required by law and will provide appropriate signage and inventory control as required by the Fire Department so as to reduce any potential risk of upset.

Page 3.0-42, Fifth Paragraph

- The Project will include the construction of a ~~1.62.4~~ 1.624-million gallon water storage reservoir, a ~~1.42~~ 1.42-million gallon water storage reservoir, a ~~0.50.6~~ 0.506-million gallon water storage reservoir, a 1-million gallon recycled water storage reservoir and a multi-use basin with the potential to ~~which can~~ store water for groundwater recharge. The

reservoir sizes are approximate. Three of the water storage reservoirs would be located in the north/northeastern portion of the site, and the multi-use basin would be located in the northwestern portion of the site where Smith Creek enters the property. Collectively, ~~t~~These reservoirs will provide sources of water available for both structure and wildfire response, as well as non-potable and irrigation use.

Page 3.0-48, First Paragraph

- The Project has been designed to permit receipt and maximum use of recycled water through provision of a comprehensive on-site recycled water system pursuant to City requirements. Recycled water would be delivered to the Project by the City following construction of its Phase I Upgrade project. ~~provide an optional satellite wastewater treatment facility, on site (southern portion of PA 70), should connection and extensions to the City's existing WWTP be less desirable. This provides the opportunity to divert wastewater from the City's existing plant, and maximize use of recycled water.~~
- ~~The Project has been designed to maximize use of recycled water, through provision of a comprehensive on-site recycled water system pursuant to City requirements. In addition, as note above, the Project includes options to either utilize an on site water treatment plant to deliver recycled water to the site (and thereby diverting wastewater from the City's treatment plant), or deliver recycled water from the City's plant should recycled water be available from the existing plant in the future.~~
- The Project has been designed to accommodate a potential "satellite" WWTP by designating an area on-site for it (the southern portion of PA 11) as an alternative to, or in addition to, the City's Phase I Upgrade project. The City's optional on-site "satellite" WWTP treatment plant would also creates provide the opportunity to divert additional wastewater flows generated by other (off-site) existing or future uses, to further reduce flows of wastewater to the City's existing treatment plant, ~~allowing its new capacity to support additional development, and further maximize use of recycled water in compliance with the City's General Plan Goals and Policies. These recycled water options are addressed in further detail in Section 4.14, *Water Supply*.~~

Page 3.0-49, Fourth Paragraph

- The Project proposes an on-site groundwater recharge system that could assist the City in replenishing the Beaumont Basin located beneath the Project site. The proposed system would have the capacity to recharge the basin with stormwater. Additionally, the system may also be used to recharge a portion of the City's SWP allocation imported water purchased from the Pass Agency if the City elects to build a connecting pipeline to the Project from the terminus of the SWP. If approved and permitted, potential surplus recycled water generated by the Project, if available, could be used for recharge purposes. ~~To permit the on-site recharge of imported water, ~~t~~the City would have to~~

~~recharge system would be facilitated in part by extending a pipeline from the existing SWP pipeline at the Pass Agency Little San Gorgonio Creek Spreading Grounds to the proposed north basin in PA 71 via Brookside Avenue (refer to Section 3.6.3, *Off-Site Project-Related Infrastructure*). Any such undertaking by the City would constitute a separate project, subject to additional environmental review and approval.~~

Pages 3.0-49 and -50, Sixth Paragraph

- Recycled water, as it is available, will be used to irrigate the golf course and the common landscaped areas of the Project in order to reduce the demand for domestic (potable) water. The City has completed plans and prepared environmental analysis for an expansion 1.5 mgd and upgrade, referred to as the Phase I project, of the City's main ~~treatment plant~~ WWTP ("Phase I Upgrade") that will produce and supply up to 1.5 mgd (or 1,680 AFY) of recycled water. Funding for the Phase I Upgrade project has been identified and the upgrade should be completed by year 2015 (see Appendix J, *Water Supply Assessment*, Section 6.4, for further detail). In addition to on-site infrastructure, the recycled water system for the Project would require connecting and pumping recycled water from the City's ~~wastewater treatment plant~~ WWTP through planned City pipelines to the Project site. As an alternative to the Phase I Upgrade project, the Project has been designed to accommodate a potential on-site "satellite" WWTP by designating an area on-site for it (the southern portion of PA 11). ~~The Project also includes the option of constructing an on-site "satellite" wastewater treatment plant to be owned and operated by the City of Banning.~~

Page 3.0-52, Fifth Paragraph

- **Regulatory Permit Applications.** Concurrent with or following Draft EIR submittal, ~~Pardee Homes~~ the Project Applicant may submit applications to one or more regulatory agencies seeking permits or approvals related to site development, including, e.g., off-site infrastructure (i.e., encroachment permits), water supply (e.g., State and local approvals related to ~~State Water Project~~ and local groundwater), and resource agencies (e.g., for Project-related effects upon "jurisdictional" drainages and/or habitat).

SECTION 4.1. AESTHETICS, LIGHT AND GLARE

Page 4.1-15, *Mitigation Measures*

- AES -1 Development or revegetation shall be initiated within three months following initiation of mass grading or clearing activities, ~~where feasible,~~ so as to limit the time graded surfaces remain in their exposed state, consistent with the Specific Plan's approved landscape design guidelines and landscape plans and the provisions of Title 18.15.020 of the City's *Municipal Code*. A Revegetation Plan, addressing interim revegetation during construction and for future development

areas prior to buildout, shall be submitted for City review and approval as part of each grading permit application.

Page 4.1-16, *Mitigation Measures*

AES-5 Rough Grading Plans, including a sheet detailing the location of the construction staging, shall be approved by the City Engineer, prior to grading permit issuance. The sheet pertaining to the construction staging shall include the following provisions:

- The construction equipment and supply staging areas shall be at least 500 feet from the nearest residence off site. Staging areas shall be screened ~~where~~ *feasible*.
- During construction and grading, the construction contractor shall keep the site clear of all trash, weeds, and debris. Compliance with this measure is subject to periodic City inspections.
- The grading contractor shall minimize creation of large stockpiles of soil (in terms of height) to minimize visual impacts pursuant to the provisions of the grading and/or stockpile permit issued by the City Engineer pursuant to the provisions of MC Section 18.09, *Grading Permit Requirements*, and the requirements of the City Engineer.
- All temporary security lighting shall be designed and located so as to avoid intrusive effects on adjacent properties. Proper lighting techniques to direct light onsite and away from other properties shall be required to reduce light and glare impacts (including directional lighting away from reflective surfaces, use of non-reflective glass, low-intensity lighting, use of lighting baffles, and use of appropriate types of lighting fixtures).

Page 4.1-20, *Mitigation Measures*

AES-6 As part of the final design, improvement plan and grading plan review and approval process, the applicant shall design plans to preserve the existing oak tree along Highland Springs Avenue. If during this process it is determined that preservation is not feasible, the Applicant will utilize the following options to mitigate this impact: ~~(or in the event preservation is not feasible, relocate or replace at suitable size).~~

- If relocation of the oak tree is initially selected to be pursued, a certified arborist shall evaluate the viability of transplanting the oak tree. If transplanting is deemed feasible by the arborist, the Project Applicant shall relocate the oak tree to a suitable location as approved by the City and verified by the arborist within the Project boundaries, or

- If replacement is selected, the Project Applicant as “Replacement Option #1” shall replace the oak with a single oak tree contained in a minimum of a 60-inch box if readily available and suitable for transplanting at a suitable location approved by the City and verified by the arborist, or
- If replacement is selected, and Option 1 is not feasible, the Project Applicant shall replace the oak tree with 24-inch-box oak trees at a ratio of 3:1 at suitable locations approved by the City and verified by the arborist within the Project boundaries.

Page 4.1-27, Mitigation Measures

AES-7 Prior to issuance of building permits, architectural plans, including detailed lighting specifications, shall be submitted for the review and approval by the City of Banning Community Development Director. The specifications shall be consistent with lighting standards included in the Specific Plan and shall meet or exceed the lighting standards contained in the City’s *Municipal Code*. The lighting plans must demonstrate the following to the satisfaction of the City of Banning Community Development Director:

- Use of low-sodium lamps of 4,050 lumens (maximum) ~~or less where feasible~~, to provide for adequate public safety and security;
- A lighting standard that is shielded to direct illumination downward and to limit casting light and glare on adjacent properties;
- Exterior lighting, including street lights, landscape lighting, parking lot lighting, and lighting of the interior of parks and trails shall be sufficient to establish a sense of well-being for the pedestrian and sufficient to facilitate recognition of persons at a reasonable distance. Type (lighting standard) and placement of lighting shall be to the satisfaction of the Police Department and Department of Public Works and shall be consistent with the requirements of the City’s most current lighting ordinance and the standards of the Specific Plan ;
- A minimum of one foot-candle at ground level overlap provided in all exterior doorways and vehicle parking areas, and on outdoor pedestrian walkways presented on a photometric plan; and
- Outdoor light fixtures that are not covered by the Specific Plan’s lighting standards shall be subject to the City of Banning *Municipal Code*.

Exhibit 4.1-1E, On Site Photographs 10 and 11, Added

Views of Property looking south and southwest.

