

October 2, 2013

**Via E-Mail and U.S. Mail**

County of Monterey Resource Management Agency - Planning Department  
Attn: Mike Novo, Planning Director  
168 West Alisal, 2nd Floor  
Salinas, CA 93901  
[novom@co.monterey.ca.us](mailto:novom@co.monterey.ca.us)  
[ceqacomment@co.monterey.ca.us](mailto:ceqacomment@co.monterey.ca.us)

**Re: DEIR For Paraiso Springs Resort, SCH #2005061016**

Dear Mr. Novo:

On behalf of LandWatch Monterey County, we offer the following comments on the Draft EIR for the Paraiso Springs Resort (“DEIR”).

Background: The project site consists of about 235 acres in the mouths of the Paraiso Springs Valley and Indian Valley. The proposed project includes approximately 47 acres of development on the approximate 235-acre project site. It includes the demolition of the existing structures within the project site and construction of a new hotel (103 rooms and 3 restaurants, 110 parking places), day-use area (Hamlet), a spa and fitness center, 60 timeshare condominiums, and 17 timeshare villas. The DEIR identifies 13 project objectives and 2 alternatives (No Project and Valley Floor). The project is subject to the 1982 Monterey County General Plan and is zoned “Visitor Serving/Professional Office”.

**Aesthetics**

1. Compliance with Regulations for Visually Sensitive Zoning Districts. Chapter 21.46 of the County Code requires an initial on-site inspection within 30 days of receipt of an application for development in a visually sensitive (VS) combining district to determine whether there is a potential for a substantially adverse visual impact. MCC, § 21.46.060(B)(1). If any portion of the site does have such a potential, it must be staked in accordance with the “County-wide Staking and Flagging Criteria” before the application may be considered complete. MCC, § 21.46.060(B)(2). The DEIR acknowledges that the project does have such a potential. DEIR, pp. 3-10 to 9 3-14. However, the DEIR does not report the results of the flagging and staking process or present any visual studies. Please advise us whether an initial on-site inspection occurred. Please advise whether the project site was flagged and staked. In particular, please advise whether flagging and staking was performed in the area proposed for the 13 ridgeline condominium buildings containing 26 condominium

units proposed for the approximately six acres comprising lots 21 and 22. See Figure 2.8, Table 2.1. If this area was not flagged and staked, then it should be now, and the results incorporated into a visual study for inclusion in a revised DEIR.

Please explain how the project would comply with constraints on new access roads set out in MCC § 21.46.060(C)(3) and §21.66.040(c)(4).

2. Removal of Oak Trees and Infeasibility of Oak Tree Screening. The development of the timeshare condominiums would be along a ridge that contains some Oak Woodland. Some of the trees proposed for removal as part of this project are in this area. The visual impact of the tree removal and the construction of the timeshare condominiums could have a potential impact to the visual character of the area. The DEIR finds this impact can be minimized by replanting native oak trees around the proposed structures and streets to minimize the visibility of these structures and to maintain the integrity of the oak woodland. DEIR, p. 3-14.

The DEIR fails to identify the size and age of replacement trees (MM 3.1-1b). Unless replacement trees are comparable to those removed, the aesthetic impact should be identified as significant and unavoidable. The mitigation measure for oak woodlands requires that the replacement trees be very small – with a 5 gallon maximum and 1 gallon preference. DEIR, p. 3-79. Oaks are very slow growing trees. It is clear that newly planted oak saplings could not screen buildings for many years. There is no evidence that replanting mature oaks of sufficient size to screen condominium buildings, which may be up to 30 feet high, would be feasible.

Furthermore, most of the south-facing slope of the ridge proposed for hillside condominiums in lots 22 and 21 appears to be vegetated with scrub, not oaks. DEIR, Figure 3.3-1. In these areas, there are no native oaks available to screen buildings. Nor is there any evidence that replanted oak trees could thrive on the steep portions of the south-facing slope planned for condominium sites since oaks do not occur there naturally. Given the uncertainty as to long term survival, the proposal to screen buildings with replanted oaks does not appear feasible.