SECTION 4.3, AIR QUALITY

Page 4.3-29 and -30, *Mitigation Measures*

AQ-1Implementation of the following measures ~~would reduce short term fugitive dust impacts on nearby sensitive receptors~~ are required:

- All active portions of the construction site shall be watered at least twice daily to prevent excessive amounts of dust;
- On-site vehicle speed shall be limited to 15 miles per hour;
- All on-site permanent roads shall be paved ~~where feasible~~, watered as needed, or chemically stabilized;
- Visible dust beyond the property line which emanates from the project shall be prevented to the maximum extent feasible;...

Page 4.3-30, *Mitigation Measures*

AQ-3

- Construction and building materials that do not require painting shall be used ~~to the extent feasible~~ where readily available; and
- Pre-painted construction materials shall be used ~~to the extent feasible~~ where readily available.

Page 4.3-31, *Mitigation Measures*

AQ-6 GPS-controlled “machine-guided grading”, or other equivalent grading techniques, shall be incorporated into Project grading plans, subject to review and approval by the City Engineer. ~~This technology will be utilized on mass grading activities where deemed feasible, and shall be used where feasible on subsequent rough or fine grading activities.~~ The City Engineer shall approve the areas of the site where this technology shall be used.

Page 4.3-33, *Mitigation Measures*

AQ-7

- Obstruction of through-traffic lanes shall be minimized by providing temporary traffic controls such as flag persons, cones and/or signage during all phases of construction when needed to maintain smooth traffic flow. Construction shall be planned so that lane closures on existing streets are kept to a minimum.
- Construction operations affecting traffic shall be scheduled for off-peak hours ~~to the extent feasible~~, except in situations deemed necessary.

- Develop a traffic plan to minimize traffic flow interference from construction activities. The plan shall specify the times during which construction activities will occur...

Page 4.3-40, Mitigation Measures

AQ-8 ~~The potential future c~~Construction and implementation of ~~the wastewater treatment plan an on-site WWTP~~ shall require a Conditional Use Permit (CUP) to be approved by the City of Banning, as well as design review of the proposed site plan and building architecture, landscaping and lighting.

SECTION 4.4, BIOLOGICAL RESOURCES

Page 4.4-23, Mitigation Measures

BIO-1 Prior to the commencement of grading during the nesting season (approximately mid-February through mid-August), all suitable habitat shall be surveyed for the presence of nesting birds by a qualified biologist prior to site disturbance. Should any active nests be located, construction must comply with Migratory Bird Treaty Act requirements, including an 300 foot adequate construction buffer around active nests or avoiding construction during the nesting season if an ~~adequate~~ 300 foot buffer is infeasible.

Page 4.4-30, Mitigation Measures

BIO-3 The applicant shall provide ~~compensatory~~ mitigation for the temporary disturbance to 9.22 acres of CDFG jurisdictional waters at a minimum 1:1 ratio, which includes approximately ~~0.41~~ 0.02 acres of vegetated riparian habitat, and the temporary disturbance to 8.65 acres of Regional Board and USACE jurisdiction, none of which consists of jurisdictional wetlands. ~~The applicant shall provide mitigation for the permanent impact disturbance to 2.47 acres of CDFG jurisdiction, of which 0.41 acre consists of vegetated riparian habitat and the permanent disturbance to 1.17 acres of USACE jurisdiction, of which 0.01 acre consists of jurisdictional wetlands.~~

The mitigation requirements will be determined through applicable regulatory permitting programs of CDFG, RWQCB, and USACE, and shall consist of minimum 1:1 mitigation ~~primarily~~ through onsite restoration of 9.22 acres of CDFG jurisdiction and 8.65 acres of ACOE and Regional Board jurisdiction within the Smith Creek drainage and other onsite areas, which will be performed concurrently with development of the golf course (PAs 35 and 39) or alternative uses within these PAs and 1:1 mitigation through onsite restoration of 2.47 acres of permanent habitat within, or adjacent to, Smith Creek ~~(the golf course/open space PAs include various~~

~~combinations of parks, trails, native habitat, drainage facilities, water quality improvements, groundwater recharge areas, and wetland mitigation areas).~~

~~The applicant shall provide compensatory mitigation for the permanent disturbance to no more than 2.47 acres of CDFG jurisdiction, of which 0.41 acre consists of vegetated riparian habitat and the permanent disturbance to no more than 1.17 acres of USACE jurisdiction, of which 0.01 acre consists of jurisdictional wetlands, which will consist of the creation, enhancement, or restoration of up to 2.47 acres of CDFG jurisdiction, of which 0.41 acre will consist of vegetated riparian habitat, within, or adjacent to, Smith Creek.~~

SECTION 4.5, CLIMATE CHANGE

Page 4.5-44, *Mitigation Measures*

3) **Water Conservation** – All common area irrigation areas shall be ~~capable of being~~ operated by a computerized irrigation system which includes an on-site weather station/ET gage...

4) **Water Conservation** – Common-area landscaping shall emphasize drought-tolerant vegetation. Plants of similar water use shall be grouped to reduce over-irrigation of low-water-using plants. Those irrigated areas not designed with drought-tolerant vegetation shall be gauged to use ~~receive irrigation using the minimal requirements~~ the minimum amount of water needed to maintain healthy vegetation.

SECTION 4.6, CULTURAL RESOURCES

Page 4.6-5, *Second Paragraph*

LSA-PDH0601-H-3. This resource consists of an approximately one-mile-long segment of a historic transmission corridor, including steel towers, transmission lines, and a dirt access road. The corridor is the southernmost of three adjacent transmission alignments and is part of a line that is at least 20 miles long. Review of aerial photographs suggests that the towers were constructed between 1943 and 1953 (USGS Beaumont 7.5 quadrangle). The alignment appears to be in operating condition, retains its original historic design and use, and appears to remain in its original position. However, no evidence is found indicating that it is associated with important people or events in history and it appears to be a typical example of a common resource type. Therefore, this segment does not meet the criteria for listing in the National Register of Historic Planes or California Register of Historical Resources and is not a historical resource for the purposes of CEQA. ~~The resource meets the age requirement sufficient for National and California Register consideration and exhibits good integrity, but because the~~

~~resource only contains a small segment within the current Project, it is deemed not eligible for the National or California Registers.~~

SECTION 4.8, HAZARDS AND HAZARDOUS MATERIALS

Page 4.8-17, Second Full Paragraph, Last Sentence

The closest County Hazardous Materials Team office, which would coordinate response, is located at 4065 County Circle Drive in the City of Riverside. Locally, the Riverside County Fire Department's Hazardous Materials Units, housed at 31920 Robert Road, Thousand Palms, CA (Station 35) and 32655 Haddock Street, Winchester, CA (Station ~~29~~ 34), would be the first responder in the event of a hazardous materials incident on the Project site.

Page 4.8-25, First Paragraph, First Sentence

County Fire Department's UWI Standards, as well as those contained in Chapter 7A of the 2007 CBD, require submission of a *Fire Management Plan or Fuel Modification Plan (FMP)*, prepared pursuant to the requirements of the ~~2007~~ 2010 CBC and the California Fire Code, Chapter 47.

Page 4.8-41, Mitigation Measures

HAZ-7 ... Unless directed otherwise by the PUC, wet utility crossings shall observe a minimum ten-foot vertical separation and ten-feet of horizontal separation from the pipeline, ~~to the extent feasible~~ given the needed depth of utility services...

SECTION 4.9, HYDROLOGY AND WATER QUALITY

Page 4.9-8, Last Paragraph, Next to Last Sentence

Groundwater in the San Gorgonio Pass Subbasin is characterized as containing predominantly calcium-sodium bicarbonate type TDS content. ~~for s~~Selected samples from municipal wells had TDS concentrations ranging from ~~106 to 205 mg/L~~ 140 to 250 mg/L in the Banning area. ~~There are no listed impairments of water quality; however the presence of nitrates in certain well locations within the Beaumont Management Zone are of potential concern.~~ There are no listed impairments of water quality, however the presence of nitrates in certain well locations within the Beaumont Management Zone are of potential concern.

Page 4.9-9, First Paragraph

Nitrates are regulated by the US EPA through Primary Drinking Water Standards and by the State Department of Water Resources through Basin Plan standards adopted by its regional boards. ~~Nitrates in the Pass area are believed to emanate primarily from fertilizers, animal feces, and septic systems. Studies conducted by Wildermuth Environmental in 2006 determined that~~

~~the source of rising nitrate concentrations in some wells owned by the Beaumont Cherry Valley Water District was septic tank leakage (also known as on-site waste disposal systems (OSWDS), primarily located in the unincorporated Cherry Valley area of Riverside County. The Wildermuth study concluded based on its modeling, that nitrate-contaminated groundwater could eventually impact all BCVWD and Banning production wells and that left unmitigated, OSWDS discharges are sufficient to cause nitrate concentrations to exceed basin plan objectives. The City of Beaumont is working with the County of Riverside to address these issues.~~

The WSA (refer to Appendix J, pg. 137) reports that on January 22, 2004, the Santa Ana Regional Water Quality Control Board (RWQCB) (Region 8) adopted a Basin Plan Amendment (Resolution No. R8-2004-0001). The Amendment updated the groundwater basin boundaries and water quality objectives of TDS and nitrogen. The updated Basin Plan also incorporated a revised salt and nitrogen management plan, which included revised nitrogen and TDS waste load allocations for discharges to the Santa Ana River and its tributaries, revised findings regarding assimilative capacity in groundwater, and a plan for wastewater reclamation in the Region.

The WSA (refer to Appendix J, pg. 138) also states that on September 13, 2010, RWQCB issued an “Order” requiring the Beaumont-Cherry Valley Water District (BCVWD), the City of Beaumont, and the Yucaipa Valley Water District (YVWD) prepare an anti-degradation analysis in support of implementing TDS and nitrate-nitrogen “maximum benefit objectives” and “anti-degradation objectives” in the BMZ. RWQCB also required these agencies to develop TDS and nitrate-nitrogen concentration projections for the BMZ.¹

On April 29, 2011, the City along with the other participating agencies submitted to RWQCB the anti-degradation analysis in a draft report entitled *Total Dissolved Solids and Nitrate-Nitrogen Projections for the Beaumont Management Zone* prepared by Wildermuth Environmental, Inc. The report provides projections of TDS and nitrate-nitrogen from recycled water use by the agencies from 2010 through 2040 under various scenarios with the intent of keeping TDS and nitrate-nitrogen concentrations within the BMZ to the maximum benefit and anti-degradation objectives. For the BMZ, the maximum benefit objectives are listed as 330 mg/L for TDS and 5.0 mg/L for nitrate-nitrogen. The anti-degradation objectives are listed as 200 mg/L for TDS and 1.7 mg/L for nitrate-nitrogen (anti-degradation water quality objectives set forth by the 2004 Basin Plan Amendment restricted the use of recycled water for irrigation and groundwater recharge for certain groundwater management zones, including the BMZ...²).³ For all scenarios evaluated, nitrate-nitrogen concentrations are estimated to remain below the maximum benefit objective during the study period (2010-2040).⁴

¹ Wildermuth Environmental, Inc., *Total Dissolved Solids and Nitrate-Nitrogen Projections for the Beaumont Management Zone*, April 29, 2011, pg. 10.

² Wildermuth Environmental, Inc., *Total Dissolved Solids and Nitrate-Nitrogen Projections for the Beaumont Management Zone*, April 29, 2011, pg. 9.

³ Wildermuth Environmental, Inc., *Total Dissolved Solids and Nitrate-Nitrogen Projections for the Beaumont Management Zone*, April 29, 2011, Figure 1.

⁴ Wildermuth Environmental, Inc., *Total Dissolved Solids and Nitrate-Nitrogen Projections for the Beaumont Management Zone*, April 29, 2011, pg. 22, Table 1.

There are no other known water quality problems in local groundwater. At present, nitrate concentrations from sampled wells in the Cherry Valley area generally range from less than 1.0 to 11.3 mg/L. Fluoride concentrations range from less than 0.5 mg/L to 3.0 mg/L. As noted, TDS content for selected samples from municipal wells ranges from 106 to 205 mg/L (California Department of Water Resources, 2003).⁷ None of the groundwater sources that could potentially supply the Project site exceed “Sources of Drinking Water” policy standards. Table 4.9-3, *Inventory of Groundwater Quality at Selected Wells* depicts groundwater quality characteristics for two wells within the Beaumont and Banning Basins each.

**Table 4.9-3
Inventory of Groundwater Quality at Selected Wells**

Basin	Well ID	Date	pH	Nitrate as mg/L	Sodium as mg/L	Chloride as mg/L	Sulfate as mg/L	Alkalinity
Beaumont	2S/1W28A1	7/14/2003	7.5	7.54	17.4	13.7	18.3	157
Beaumont	3S/1W03K2	6/23/2004	7.9	1.3	26.8	9.74	7.8	136
Banning	3S/1E17C1	7/27/2005	8.5	1.49	47.7	13.9	8.7	121
Banning	3S/1E18D1	8/29/2006	8.4	2.25	52.7	15.9	2.3	138

Source: San Geronio Pass Water Agency Service Area – Inventory of Groundwater Quality at Selected Wells (USGS)

In addition, according to the 2010 Urban Water Management Plan (refer to Appendix J, Sub-appendix A, pg. 91), the City of Banning’s existing groundwater was reviewed and found to be excellent. Based on water quality data from 1990 to 2009, the City’s future groundwater supply is also anticipated to be of high quality. Most other water quality concentrations, including nitrate, are presently below the maximum concentration level (MCL) or action levels. Historically, the only constituents that have exceed MCLs were iron and aluminum in most wells. Lead was also detected in Wells 5, 8, 11, 12 and C3 above the US EPA Treatment Technique value which requires systems to control the corrosiveness of their water. If more than 10 percent of tap water samples exceed the action level, water systems must take additional steps. Lead has not been detected above the Treatment Technique value in any wells since 2006. Fluoride was also detected above the Secondary MCL in Well C3 in March of 1994.⁵

In addition, water quality is considered very good in the Banning area, with current TDS concentrations (Spring 2009) ranging from approximately 140 to 250 milligrams per liter (mg/L). The secondary MCL range for TDS in drinking water is 500 to 1,000 mg/L. The TDS Maximum Benefit water quality objective for the Beaumont Management Zone is 330 mg/L as described in the 2004 RWQCB Basin Plan Amendment.⁶

⁵ 2010 UWMP, pg. 91.

⁶ ibid.

None of the Cities' wells sampled were detected above the basin objective.⁷ However, as stated in the Wildermuth report, the cumulative impacts of the BCVWD, Cities of Banning and Beaumont, and the YVWD utilizing recycled water in the BMZ could result in TDS concentrations ranging from 339 mg/L to 359 mg/L by 2040, assuming that SWP water will be used at a minimum for compliance with DPH Title 22 recycled water recharge regulations. Under existing conditions, increases in TDS concentration are driven by the deep percolation of applied water which makes up 52 to 65 percent, on average, of the total mass of TDS returned to the BMZ. The TDS concentration of the BMZ is estimated to continue to increase over time, and it will occur at a faster rate when recycled water is used to meet outdoor water supply demands.

As such, the following requirements of the existing Maximum Benefit Implementation Plan for the BMZ, contained in the Basin Plan, are introduced in the Wildermuth report related to TDS and nitrate-nitrogen projections, SWP water demands, and basin storage:

- The non-potable water supply system shall comply with a 10-year running average TDS concentration of 330 mg/L or less.
- The recharge of recycled water shall be limited to the amount that can be blended with other recharge sources to achieve a five-year running average equal to than 330 mg/L or less.
- Construction of desalting facilities is required (triggered) when the five-year average TDS concentration in recycled water produced by Beaumont WWTP No. 1 is 480 mg/L (10 mg/L less than the permit limit of 490 mg/L). The facility must be constructed within seven years of the trigger event.
- Construction of desalting facilities is required (triggered) when the ambient TDS concentration in the BMZ rises above 320 mg/L (10 mg/L less than the maximum benefit TDS objective). The facility must be constructed within seven years of the trigger event.

Page 4.9-16, Next to Last Paragraph

- **Construction General Permit**

The SWRCB permits all regulated construction activities under Order No. ~~98-02009-00098-DWQ (19992010)~~. This Order requires that, prior to beginning any construction activities, the permit applicant must obtain coverage under the General Construction Permit by preparing and submitting Permit Registration Documents (PRD), which include a Notice of Intent (NOI), Risk Assessment, Site Map, SWPPP, Annual Fee, and Certification and ~~paying an appropriate fee~~ to the SWRCB. Additionally, coverage under the general permit is not effective until an adequate Stormwater Pollution

⁷ Ibid.

Prevention Plan (SWPPP) has been prepared. A separate NOI is submitted to the SWRCB for each construction site.

Construction activities subject to the NPDES Construction General Permit include clearing, grading, and disturbances to the ground, such as stockpiling or excavation, which result in soil disturbances of a least 1 acre of total land area. ~~2003 revisions to the original Construction General Permit clarify that all construction activities, including small construction sites of less than 1 acre but part of a larger common plan of development of at least one acre, must obtain coverage under the Permit.~~ Because construction of the Project would cumulatively disturb more than 1 acre, all of its improvement and development activities would be subject to these requirements.

Page 4.9-18, Third Paragraph

The County of Riverside and the Riverside County Flood Control and Water Conservation District are the Principal Permittees. The Cities, including Banning, are identified as Co-Permittees. The City of Banning, although included as a Permittee on the referenced MS4 Permit, does not share an interconnected MS4 with the remainder of the Permittees. The MS4 operated by the City of Banning discharges directly into the San Gorgonio River, a receiving water. Most MS4 discharges from the City of Banning infiltrate to groundwater basins. However, the City of Banning is included in the MS4 Permit to facilitate coordination with the regional programs implemented by the Permittees and to reduce the administrative duties of the Regional Board. ~~A draft General Construction Permit has been issued as part of the renewal of the MS4 Permit. As currently written, the General Construction Permit is exponentially more stringent than the 2001 Permit.~~

Page 4.9-25, Second Paragraph

~~Butterfield~~ Groundwater Recharge Program

~~Minimally, t~~The Butterfield pProject includes an on-site groundwater recharge system intended to detain and recharge stormwater flows, thereby providing a partial offset of the Project's ~~additional—anticipated~~ demand for domestic potable water and potentially to replenish groundwater supplies.