3. Development on Slopes. Approximately 25,400 S.F. (1.1%) of the 2,178,000 S.F. proposed for development is located on 30% or greater slopes. (Figure 3.1-3). Unless the units proposed for development on the 30% slopes are relocated to other portions of the 235 project site, the impact should be identified as significant and unavoidable.

We are particularly concerned about the 13 ridgeline condominium buildings containing 26 condominium units proposed for the approximately six acres comprising lots 21 and 22. See Figure 2.8, Table 2.1. This ridgeline dominates the valley floor and is visible from Paraiso Hot Springs Road and likely from other local roads and trails. It appears that the units to be located on this ridge may include the 30-foot two-story casitas. See Figure 2.9f. This mass of ridgeline development is inappropriate for this area, which is identified as a “Highly Sensitive” visual resource

in the Central Salinas Valley Area Plan. The DEIR explains that the prominent ridgelines and frontal slopes of the western hills are precisely the reasons for this “highly sensitive” classification:

“Areas identified as highly sensitive are those possessing scenic resources which are most unique and which have regional or countywide significance and/or because of their prominence of ridgelines and frontal slopes with their unique vegetation, are important in giving the Planning Area its rural character.” DEIR, p. 3-9.

The DEIR acknowledges that Arroyo Seco Road qualifies as a Scenic Road and that Policy 40.1.2 of the Central Salinas Valley Plan requires the County to pursue that official designation. DEIR, pp. 3-4, 3-7. Impairment of the view from Arroyo Seco Road would clearly frustrate that General Plan Policy 40.1.2, rendering the project inconsistent with the General Plan.

Arroyo Valley Road is less than 3 miles from the project site (DEIR, p. 3-4), which means that the project site is within the “foreground area” where “views are valued at a maximum level.” DEIR, p. 3-8. Given this, the DEIR’s contention that the project site would not be visible from Arroyo Seco Road (DEIR, p. 3-10) is not credible without clear evidence that there are no sightlines from the road to project buildings, in particular to the hillside condominiums. The DEIR simply presents no evidence that 13 large 30-foot buildings on a ridge over the valley floor would not be visible from Arroyo Seco Road. Please provide a visual study that details the visibility of project buildings from local roadways.

The DEIR acknowledges that views from trails are also “assessed as having high visual sensitivity.” DEIR, p. 3-9. The DEIR fails to identify or discuss view impacts from local trails, despite the fact that Figure 2-10 identifies the Paloma Ridge Trail as a vantage from which the project site would be clearly visible. Please provide a visual study that details the visibility of project buildings from local trails.

The DEIR does not cite or discuss the 1982 General Plan Policy 26.1.9, which bars ridgeline development. In particular, Policy 26.1.9 bars the creation of lots that create building sites that constitute ridgeline development:

“In order to preserve the County's scenic and rural character, ridgeline development shall not be allowed unless a special permit is first obtained. Such permit shall only be granted upon findings being made that the development as conditioned by permit will not create a substantially adverse visual impact when viewed from a common public viewing area. New subdivisions shall avoid lot configurations which create building sites that will constitute ridgeline development. Siting of new development visible from private viewing areas, may be taken into consideration during the subdivision process.” 1982 General Plan, Policy 26.1.9.

The DEIR claims that the hillside condominiums development on the ridge “will not constitute ridgeline development because the ridge “is surrounded by topographic features that are much higher in elevation.” DEIR, p. 3-123.

This claim is not well founded because the presence of higher elevation features in the background does not figure in the definition of ridgeline development. The 1982 General Plan defines ridgeline development as “[d]evelopment on the crest of a hill which has the potential to create a silhouette or other substantially adverse impact when viewed from a common public viewing area. “ 1982 General Plan, Policy 26.1.9. The DEIR offers no evidence that the hillside condominium units would not create silhouettes when viewed from the valley floor or from other areas including Paraiso Springs Road or other local roads and trails. Evidence that no silhouettes would be created would require a visual study of the site and surrounding viewpoints, which the DEIR does not provide. Please provide this visual study.