As previously described, the City may also elect to use the on-site groundwater recharge system for the recharge of imported water if a pipeline is constructed connecting the existing State Water Project pipeline terminus with the City of Banning. The pipeline would connect the existing San Gorgonio Pass Water Agency spreading grounds with the Project's Planning Area 71. Imported water transported to the Project site would be stored in the proposed 15-acre North Basin, and it could be released into Smith Creek and spread to groundwater recharge areas located either adjacent to the North Basin or within the golf course open space. Additionally, the City may also elect to use the on-site groundwater recharge system for the

~~recharge of surplus recycled water if the City elects to construct an on-site satellite WWTP and if permitted. utilizing a combination of State Water Project (SWP) allocated to the City of Banning by the San Geronio Pass Water Agency, if and when available, as well as potentially surplus recycled water generated by the Project's proposed satellite wastewater treatment plant (if constructed) when a surplus is available and it can be acceptably blended with other available water sources.~~

Use of recycled water for groundwater recharge in the Butterfield Specific Plan area would require the approval of and permits from the RWQCB, Santa Ana Region, because the Project site overlies the Beaumont Basin Management Zone. In addition, use of recycled water would be required to comply with California Department of Public Health Title 22 regulations. ~~Bringing the supply of SWP water to the recharge system would be facilitated by a proposed pipeline extension from the existing San Geronio Pass Water Agency spreading grounds to the Project's Planning Area 71, where it would be stored in the proposed 15-acre North Basin, and it could be released into Smith Creek and spread to groundwater recharge areas located either adjacent to the North Basin or within the golf course open space. The reservoir within this North Basin will have a capacity of 290 acre-feet (AF), of which 145 AF will be dedicated to flood control/ stormwater control. The additional and 145 AF of capacity could eventually will~~ be dedicated to the storage of ~~recyeled water and/or~~ imported and recycled water supplies, if they become available. Based on this design, the basin will be required to maintain at least 145 AF of storage capacity during the rainy season to ensure adequate flood protection to downstream properties.

Page 4.9-26, Last Paragraph

Impacts to groundwater quality have the potential to occur throughout the life of the project. The Project site is underlain by the Beaumont storage unit (or basin). The Project site, and in particular that portion of the site occupied by Smith Creek, is currently a recharge area for that storage unit basin and is the result of storm water or snow melt flowing through Smith Creek from higher elevations, ponding within the creek channel or in the channel's floodplain, and ponding outside of the immediate creek area due to sheet flow. The recharge function of Smith Creek will be retained and enhanced as the Project develops through the realignment of the creek, the construction of debris, detention, and water quality basins as well as anticipated containment of post-storm ponding within the golf course as the Project develops. Approvals required to permit the recharge of stormwater into the Beaumont Basin are discussed in Section 6.1.5.9.4 of the Water Supply Assessment (Draft EIR Appendix J). (See also WSA Errata re WSA Section 6.1.5.9.4).

The potential proposed use of recycled water for irrigation of landscape and the golf course will both introduce a new additional source of water to the site and increase the quantity of water available for groundwater recharge through on-site percolation, as would the City's potential optional delivery of imported ~~of SWP~~ water to the ~~proposed~~ North Basin in PA 71. The discharge of recycled water into the ~~Project~~ recharge areas requires the Project Applicant to

meet Individual Waste Discharge Requirements and Water Recycling Requirements and obtain a Master Recycling Permit from RWQCB (see discussion in Section 4.14 Water Supply); Section 6.4.2.2.2.2 of the Water Supply Assessment (Draft EIR Appendix J). The discharge of imported water into recharge areas will require the City to meet applicable recharge standards and to ensure that water quality levels meet “maximum benefit” objectives. (See WSA Errata re WSA Section 6.3.5.2.).

SECTION 4.10, LANDUSE AND PLANNING

Page 4.10-17, Last Row of the Table, Next to Last Sentence

~~As an infill project, the~~ The Specific Plan will place housing in proximity to existing and planned employment opportunities.

SECTION 4.11, NOISE

Pages 4.11-27 and -, *Mitigation Measures*

NOI-1

- All stationary construction equipment (e.g., air compressor, generators, etc.) shall be operated as far away from the residential and institutional uses as ~~feasible~~ practicable. ~~If this is not feasible necessary to meet the City’s noise standards,~~ the equipment shall be shielded with temporary sound barriers, sound aprons, or sound skins to the satisfaction of the Building Official...
- Construction haul routes for large equipment and material import/export shall be specified to minimize the use of routes affecting sensitive receptors (e.g., residential, parks, hospitals, schools, convalescent homes, etc.). ~~To the extent feasible,~~ Construction phasing for individual subdivisions shall be designed to avoid the need for construction vehicles and related construction traffic to traverse occupied residential neighborhoods. In all cases, trucks shall utilize a route that is least disruptive to sensitive receptors. Construction trucks shall, to the extent feasible, avoid weekday and Saturday AM and PM peak hours (7 AM to 9 AM and 4 PM to 6 PM).

SECTION 4.12, PUBLIC SERVICES AND UTILITIES

Page 4.12-2, Second Paragraph

Paramedic services are provided by American Medical Response (AMR) dispatched through the Perris Command Center operated by the California Department of Forestry and Fire Protection (CAL FIRE) and in coordination with RCFD. AMR is a private paramedic transportation service contracted with the Riverside County Emergency Medical Services

Agency (RESMA). RCFD fire engines, in contrast, provide paramedic assessments, but do not provide transportation services.

Page 4.12-3, Second Paragraph

Emergency medical services, including ambulance services, are currently provided under contract with the County REMSA by American Medical Response AMR, a private contractor. Their services and vehicles are regional and there is no unit assigned specifically to Banning. The General Plan Police and Fire Protection Element includes a Goal of maintaining a 5-minute response time for the Fire Department RCFD Ambulance Services. RCFD currently does maintain a 5-minute response time throughout its service area, but does not provide ambulance services in the Banning/Beaumont area; AMR does provide services in this area, but, as a private company, does not have a set response time. However, REMSA imposes a fine if AMR does not arrive at a scene within 10 minutes of dispatch.

Page 4.12-3, Table 4.12-1

Station No.	Station Name	Address	Distance from Project Site	Participating Agencies	Equipment
Station 20	Beaumont	1550 E. 6th St., Beaumont, CA 92223	0.34 miles east of the southwest corner	CDF/Riverside County/Contract City with Paramedic Firefighters	1 City Medic Engine, 2 State Engines, 1 Dozer 1 Type I Haz Mat Unit
Station 66	Beaumont	628 Maple St., Beaumont, CA 92223	1.8 miles west of the southwest corner	CDF/Riverside County/Contract City with Paramedic Firefighters	1 City Medic Engine
Station 89	Banning	172 North Murray, Banning, CA 92220	3.5 miles east of the southeast corner	CDF/Riverside County/Contract City with Paramedic Firefighters	1 City Medic Engine, 1 OES Engine

Source: Riverside County Fire Department website, Accessed June 29, 2010 from <http://www.rvcfire.org/opencms/facilities/FireStations/>.

Page 4.12-5, Last Paragraph, Next to Last Sentence

The ~~high school enrollment currently exceeds its design capacity; however,~~ Beaumont USD is pursuing expansion of Beaumont High School. When complete, the expansion would include a ~~2421~~-classroom addition that would accommodate approximately 600 students; ~~however, the expansion would remove 12 portable classrooms. The expansion would increase the number of classrooms by nine, and would accommodate a net total of 300 additional students, thus increasing the school’s capacity to 2,746 , increasing the school’s capacity to 2,662 students and 152 staff....~~

Page 4.12-6, Table 4.12-2

School	Location	Enrollment	Current Capacity	Remaining Capacity
Sundance Elementary School (K-5)	1520 East 8th Street	696	807	111
San Gorgonio Middle School (6-8)	1591 N. Cherry Avenue	961	1375	414
Beaumont High School (9-12)	39139 Cherry Valley Boulevard	2214 <u>2,327</u>	2446 <u>2445</u> ^a	232 <u>118</u>

Source: Beaumont Unified School District, School Year 2009-2010.
a. New enrollment data for School Year 2010-2011, per Alice Grundman, Director of Facilities and Planning, Beaumont Unified School District, July 15, 2011.

Page 4.12-15, Third Paragraph

Currently the City treats wastewater to a secondary standard prior to discharge. It does not presently have the treatment capabilities or infrastructure to provide tertiary treated recycled water; however, the City is currently moving forward to complete a 1.5 million gallon per day (mgd) tertiary treatment upgrade of its main plant to produce recycled water that can be used for landscape irrigation pursuant to current State standards as a first step in increasing its recycled water capacity. Among the potential future users of recycled water is the ~~Pardee Homes Butterfield Specific Plan~~ Project. The City has completed plans for the Phase I upgrade of the treatment facility that will permit the generation of 1.5 mgd of recycled water and has approved a Mitigated Negative Declaration (MND) in 2008. The Banning draft Recycled Water Master Plan (2006) estimates that recycled water demand in the City could total up to 5.0 mgd in the future, requiring further expansions of the City’s wastewater treatment capabilities.

As an ~~option~~ alternative to ~~the serving the Proposed Project with use of~~ recycled water from the upgraded City WWTP, the ~~City Project has proposed to might~~ construct an on-site “satellite” WWTP to serve the Project’s its needs. To accommodate the City, if the City decides to pursue that alternative, the Proposed Project provisionally designates a site for a satellite plant. The optional on-site WWTP would have a capacity ranging from 1.57 to 2 mgd; refer to Section

4.14, Water Supply for a more detailed discussion of recycled water as it pertains to the proposed Project.

Page 4.12-34, Last Paragraph, Next to Last Sentence

The construction of this fire station could be funded by using the over \$7 million in fire facilities impact fees that will be generated by the Project as it develops and/or through a funding generated by a Community Facilities District (CFD). The Project will also generate annual property and sales tax that can be allocated to help support ongoing facility staffing and operation. The \$7 million figure assumes the complete buildout of the Project site estimated at 30 years; however, additional fire facilities, equipment, and personnel may be needed prior to build out. Thus, Mitigation Measure PSU-1 has been added to ensure that the Applicant fund the potential additions of fire response units/fire stations at the appropriate time.

Page 4.12-41, Table 4.12-7

Grade Level	Student Generation Rate	Total Student Generation (Lower Maximum)
Banning Unified School District – 390 residential units^{a,b}		
Kindergarten – 5 th Grade	0.308 0.2515	120 98
7 th and 8 th Grade	0.098 0.1395	38 55
9 th – 12 th Grade	0.183 0.1473	71 58
Total Banning USD		229 211
Beaumont Unified School District – 4,997 residential units^{c,d}		
Kindergarten – 5 th Grade	0.2762 0.2883	1,380 1,441
6 th – 8 th Grade	0.1327 0.1261	663 630
9 th – 12 th Grade	0.1716 0.1483	858 741
Total Beaumont USD		2,901 2,812
TOTAL STUDENT GENERATION		3,130 3,023
a. Student Generation Rates are based on the Banning Unified School District Master Plan (2005) . <u>School Facilities Needs Analysis (SFNA), dated April 18, 2011.</u> b. Student Generation Rates are taken from the Beaumont Unified School District Residential Development School Fee Justification Study, March 2010, pp 8 (Student Generation Factors per Residential Unit) <u>2011 School Facilities Needs Analysis (SFNA), dated February 17, 2011.</u>		

Page 4.12-60, Third Paragraph

To determine impacts to wastewater associated with the proposed Project, estimated future wastewater flows are compared to the capacity of the wastewater treatment plant to determine whether sufficient capacity exists and/or whether there is a need for additional wastewater treatment systems. The Butterfield Specific Plan area’s projected irrigation water demand to

serve the Project's common landscaped areas as well as the golf course is estimated at 1,321 acre-feet/year (e.g., the Project's projected ultimate wastewater generation, without a further water conservation factor included, of 1.34 mgd, ~~without allowing for conservation~~, equates to 1,502 acre-feet/year).³⁹ If the City builds an on-site "satellite" WWTP, ~~Approximately 75% of the total wastewater flow from the Project that would enter the proposed optional on-site satellite plant to would be treated and discharged as recycled water.~~ The other 25% of the total volume of wastewater flows, consisting primarily of residual biosolids and excess treated gray water, ~~would will be discharged to the City's sewer system via a new sewer trunk line for delivery to the City's main treatment plant.~~ If the City does not build the "satellite" WWTP, all of the Project's wastewater would be discharged to the City's system for treatment in the expanded main treatment plant. It is anticipated that recycled water from a Project satellite plant (if built) or, the City's main treatment plant, ~~or a combination of both~~ would be the preferred source to meet common area and golf course irrigation demand, if available.

Page 4.12-61, Second Paragraph

- 1) The Project has been designed to accommodate provide an optional "satellite" ~~wastewater treatment facility~~ WWTP, on-site (in the southern portion of PA 1170) if should connection and extensions to the City's existing treatment plant ~~be are~~ less desirable. This would provides the opportunity to divert wastewater from the City's existing plant, ~~and maximize use of recycled water.~~

Page 4.12-61, Last Paragraph

The proposed Project is expected to generate approximately 1.34 mgd (without a further water conservation factor included) ~~of is~~ wastewater at full build-out, ~~not including adjustments based on future anticipated water demand reductions due to conservation.~~ Project-generated wastewater would be handled by either the City's existing treatment plant or a potential optional on-site "satellite" ~~wastewater treatment plant~~ WWTP, which might be built by the City as part of the Project. The City's wastewater treatment plant currently receives approximately 2.5 million gallons per day (mgd) of wastewater. The plant is currently permitted to accept no more than 3.6 mgd, although its headworks are designed for a 7.8 mgd capacity. At present the City has completed plans for a 1.5 mgd expansion of its treatment plant and ~~a permit for the proposed expansion has been~~ has initiated permitting processed by the Regional Board. Once constructed, this expansion could increase the plant's capacity to 5.1 mgd. Expansion of currently permitted capacity would require an amendment to the plant's RWQCB operating permit.

Page 4.12-62, Second Paragraph

Alternatively, ~~or in combination with the planned expansion of the City's treatment plant,~~ the Project City might could supplement the ~~its~~ City's wastewater treatment capacity through the construction and operation of a "satellite" ~~waste water treatment plant~~ on-site WWTP. The

capacity of the proposed ~~optional alternative~~ treatment plant, ~~as~~ stated in the Specific Plan, is ~~up to~~ 1.5 to 2.0 mgd. Approximately 25 percent of its received flows into the “satellite” plant would be discharged into the City’s sewer system to the main treatment plant. ~~If built,~~ ~~the proposed optional “satellite” plant WWTP~~ would have the capacity to treat the ~~estimated wastewater estimated to be~~ generated by the proposed Project at build-out ~~as well as and~~ additional wastewater generated by existing uses located nearby. ~~Any The proposed on-site water treatment plant WWTP~~ would require a permit from the RWQCB and would be operated pursuant to RWQCB requirements together with those of the DHS. In addition to capping capacity the RWQCB permit would regulate the quality of discharge through the existing wastewater treatment plant since any discharges from the ~~alternative “satellite” WWTP treatment plant~~ would be to the City’s sewer system.

Page 4.12-63, under Determination: Less than Significant with Mitigation Incorporated

The Project proposes construction of an on-site and off-site water, wastewater and recycled water system, as described in Section 3.0, Project Description and referenced in Impact Analysis 4.12-9A. Impacts associated with the provision of water and recycled water distribution infrastructure are addressed in Section 4.13, Water Supply. As noted above, the proposed Project ~~could be served would require by~~ either the expansion of existing City wastewater treatment facilities or the construction of an optional “satellite” WWTP ~~wastewater treatment facility~~ on site.

Page 4.12-63, Last Paragraph

Should the ~~City applicant~~ not construct the on-site “satellite” ~~WWTP wastewater treatment plant~~, and instead rely upon ~~its the City~~ upgraded main WWTP to deliver recycled water to the Project, two off-site pump stations would need to be constructed as part of the conveyance infrastructure. As illustrated in Exhibit 3.0-12, the 2840 Zone recycled water pump station is conceptually located on Lincoln Street east of Sunset Avenue, in an area characterized by existing residential, industrial and vacant lots. Reconnaissance surveys of this area did not indicate the presence of any sensitive resources that could be impacted by either construction or operation of the facility.

If the City does construct an on-site “satellite” ~~WWTP wastewater treatment plant is~~ ~~construction then~~, as illustrated in Exhibit 3.0-13, the ~~City applicant~~ might may construct an optional off-site sewer lift station to allow diversion of wastewater from off-site areas to the proposed on-site plant to allow production of recycled water in the interim period before the Project’s full wastewater generation potential is realized. Implementation of this option would further reduce wastewater treatment demand at the City’s existing treatment plant and further maximize use of recycled water. The location for this potential off-site sewer lift station is conceptually shown at the corner of Omar Street and Ramsey Street. Although this area is generally characterized by commercial/industrial buildings and vacant lots, the specific intersection of Omar and Ramsey might may have sensitive resources including eucalyptus

windrows and drainages that traverse parcels at the northwest corner of this intersection. These resources would require careful consideration during facility design, should this option be implemented. Mitigation Measure PSU-4 is required to ensure that potential impacts associated with the construction of a sewer lift station at the Omar Street location are avoided ~~and/or~~ effectively mitigated. Implementation of PSU-4 and PSU-5 would result in the reduction of potential impacts of off-site infrastructure, specifically the impacts associated with sensitive resources to less than significant levels.

Page 4.12-64, *Mitigation Measures*

PSU-4 Off-site infrastructure improvements (identified in Section 3.6.3) shall comply with all of the same mitigation measures for on-site facilities, as applicable. Off-site above-ground facilities shall provide for: a general biological assessment by a qualified biologist. If sensitive resources are determined to be present, those resources shall be assessed and/or delineated, mitigation measures shall be developed and imposed.

~~a. Fair market compensation for private land acquisition, if City owned parcels are not available. Such acquisition shall be either through voluntary sale or through eminent domain proceedings in accordance with local and State law.~~

~~b. A general biological assessment for off site above ground infrastructure by a qualified biologist. If sensitive resources are determined to be present, those resources shall be assessed and/or delineated, mitigation measures shall be developed and imposed.~~

PSU-5 Prior to the issuance of building permits for ~~the~~an onsite Satellite satellite Wastewater Treatment Plant WWTP and wastewater facilities, the City Applicant must ~~shall~~ prepare a site-specific construction-level noise analysis analyzing potential on- and off-site noise impacts. In addition, the analysis shall evaluate the potential noise impacts to existing and proposed sensitive receptors. Construction and implementation of the wastewater treatment plant would require a Conditional Use Permit (CUP) to be approved by the City of Banning, as well as design review of the proposed site plan and building architecture, landscaping and lighting. Compliance with the existing regulations (specified under Impact 4.8-1) and on-going monitoring of the plant's operations would reduce potential impacts associated with the routine use, handling, transport, and storage of hazardous materials.