Furthermore, even if there were no silhouettes, the DEIR fails to provide any evidence that the 13 large 30-foot hillside condominium structures covering six acres would not create a substantially adverse impact. Again, the DEIR offers no visual studies of the site to substantiate this claim. Instead, the DEIR contends that preservation of the remainder of the slopes would somehow “mitigate” the impact of this development. DEIR, p. 3-13. We submit that the decision to spare some of the project site from visual impairment cannot reasonably be said to mitigate the impacts to other portions.

The DEIR claims that the project is consistent with Policy 26.1.10 of the 1982 General Plan because it would provide scenic easements for those slopes over 30% that are not developed. DEIR, p. 3-14. The DEIR fails to acknowledge that Policy 26.1.10 prohibits development on slopes over 30% unless one of two specific exceptions apply:

“26.1.10 The County shall prohibit development on slopes greater than 30%. It is the general policy of the County to require dedication of scenic easement on a slope of 30% or greater. Upon application, an exception to allow development on slopes of 30% or greater may be granted at a noticed public hearing by the approving authority for discretionary permits or by the Planning Commission for building and grading permits. The exception may be granted if one or both of the following findings are made, based upon substantial evidence:

- A) there is no alternative which would allow development to occur on slopes of less than 30%; or,
- B) the proposed development better achieves the resource protection objectives and policies contained in the Monterey County General Plan, accompanying Area Plans and Land Use Plans, and all applicable master plans.” 1982 General Plan.

Thus, the project is inconsistent unless there is no alternative to development of slopes over 30% or unless the project somehow “better achieves the resource protection objectives and policies” of the applicable plans. The DEIR fails to provide an adequate consistency analysis because it fails to show that either exception applies. The DEIR makes no showing that the project somehow better achieves resource protection objectives. And the DEIR’s Alternative 2, the Valley Floor Alternative, demonstrates that there is in fact an alternative, which was specifically designed “to create better consistency with County policy related to development on slopes exceeding 30 percent, minimize retaining walls, and minimize the visibility of the development from surrounding areas.” DEIR, p. 5-7. Given the clear evidence that the project is inconsistent with Policy 26.1.10, we submit that Alternative 2, the Valley Floor Alternative, is the only viable alternative presented by the EIR.

4. Lighting. The proposed project would introduce new light sources including, but not limited to, street lighting, and interior and exterior lighting of the proposed resort/hotel and timeshare units. Stationary light sources have the potential to adversely affect adjacent properties through a “spillover” effect. The nearest residential units to the project site are located to the east approximately one mile from the project site. New light sources would result in a greater overall level of light at night adjacent to the project site, thus reducing night sky visibility, affecting the general character of the area (P. -17). Planning Department Standard Condition PD014(B) which requires downlighting, etc. is found to mitigate project impacts to less than significant. While the standard condition may address impacts from individual residential units, it does not address the combined impacts from development of a 103 room hotel, 3 restaurants, 60 timeshare condominiums, and 17 timeshare villas in a remote area of the County. The impacts from lighting should be identified as significant and unavoidable.

### Air Quality

5. Ambient Air Quality Data. Table 3.2-2 Local Ambient Air Quality Levels should be updated to include 2013 data. In particular, numerous violations of the State PM10 standard have occurred during the last year.
6. The 1982 General Plan Inconsistency. The 1982 General Plan identified the following policies related to air quality:
  - A. Policy 20.1.2 The County should encourage the use of mass transit, bicycles and pedestrian modes of transportation as an alternative to automobiles in its land use plans.
  - B. Policy 20.1.4 The County should concentrate commercial development in designated centers that may be more easily served by public transit.

The project is inconsistent with these policies, and the impact should be identified as significant and unavoidable.