Page 4.12-69, *Mitigation Measures*

PSU-6 The operator of the Butterfield Specific Plan Golf Course shall prepare and implement a Operational Waste Management Plan that incorporates ~~to the extent feasible~~ the Best Management Practices for the management of green waste recommended by the Golf Course Superintendent Association of America (GCSAA) including separate collection and recycling of green waste by a licensed hauler and recycling facility, on-site use of green waste for landscape mulching, and other methods acceptable to the City and the SCAQMD so as to reduce the facility's impact on landfill capacity.

Page 4.12-65, under *Determination: Less than Significant*

Refer to Analysis 4.12-9A. The City wastewater treatment provider for the Project has existing and planned capacity that would exceed the combined total capacity needed to serve the Project's wastewater needs. ~~in addition to its existing commitments and still leave a potential excess capacity of 1.76 mgd. If the Project supplements that treatment capacity by constructing and operating an on-site satellite treatment facility, the Project would have only limited impact on existing treatment capacity.~~

SECTION 4.13, TRAFFIC AND TRANSPORTATION

Page 4.13-25, *Mitigation Measures*

TRF-2 ...
The TVR shall identify which of the Existing Plus Project improvements identified in Table 4.13-9 are required to be constructed for the respective Final Tract Map, to ensure adequate emergency access and satisfactory levels of service. "Existing plus Project" I improvements in the City of Banning identified in an approved TVR shall be conditions of Final Tract Map approval...

Page 4.13-39, *Mitigation Measure for Off-Site Traffic Improvements in the City of Banning*

TRF-3 ...
b) Through creative design techniques, where determined ~~feasible~~ appropriate and consistent with City policy, modify roadway geometry to reduce potential impacts to existing developed areas (such as reduced lane widths...

SECTION 4.14, WATER SUPPLY

Page 4.14-1, Second Paragraph

As noted in greater detail below, water supplies are variable and subject to restrictions in accordance with water rights, water delivery contracts, and other permits. For example, ~~since for the period 2003 June 2008 to March 2011⁸, there has been was~~ a declaration of statewide drought, and curtailing of deliveries of water from the Bay-Delta area on which the City relies.

Page 4.14-3, Second Paragraph

A complete discussion of Global Climate Change as it relates to water resources is provided in Section 4.5 of this EIR, Section 6.6 of the *Water Supply Assessment* (EIR Appendix J), and Appendix I of the *Water Supply Assessment*.

Page 4.14-23, Second Paragraph

Groundwater Recharge Facilities

- 1) The Project proposes an onsite groundwater recharge system to assist the City in replenishing the Beaumont Basin located beneath the Project site. The proposed system would have the capacity to recharge the groundwater basin with detained stormwater flows. ~~a portion of the City's SWP allocation delivered by the Pass Agency, as well as surplus recycled water generated by the Project, which would be blended to acceptable water quality levels for recharge use.~~ As an optional improvement, the onsite recharge system would also have the capacity to recharge imported water purchased from the Pass Agency. In lieu of, or in addition to, continuing to utilize the Beaumont Cherry Valley Water District's existing Noble Recharge Facilities, the City ~~or applicant~~ may elect to extend the SWP pipeline from the Noble Creek Spreading Grounds Pass Agency Little San Gorgonio Creek Spreading Grounds to the proposed North Basin in PA 71 via Brookside Avenue. If constructed, the SWP pipeline extension would permit the delivery and recharge of imported water to create recharge areas within the Project site and within the City's boundaries (refer to Section 3.4.4, Offsite Facilities).

Page 4.14-23, Fourth Paragraph

Recycled Water

- 3) The City is presently pursuing expansion and upgrade of its main WWTP (Phase I Upgrade project) to provide capacity for the treatment of wastewater to tertiary standards (recycled water), which can then be made available to the Project for non-potable demands such as irrigation of common landscaped areas and the golf course in order to reduce the demand for domestic (potable) water, both onsite and City-wide. As

⁸ Office of Governor Edmund G. Brown Jr., "Governor Brown Ends State's Drought Status, Urges Californians to Continue to Conserve", <http://gov.ca.gov/news.php?id=16959> accessed on November 16, 2011.

~~an alternative to the City's Phase I Upgrade project, ; however, to ensure the availability of recycled water to the Project, the Butterfield Specific Plan includes proposes the construction of an optional or alternative onsite "satellite" WWTP to be owned and operated by the City of Banning. Recycled water generated by the satellite WWTP would be used to irrigate the golf course and the common landscaped areas of the Project in order to reduce the demand for domestic (potable) water, both onsite and City wide. In To permit the use of recycled water onsite, the Project includes a order to provide a non-potable water supply to the project, the recycled water system that would allow require either pumping reclaimed recycled water from the City's wastewater treatment plant-WWTP to be pumped via a pipeline to the project Project. In the event the satellite WWTP is constructed by the City, the recycled water system would permit the conveyance of -or constructing the optional onsite satellite wastewater treatment plant and conveying residuals to the City's WWTP for processing plant.~~

Page 4.14-30, First Paragraph

Optional Satellite Wastewater Treatment Plant (or use of City reclaimed water):

One option of providing wastewater treatment to the Project is to construct a satellite ~~treatment plant-WWTP~~ within the Project area. ~~If built, a The satellite plant-WWTP could can~~ receive wastewater gravity flows from the Project, treat them to tertiary levels and pump back recycled water into the Project's recycled water system for non-potable uses. Recycled water ~~w~~ could then be delivered to the areas through a piping system.

At build-out, the Project could produce approximately 942 AFY of wastewater flow, with a further water conservation factor included.¹⁶ In addition, there are 650 AFY of existing wastewater flows in the surrounding areas that could be diverted and treated by ~~a the~~ satellite WWTP for a total of 1,592 AFY for recycled water generation. Based on the industry standard of a 75-percent factor for converting wastewater into recycled water, 1,592 AFY of wastewater could generate 1,194 AFY of recycled water at build-out. At build-out, the Project's non-potable water demands are projected to be 1,321 AFY, including anticipated water conservation. Therefore, if constructed, the satellite WWTP would produce, at build-out, recycled water to serve the entire Project's non-potable demands.

If the onsite satellite plant is not constructed, the Project would accept recycled water from the applicant would pump reclaimed water from the City's WWTP Phase I Upgrade to the site, for use in meeting non-potable water demands. Recycled water is expected to be available to consumers in the City of Banning beginning in 2015, when the Phase I ~~expansion-Upgrade~~ of the City's ~~Wastewater Treatment Plant~~ WWTP is completed and tertiary treatment of wastewater is available.

Page 4.14-31, First Paragraph

This projected use of recycled water from the City's WWTP and associated appurtenant facilities (Phase I Upgrade project) are already covered by an adopted Mitigated Negative Declaration (MND).¹⁷ However, the portion of the Project-related offsite recycled water pipelines from the project site to the intersection of Lincoln Street and Sunset Avenue was not analyzed in this MND. Impact discussion 4.12-9B in Chapter 4.12 of this EIR analyzes offsite impacts related to recycled water system improvements. This section recognizes ~~concludes~~ that the majority of these improvements would be constructed within existing roadways and would be below ground. Impacts associated with construction of these facilities have been addressed in appropriate sections of this EIR. No long-term environmental effects associated with operation of these subsurface facilities are anticipated.

Page 4.14-31, Fifth Paragraph (Continuing onto Page 4.14-32)

In addition to the recaptured Project runoff of 117 AFY, described above, the Project's groundwater recharge system might ~~may~~ be used in the future for recharge of imported water supplies and recycled water. The City's projected increase in purchases of imported water to service the City's projected increases in demand over the next 35 years, including the demands of the Project, and other future demand will not cause any new impacts not previously identified in the certified East Branch Extension – Phase II EIR.¹⁹ Delivery of 17,300 AFY "Table A" SWP supply to the SGPWA and the East Branch Extension, Phase 2 project was already covered by the East Branch Extension - Phase II EIR and SGPWA Water Importation Project EIR and subsequent Addendum Nos. 2 and 3.²⁰ As shown in Table 4.14-6, the City will purchase 2,595 AFY, on average, of imported water beginning in 2015.

~~In the event a~~An extension of the SWP pipeline from its current terminus to the Butterfield Project is constructed, would allow an increase in the amount of recharge capacity available for the City's use to recharge imported water supplies purchased from the Pass Agency would increase, but (though there are no present plans for delivery of any more imported water supply than the existing 176,300 AFY and to the Pass area and thus no additional capacity is needed) and a greater diversity of recharge location for the City.

However, the ~~potential~~ City's construction of an extension from the SWP pipeline to the Project site was not analyzed in these prior EIRs. Impacts associated with construction of this potential optional facility have been addressed in appropriate sections of this EIR. No long-term environmental effects associated with operation of this subsurface facility are anticipated. Any ~~The extension of the SWP pipeline to the Butterfield Project site shall be subject to future environmental review and approval. comply with site specific improvement guidelines as reflected in PSU 4, which requires fair market compensation for private land acquisition, if City-owned parcels are not available, and a general biological assessment for off site aboveground infrastructure by a qualified biologist.~~

Page 4.14-36

WS-1: ~~With respect to the City's Banning, Banning Bench, Banning Canyon and Cabazon groundwater supplies, the City will.~~ With respect to all City groundwater supplies, the City will:

- 1) Periodically, conduct a groundwater audit that evaluates groundwater level trends, production rates, groundwater quality or other aquifer/well/pump considerations from the previous year (through use of a on-going groundwater monitoring and data collection system).
- 2) Develop a groundwater model to allow accurate simulation of groundwater flow and groundwater quality (including potential impacts by recharge of recycled water) in the City of Banning groundwater resource area.

Additionally, to avoid injury to other legal users of the Cabazon Basin, the City will:

- 3) Site any new well so as to not result in material interference to existing wells.

Page 4.14-41, Second Paragraph

The water supply and water quality-related elements described in Section 4.14.4 are either part of the overall Project or can be accommodated by the Project, and therefore their environmental impacts are analyzed throughout Section 4 of this Draft EIR, including Impact 4.14-1 of this Chapter ~~(including addressing the City's optional SWP pipeline extension to the Project site, the City's potential recharge of imported or recycled water within the North Basin, the City's optional satellite treatment plant WWTP, and the Project's potential extension of Phase I Upgrade pipelines from the City's Main WWTP)~~. Refer to applicable Mitigation Measures within Chapters 4.1, 4.3, 4.4, 4.6, 4.8, 4.9, 4.11, 4.12, and 4.14. As described under Impact 4.14-1, Mitigation Measures PSU-4 would reduce impacts to less than significant levels. PSU-4 requires ~~fair market compensation for private land acquisition required for offsite infrastructure, if City-owned parcels are not available, and~~ a general biological assessment for offsite aboveground infrastructure.

~~The Noble Creek recharge facilities (which may also be used for Beaumont Basin groundwater recharge from SWP water) have a previously certified Final EIR, as noted in Section 2.6, Incorporation by Reference.~~ No additional impacts beyond those described throughout Section 4 are anticipated.

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10 Looking South from Northwestern Boundary, East of Highland Springs Road and South of Brookside Avenue



11 Looking Southeast from Northwestern Boundary, East of Highland Springs Road and South of Brookside Avenue

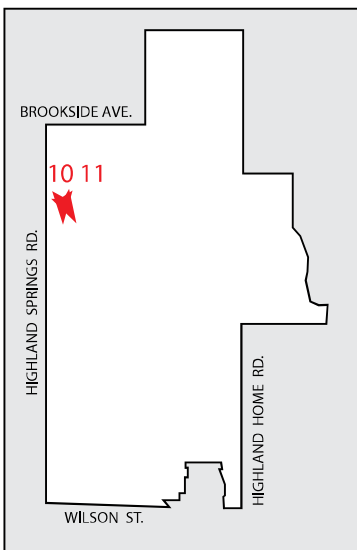
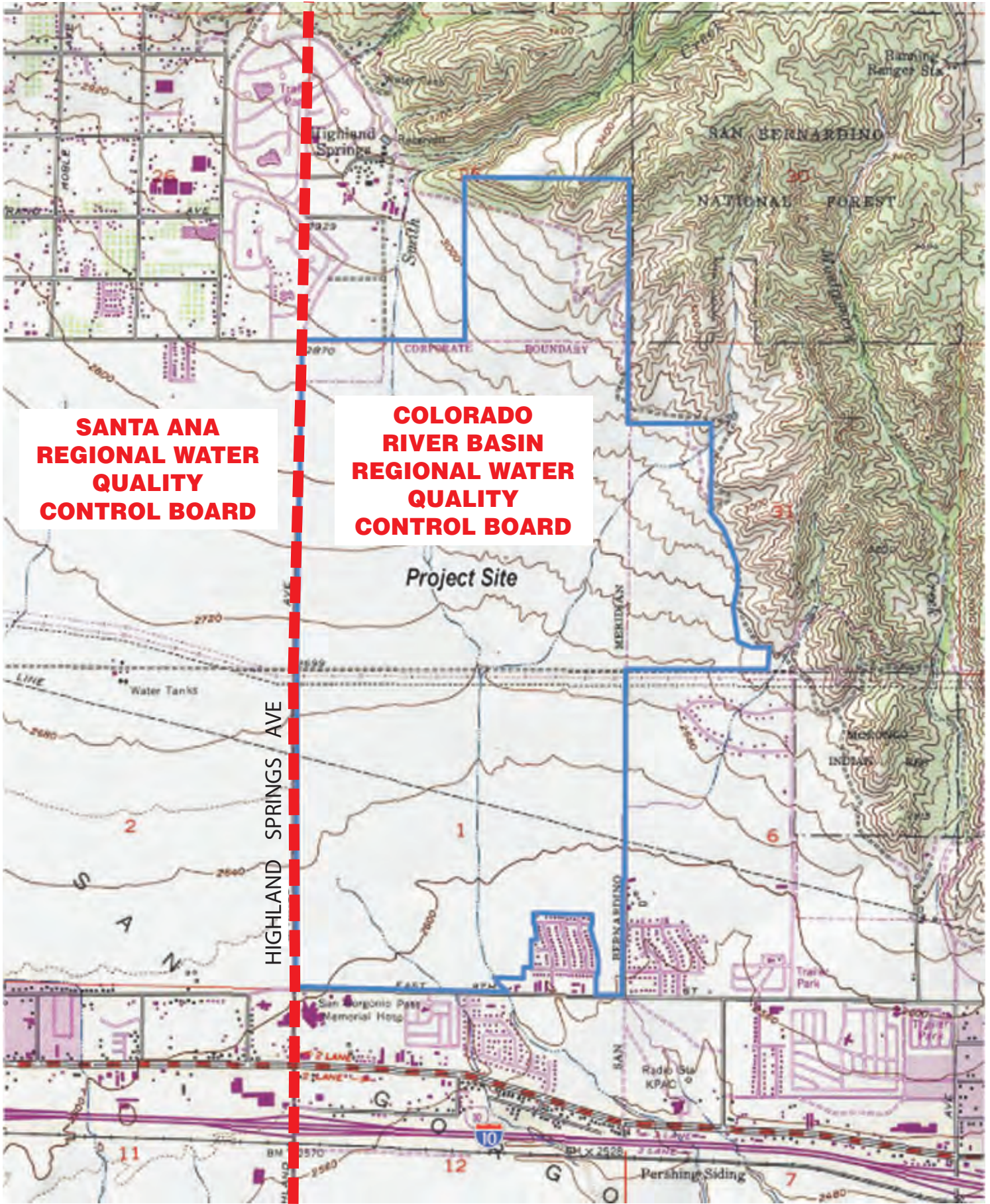


PHOTO INDEX MAP

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**SANTA ANA
REGIONAL WATER
QUALITY
CONTROL BOARD**

**COLORADO
RIVER BASIN
REGIONAL WATER
QUALITY
CONTROL BOARD**

HIGHLAND SPRINGS AVE

Project Site

MAP SOURCE: USGS 7.5 Min series topographic map, Beaumont Quadrangle (1988)



NOT TO SCALE

11/1/11 JN: 65-100290

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4.1 Appendix J, Water Supply Assessment for Butterfield Specific Plan - Addendum

This Addendum provides minor technical changes, clarifications and updates to existing analysis; none of which constitute significant new information or trigger the need for further environmental review.

General Errata to be corrected throughout the document:

- Delete all “Draft 2010 UWMP;” replace with “2010 UWMP.”
- Delete all “forthcoming 2010 UWMP;” replace with “2010 UWMP.”
- Remove Appendix A: Draft 2010 UWMP; replace with Appendix A: 2010 UWMP.

Page 2, Section 1.4 (The Project)

Revise footnote 3 as follows:

The terms “basin” and “storage unit” have the same meaning. See also footnote ~~180~~127.

Page 7, Section 1.7 (Water Supplies)

Revise 4th full paragraph as follows:

... To date, the City has already accumulated approximately ~~25,000~~30,000 AF in storage.

Page 24, Section 4.2.2 (Project Components)

Revise second full paragraph as follows:

The Project also proposes: (1) 36 acres (2.3% of the Project site area) of commercial space to accommodate retail and service uses for the proposed Project and surrounding areas; (2) two elementary school sites on approximately 23 acres (1.5% of the Project area); and (3) an 18-hole golf course and clubhouse on approximately 254 acres (located throughout the central portions of the Project area and comprising 16.5% of the Project site). The golf course identified within the Specific Plan is considered an option within the Specific Plan. There is no guarantee that this facility would be constructed. However the improvements proposed within the Smith Creek drainage that are located within the golf course are required and will be constructed to ensure adequate drainage throughout the project.

Page 26, Section 4.3.3 (Drainage System: Realignment of Smith Creek and Drainage Improvements)

Revise second full paragraph as follows:

The Project proposes a system of drainage improvements, which will utilize the available capacity of both Smith Creek and Pershing Channel to transport controlled Project drainage [FN 53] (stormwater and urban runoff) from and through the Project site in its developed condition. A major component of the drainage system is the re-alignment and improvement of Smith Creek, which will convey drainage via (1) basins, (2) realigned drainage ways restored to a natural-type condition, and (3) small culverts. These improvements would become a function of the proposed golf course design, if it is constructed. If the golf course is not constructed the proposed improvements to Smith Creek would still be implemented. After realignment, Smith Creek will consist of a large open soil bottom with vegetated channel side sections that will run generally in a north to south direction through the golf course.