7. Threshold of Significance for CO. The threshold of significance for CO of 550 pounds/day only applies to stationary sources of CO. Table 3.2-6 depicting mobile source emissions should eliminate reference to this threshold of significance.
8. Construction Particulate Emissions. The DEIR contends that mitigation measure 3.2-1 would render PM10 impacts from construction less than significant because they would cut fugitive dust by 50%. However, the measure would permit ground disturbance to exceed the 2.2 acres of extensive earth moving activity or 8.1 acres of minimal earth moving activity, which the DEIR states are the limits beyond which earth moving may cause significant PM10 impacts. Because the mitigation places no effective upper limit on the extent of daily earth-moving work, the assurance that fugitive dust would be cut by 50% by specified dust control measures does not ensure that fugitive dust would not exceed the 82 lbs. per day identified by the DEIR as significant. DEIR, p. 3-33.

Furthermore, the measures for control of fugitive dust would still permit uncontrolled emissions of particulate matter from diesel engines used by the construction equipment. This source of PM10 must be included in a revised analysis.

We note that Appendix B, Table 2.1 Overall Construction (Maximum Daily Emission) shows that even after mitigation, daily total PM10 would be 138.11 lbs. This exceeds the 82 lb. per day threshold.

Effective mitigation that addresses both the combined effects of fugitive dust and diesel particulates must be formulated and the EIR must demonstrate that the post-mitigation scenario would meet the 82 lbs. per day threshold.

9. Construction ROG Emissions. The DEIR concludes that ozone precursors from construction would be less than significant because “[t]he construction equipment proposed would be considered typical construction equipment and therefore would be accommodated in the 2008 Air Quality Management Plan.” DEIR, p. 3-32. The MBUAPCD defines typical construction equipment as scrapers, tractors, dozers, graders, loaders, and rollers. The project would use dozers, scrapers; track and tire-mounted excavators; vibratory sheepfoot and steel drum rollers/compactors; backhoes; hoe rams/jack-hammers, graders; paving machines; concrete transit trucks/mixers; concrete pumps; cranes; lifts; pickup trucks; flatbed trucks; forklifts; truck-mounted drill rigs; chainsaws/chippers; electrical generators; dumpster trucks and water trucks; and pile driving rigs.. DEIR, p. 3-2.

MBUAPCD should be consulted regarding the DEIR’s conclusion that all of the equipment is typical. The scope of this project does not appear to be typical.

Appendix B, Table 2.1 Overall Construction (Maximum Daily Emission) shows 635.13 lbs per day of ROG emissions in 2019. We note that these emissions far exceed the operational threshold of 137 lbs/day. The MBUAPCD provides that construction projects that may cause or substantially contribute to the violation of other State or National AAQS or that could emit toxic air contaminants that would present a substantial health risk to sensitive receptors could result in temporary significant impacts. In light of this, MBUAPCD should be consulted to determine if these emissions are accommodated in the AQMP.

Based on Appendix B, Table 1.1, Land Uses, it is unclear if emissions for road widening are calculated. Please explain, providing the specific assumptions regarding the extent of earth moving and paving that would be required for the off-site road widening.

10. Rule 216. The Rule 216 Permit Requirements for Wastewater and Sewage Treatment Facilities section 3.2.4 includes the following requirements:

Require that the projected served population of the facility, or modification, related indirect growth of industry and induced growth external to the service area to be shall fully consistent with the population projections.

This requirement should be addressed in a revised environmental document.

### **Biological Resources**

11. Wildlife Corridors. The DEIR addresses wildlife corridors for migratory birds and nesting raptors (p. 3-77). Mitigation measure 3.3-3 requires that measures be taken to address impacts to nesting raptors and migratory birds. However, despite the caption “for Impact 3.3-3 (“Disturb Wildlife Corridors or Migratory Bird Corridors”), the DEIR does not address project impacts to wildlife corridors for non-avian species. Impacts to wildlife corridors for other wildlife should be addressed in a revised environmental document.