Page 75, Section 6.1.5.7 (State of the Basin)

Revise first full paragraph as follows:

The Watermaster's latest report does not identify undesirable results associated with annual production of 8,650 AF, or even 10,290 AF. [FN 277] The Watermaster's Draft Combined 7th and 8th Annual Report indicates that in general, water levels have declined across the basin. (See Memorandum No. 11-13: Presentation of Draft Combined 7th and 8th Annual Report of the Beaumont Basin Watermaster, Section 3.5 (Dec. 7, 2011.) Water levels rose slightly in 2009. [FN 278] Watermaster has not reported any appreciable land subsidence over the Beaumont Basin. [FN 279]

Page 82, Section 6.1.5.9.4 (New Yield)

Revise footnote 313 as follows:

Watermaster's most recent projections (on file with the City; see also Watermaster Memorandum 11-13: Presentation of Draft Combined 7th and 8th Annual Report of the Beaumont Basin Watermaster, Table 6 (Dec. 7, 2011)) are available through 2040 only. Although the percentage of decrease in the City's Appropriative Right is projected to get smaller over time, for purposes of this WSA, the City conservatively assumes that the City's right will continue to decrease by an additional 1.34% by 2040, the same percentage of decrease as the Watermaster projects between 2039 and 2040.

Page 82, Section 6.1.5.9.4 (New Yield)

Revise text following Table 6.1.5.9.4A as follows:

If the Project is approved and constructed, the City will request Watermaster approval and credit for this New Yield supply pursuant to the Beaumont Basin Judgment, Part I, 5, V. If approved by the Watermaster, New Yield will be credited to the City's Beaumont Basin Stored Water account on an annual basis. ~~No other approvals are required.~~

Additionally, the capture of stormwater from the Project site and recharge of that supply into the Beaumont Basin requires compliance with the Santa Ana Region Basin Plan, and that Region's permitting approvals, specifically, Order R8-2010-0033, the municipal storm water permit for Riverside County. Order R8-2010-0033 prescribes waste discharge requirements for urban runoff from the cities and the unincorporated areas in Riverside County within the jurisdiction of the Santa Ana Regional Board. The City is not currently covered under this general permit. To recharge stormwater into the Beaumont Basin, the City must file a Notice of Intent (NOI) for coverage of its activities under Order R8-2010-0033, submit monitoring data and follow best management practices as part of the Stormwater Management Program for the region.

Page 83, Section 6.1.5.10 (City's Stored Water Account)

Revise footnote 316 as follows:

Minutes of Beaumont Basin Watermaster Meeting (Sept. 14, 2010); Watermaster Memorandum No. 11-13: Presentation of Draft Combined 7th and 8th Annual Report of the Beaumont Basin Watermaster (December 7, 2011).

Page 84, Section 6.1.5.10 (City's Stored Water Account)

Revise footnote 320 as follows:

See generally, Beaumont Basin Judgment, Part VI. The Watermaster has not developed a methodology to estimate losses of water in storage. (Watermaster Memorandum No. 11-13: Presentation of Draft Combined 7th and 8th Annual Report of the Beaumont Basin Watermaster (December 7, 2011).) As such, it is possible that the Watermaster may adopt rules for this purpose in the future which could reduce the quantity of water the City maintains in storage. The City would be entitled to extract from its Stored Water Account only that quantity of supply that represents "New Yield" to the basin. It is not possible to speculate as to what methodology might be developed in the future to account for any outflow of stored water from the basin, or when, or to quantify the precise amount of losses as this will depend on a number of factors not known at this time (i.e., total quantity of water in storage, inflows, rate of outflows

and hydrologic conditions at any given time). However, the Judgment's authorized use of available storage capacity is designed to avoid losses. The Judgment provides that there is significant unused or available storage space in the Beaumont Basin that may be filled with imported water. Section 1(bb) of the Judgment defines "Temporary Surplus as "additional storage capacity to prevent the waste of water." Also, Section 5(b) of the Judgment obligates Watermaster to operate groundwater storage capacity in the Beaumont Basin in such a way as to "prevent the waste of water." To date, the Watermaster has approved the storage of up to 260,000 AF in the basin, of which the City has been allocated 80,000 AF. As a result, any losses that might be assessed by Watermaster in the future on the City's water in storage in the Beaumont Basin are not anticipated to materially decrease the City's stored water account balance. Moreover, a portion of any losses of water from the Beaumont Basin would flow to the Banning Basins, in which the City has production wells.

Page 86, Section 6.1.5.10 (City's Stored Water Account)

Insert the following text after Table 6.1.5.10B:

Given the projections presented in Table 6.1.5.10B above (see also Watermaster Memorandum No. 11-13, Table 7 (Dec. 7, 2011) [indicating that the City's Ending Account Balance for Fiscal Year 2010/11 is 31,320])

Page 86, Section 6.1.5.10 (City's Stored Water Account)

Revise 7th Bullet as follows:

The City's currently maintains approximately ~~25,000~~30,000 AF in its Stored Water account. As the City continues to purchase imported water from the Pass Agency, the City's Stored Water account balance will increase over time.

Page 107, Section 6.2.3 (City Diversion of Surface Water Rights)

Insert at the end of the section:

On or about April 7, 2011, Stephen J. Mascaro and Beety D. Mascaro filed a complaint against the City and others seeking a declaration of riparian rights to Whitewater River and also to quiet title to the flume. On May 31, 2011, the City demurred to the Mascaros' complaint and all causes of action therein against the City, which was sustained without leave to amend. The Mascaros amended their complaint, and the City and other defendants answered the complaint. Even if the court were to overrule (or deny) the City's demurrer, and after a trial on the merits, to enter a judgment in favor of Mascaros on all grounds, which the City believes is unlikely (based on legal and factual issues subject to attorney work product and related privileges), the Mascaro litigation cannot impact the City's own adjudicated rights in the supply as a matter of

law and also because the Mascaro litigation does not challenge the City's adjudicated water rights. Therefore, this litigation matter is not anticipated to impair the City's ongoing recharge operations.

Page 117, Section 6.3.5.2 (Delivery Facilities for Imported Water)

Insert at the top of page 117:

The Water Quality Control Plans designate beneficial uses for each receiving water body and establish water quality objectives to ensure reasonable protection of the beneficial uses. All recharge operations must be conducted in accordance with applicable recharge standards and recycled water reuse standards. All State Water Project water used to recharge the Beaumont Basin must meet the water quality objectives (for the recharge of water) included in the Santa Ana Region, Region 8 Basin Plan. Recharged water must also be blended on a volume-weighted basis with other sources of recharge to ensure water quality levels achieve 5-year running average concentrations less than or equal to the "maximum benefit" objectives for the affected groundwater management zone. (Region 8 Basin Plan, at 5-77.)

DWR analyzes water quality samples from the SWP for dissolved solids, nutrients, chloride, sulfate, sodium, trace metals, and other constituents. (See Department of Water Resources, SWP Water Data Library.) Chapter 4 of the Region 8 Basin Plan sets water quality objectives for recharge of groundwater to the Beaumont Basin. Recharge of SWP water must meet the Management Zone TDS and Nitrate-nitrogen Water Quality Objectives (Amended by Resolution No. R8-2004-0001, January 22, 2004). Chapter 5 of the Basin Plan, which includes implementation measures, contains controls on salt loadings from all water uses. The plans include measures to improve water supply quality, including the import of high quality water from the State Water Project and recharge projects.

The Region 8 Basin Plan, at 5-18, supports importation of State Water Project water for recharge. It states, "The use of State Water Project water allows maximum reuse of water supplies without aggravating the mineralization problem. It is also used for recharge and replenishment to improve the quality of local water supply sources, which might otherwise be unusable. Thus, the use of high quality State Water Project water in the Region has water supply benefits that extend far beyond the actual quantity imported."

Page 125, Section 6.3.7 (City's Projected Imported Water Supply)

~~For 2012, and at least every five years thereafter, the City must file an amended Application for Service with the Pass Agency requesting the increased purchases. The City's request is subject to the Pass Agency's approval, which will be based on the availability of the supply to meet all requested demands. [fn. 468: Pass Agency Rules and Regulations for Water Service, Section 3.02.] In addition to the Pass Agency's approval of the amended Application for Service, To~~

date, the City has requested delivery of up to 2,400 AF of imported water from the Pass Agency. The City's continuing imported water service is subject to the Pass Agency's Rules and Regulations for Water Service. (See Pass Agency Ord. No. 8.) Delivery of the Pass Agency's full Table A entitlement of 17,300 AFY to the region will depend on DWR's construction of EBXII. No additional environmental review or other approvals are required.

Page 141, Section 6.5 (Water Shortage Emergency Planning)

Revise bullet 3. as follows:

The City has an approved Stored Water account of 80,000 AF in the Beaumont Basin. To date, the City has more than ~~25,000~~30,000 AF in storage — approximately 3 years of supply to meet 2010 demands...

APPENDICES ON ATTACHED CD

CD Contents:

Draft EIR, June 3, 2011

Final EIR, December 2011

Final EIR, Appendix A – Recycled Water Regulations

Final EIR, Appendix B – 2010 Urban Water Management Plan