According to *Critical Linkages: Bay Area & Beyond*, a 2013 compilation of wildlife corridors, the project site is within or immediately adjacent to a critical wildlife movement corridor connecting the Santa Lucia Range with the Inner Coast Range.<sup>1</sup> In particular, the site is within or adjacent to the northern strand of this linkage,

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<sup>1</sup> See Penrod, K., P. E. Garding, C. Paulman, P. Beier, S. Weiss, N. Schaefer, R. Branciforte and K. Gaffney. 2013. *Critical Linkages: Bay Area & Beyond*. Produced by Science & Collaboration for Connected Wildlands, Fair Oaks, CA [www.scwildlands.org](http://www.scwildlands.org) in collaboration with the Bay Area Open Space Council’s Conservation Lands Network [www.BayAreaLands.org](http://www.BayAreaLands.org), report available at [https://dl.dropboxusercontent.com/u/2938890/00\\_Permanent/Linkages\\_final\\_report/Critical%20Linkages%20Full%20Report.pdf](https://dl.dropboxusercontent.com/u/2938890/00_Permanent/Linkages_final_report/Critical%20Linkages%20Full%20Report.pdf) and at [http://www.scwildlands.org/reports/CriticalLinkages\\_BayAreaAndBeyond.pdf](http://www.scwildlands.org/reports/CriticalLinkages_BayAreaAndBeyond.pdf)

supporting Tule Elk, dusky footed-woodrat, pallid bat, burrowing owl, and loggerhead shrike.

“The northern strand of the linkage extends from Tularcitos Ridge and Paloma Ridge in the Santa Lucia Range and follows Sierra De Salinas down to cross the Arroyo Seco and then takes in habitat in Sweetwater and Vaqueros Creeks and on Pettits Peak, then crosses over Reliz and Monroe Canyons toward Thompson Canyon, encompassing habitats between Thompson and Branstetter Canyons down to the Salinas River. It then follows the river to Wildhorse and Hamilton Canyons, which it follows over to Tom and Natrass Valleys, Mustang Ridge and Pretty Flat in the Inner Coast Range. This strand of the linkage was delineated by Tule elk but is also meant to serve species such as dusky-footed woodrat, pallid bat, burrowing owl and loggerhead shrike. It is dominated by grassland, coastal sage, chaparral oak savanna and riparian forests along the Salinas River and the major tributaries that flow into it. Agriculture occurs in the uplands along the river for a distance of roughly 12 km with the town of King City further constraining the linkage in this area.” Critical Linkages: Bay Area & Beyond, p. 190; see also Figure 161, Santa Lucia Range-Inner Coast Range Linkage Design.

Although the DEIR discusses site-specific impacts to some of these species, it does not assess impacts resulting from disturbance of this movement corridor through intensive use of the project site and increased traffic on access roads and trails. Furthermore, mitigation of impacts to these special status species consists largely of relocating or avoiding affected individuals during construction. DEIR, pp.3-67 to 3-70 (MM 3.3-1a through d). Those mitigation measures simply do not address the potential impacts caused by development intrusion into the movement corridor. And, as discussed below, even the proposed mitigation for the permanent loss of habitat at the project site is impermissibly deferred.

12. Cumulative Biological Impacts. The discussion of cumulative biological impacts fails to provide a description of the geographical scope of the cumulative biological analysis and/or to justify any limitation to that geographical scope. DEIR, p. 4-8. The analysis also assumes without evidence that mitigation of project-specific impacts would ensure that the project does not make a considerable contribution to cumulatively significant biological impacts, contrary to CEQA’s recognition that even individually minor impacts may be a considerable contribution. The EIR simply fails to present relevant cumulative information.
13. Oak Woodlands. Implementation of the proposed project would result in the permanent alteration of site conditions that would result in the removal of approximately 7.5 acres of coast live oak woodland habitat and up to 191 trees, including 185 protected oak trees (P. 3-78). Mitigation measures include preparation of a Final Forest Management Plan to include an oak tree restoration plan that

identifies the final number and acreage of protected oak trees to be removed during construction.

The actual number and acreage of protected oak trees should be identified in the revised environmental document rather than deferred to a later time.

The impact analysis and mitigation focuses exclusively on the number of trees lost and replaced and does not consider habitat value. For example, the mitigation calls for replanting in “appropriate open space,” without defining what space is “appropriate.” DEIR, p. 3-790. It also provides a preference for replanting on “a specific lot,” presumably the lot from which trees were removed. The lost habitat value of 7.5 acres of oak woodlands cannot be replaced by planting individual trees within the development footprint where human (and pet) activity would vitiate habitat value, e.g. planting trees in developed lots or adjacent to buildings to screen them. The proposed mitigation should be revised to require that replacement trees are planted in areas that will provide equal habitat value. The mitigation must specify meaningful performance specifications for habitat value, not just numbers of trees.

14. Oak Woodlands Conservation Act. The project is subject to Senate Bill 1334 – Oak Woodlands Conservation Act. Under provisions of the bill, projects with significant oak woodland impacts must conform both to the state’s mandated program that established habitat mitigation standards and to local conservation measures adopted by the county (in the case of the proposed project, Monterey County). The EIR should identify if the County has adopted conservation measures that meet requirements of SB 1334.
15. Deferral of Analysis and Mitigation of Wetland, Riparian, and Stream Channel Impacts. The DEIR acknowledges that the 2009 wetland delineation report does not accurately represent the extent of impacts to stream channel, wetland, and riparian habitats, in part because changes were made to the project description after that report was prepared. DEIR, p. 3-76. Thus, the proposed Mitigation Measure 3.3-2a calls for having a biologist “update the 2009 project wetland delineation report to include the current construction plan, and show specific calculations of the amount of impacted jurisdictional wetlands, stream channel (bed and bank), and riparian habitat.” DEIR, p. 3-76. After this deferred analysis of impacts, the Mitigation Measure calls for having a biologist develop a mitigation plan.

This approach to the analysis and mitigation of impacts is impermissible under CEQA. First, an agency must have, and must articulate, a good reason for deferring the formulation of mitigation. *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4<sup>th</sup> 645, 670, 684. Absent such a reason, deferral is simply not acceptable. Here, no reason is provided for deferral.

Second, CEQA is clear that an agency may only defer the formulation of mitigation measures when it “recognizes the significance of the potential environmental effect, commits itself to mitigating its impact, and articulates specific performance criteria for the future mitigation.” *Gentry v. City of Murietta* (1995) 36 Cal.App.4<sup>th</sup> 1359, 1411, citing *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1028-1029; CEQA Guidelines § 15126.4(a)(1)(B). Here, because the EIR admittedly fails to provide an accurate analysis of the loss of wetlands, stream channel, or riparian vegetation, the County has not recognized the significance of the environmental effect.

Finally, in *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4<sup>th</sup> 777, 794 the Court specifically rejected mitigation that “simply requires a project applicant to obtain a biological report and then comply with any recommendations that may be made in the report.” Yet that is precisely what the DEIR proposes here.

16. Deferral of Mitigation of Special Status Species Impacts. the DEIR also improperly defers mitigation for impacts to special status species. As noted above, Mitigation Measures 3.3-1a through d focus only on avoidance or relocation of individuals during construction. No specific mitigation is proposed for the permanent loss of habitat for bats, dusky-footed woodrats, burrowing owls, or other special status species. Instead, the measures merely call for consultation with CDFW and future unspecified strategies. Again, the focus of the mitigation is only on potential take of individuals during construction; the potential impacts of permanent loss of habitat to special status species present at the project site are not even acknowledged. No reason is given for deferral of mitigation. No performance specifications for mitigation are provided. This deferral of mitigation is improper.

### **Climate Change**

17. GHG Emissions. The proposed project would generate approximately 3,194.60 metric tons of CO<sub>2</sub>e per year during operations with about 53% resulting from mobile source emissions. The DEIR evaluates significance in part with reference to whether the project conflicts with implementation of strategies identified in the CARB AB 32 Scoping Report. DEIR, pp. 3-92 to 3-95. Table 3.4-1 incorrectly represents that the Million Solar Roofs strategy is not applicable to the project (DEIR, pp. 3-93), even though the DEIR elsewhere states that the project will include unspecified provisions for solar energy production (e.g., DEIR, pp. 3-94, 3-96, 3-97). The DEIR fails to provide an adequate description of project plans for solar energy production. Indeed, the DEIR admits that the amount of energy to be produced by alternative energy sources cannot be determined because this applicant-proposed GHG reduction measure “must be further detailed/quantified.” DEIR, p. 3-97. Provision of token amounts of solar power would not be consistent with the Million Solar Roofs strategy. Unless solar power is provided by and to each building, the project would not be consistent with the strategy.

The DEIR concludes that the project will make a considerable contribution to the cumulative global climate change impact from GHG, due to its substantial GHG emissions. DEIR, p. 3-95 to 3-99. Accordingly, the DEIR must propose feasible mitigation to avoid or minimize this impact.

The DEIR identifies a number of applicant proposed GHG reduction measures (DEIR, pp. 3-96 to 3-97), but these measures are neither specified with any precision nor identified as enforceable mitigation measures. The DEIR also proposes a number of additional measures, which it lists in Mitigation Measure 3.4-1; however, these measures are also insufficiently specified. All of the applicable GHG reduction strategies identified in the DEIR must be specified and required, as set forth below. In addition, the EIR should propose additional GHG reduction measures since the DEIR does not conclude that the proposed measures would render the GHG impact less than significant.

The EIR proposes the following measures as enforceable mitigation:

- Design the proposed project to meet California Green Building Standards Code (Title 24, "CALGreen") standards to help reduce energy demand;
- Obtain third-party HVAC commissioning and verification of energy savings (improves effectiveness of applicant proposed measure to exceed Title 24 energy efficiency requirements);
- Limit outdoor lighting requirements;
- Incorporate indoor water conservation measures such as use of low flow toilets, shower heads, and faucets;
- Implement an electrical vehicle network (e.g. golf carts) within the project site for use by guests and service employees and provide electric vehicle parking and charging stations; and
- Prohibit use of gas powered landscape equipment.

We note that compliance with CALGreen is mandatory under the California Building Code, so it is unnecessary to specify this as mitigation.

As written the lighting provision does not contain an enforceable performance specification. Please provide a performance specification for limiting outdoor lighting. At minimum, this should include the following:

1. Outdoor lighting should use LEDs or equivalent energy-efficient technology.
2. Hours of outdoor lighting should be limited.

Water conservation measures should also be specified so that they are complete and enforceable. As written, the mitigation could be met through minimal incorporation of

trivial design features that would result in no substantial water savings. Water conservation measures should be specified to include the following:

3. All builder-installed indoor appliances, including dishwashers, showers, and toilets, shall be low water-use.
4. Common area men's restrooms shall be required to feature waterless urinals.
5. Smart Controller irrigation systems shall be installed in all public and common area landscaping.
6. Landscape areas shall be designed on a "hydrozone" basis to group plants according to their water requirements and sun exposure.
7. All landscaping shall be irrigated with recycled water.
8. All landscaping plants shall be drought-tolerant California natives.
9. Lawns shall be prohibited.
10. Cleaning outdoor surfaces with water shall be prohibited.

In addition to these measures, the following additional mitigation measures should be required:

11. Air conditioning units shall be Freon-free.
12. Recycling facilities consistent with the local waste collection company shall be provided for each residential unit and in all public or common areas that generate trash.
13. Recycling education shall be provided to all homeowners upon purchase and annually thereafter.
14. 75% of demolition and construction waste shall be recycled.
15. Building energy use shall exceed the applicable Title 24 Energy Efficiency standards applicable at the time the building permit is issued by 20%.
16. Programmable thermostat timers shall be provided.
17. Multimetering "dashboards" shall be provided in each dwelling unit to visualize real-time energy use.
18. On-site energy generation using solar power units shall be provided on each available roof that does not face north
19. At least 75% of project electrical energy shall be provided through on-site solar power or other on-site electrical generation facilities that do not emit carbon.
20. All residential roofs and other building roofs that have adequate solar orientation (not north-facing) shall be designed to be compatible with the installation of photovoltaic panels or other current solar power technology.
21. Large buildings shall use a combined heating and cooling system (cogeneration).
22. All pools and spas shall be heated using solar water heaters unless they use naturally heated water.
23. Pumps and motors for pools and spas shall be energy efficient.

24. Pools and spas that are not naturally heated shall have automatic covers to retain heat.
25. Roofs shall be light colored to minimize cooling requirements.
26. Tree planting double that required to mitigate loss of oak woodlands shall be required in order to sequester additional carbon.
27. Construction equipment shall be powered by clean-burning fuel, bio-diesel fuel, and/or other alternative fuels, or shall use electric or hybrid-electric engines so as to reduce construction emissions by 33% over 2013 “business as usual” construction equipment emissions.
28. The Project would use clean-burning fuel, bio-diesel fuel, and/or other alternative fuels for heavy construction equipment to reduce construction emissions by 25% over 2010 “business as usual” construction equipment emissions (PDF 4.11-5). The Project would not have an operational vehicle fleet.
29. Operational vehicles supporting the project, including shuttles, shall be electric or other zero emission vehicles.
30. Construction equipment idling shall be limited to 5 minutes.
31. Delivery vehicle idling shall be limited to 3 minutes.
32. All employees, including management employees, shall be required to use the shuttle service terminating in downtown Soledad unless they reside on the project site.
33. On-site parking shall not be provided for employees except for emergency access outside regular shuttle hours. Alternatively, employees shall be charged \$20 per day for on-site parking.
34. The project applicant shall organize employee carpooling or vanpooling to the Soledad shuttle site.
35. The project applicant shall provide vehicles and/or subsidies for employee carpooling or vanpooling to the Soledad shuttle site.
36. The project applicant shall provide a subsidy of 50% of the cost of public transit to employees using public transit to get to the Soledad shuttle terminus.
37. The project applicant shall provide a guaranteed ride home program whereby employees who carpool, vanpool, bike, walk, or take transit are provided with a ride home or to an emergency location in the event that they cannot return home using the same mode due to an emergency.
38. The project applicant shall compress work hours so that employees work longer hours but fewer days.
39. The project applicant shall provide an information center for transportation alternatives that provides information about all available alternatives and measures including shuttles, carpooling, vanpooling, flex-time, and transit options.
40. The project applicant shall provide on-site child care for employees to avoid additional travel requirements.

41. Parking spaces shall be unbundled from condominium unit pricing so that units may be acquired without parking. The unbundled price for parking shall be at least 5% of the unit price.
  42. Hotel guests shall be charged \$20 per day for parking and this requirement shall be enforced with parking permits.
  43. Secure bicycle parking shall be provided for each residential unit, visible from the primary entrance and protected from vehicle damage.
  44. Electric vehicle recharging facilities shall be provided for each condominium unit parking space.
18. Project Alternative. An alternative to the project or project location that would reduce mobile source GHG emissions should be evaluated since the project's impact on climate change is identified as significant and unavoidable (DEIR, p. 4-1). A reduced scale development would certainly reduce GHG emissions.

### **Cultural Resources**

19. Historical Resources – Mitigation for Victorian Cabins. The DEIR concludes that the project is unusual in that the impacts to the nine identified historical resources have already occurred and therefore an analysis of ways to avoid or minimize impacts is a moot point. There are no mitigation measures that would reduce the historic resource impact to a less than significant level (DEIR, p. 3-124). Finally, the DEIR states that even with mitigation, the demolition of the units would be unavoidable and significant (DEIR, p. 3-126). We support that conclusion.

The DEIR recommends the following measures to mitigate the impact of the demolition of historic resources (DEIR, p. 3-125 to 3-126):

MM 3.5-1b - The project applicant shall prepare and provide to the Monterey County Historical Society archival-quality reproductions of their own historic archives, as well as copies of additional historic archives as may be available from the California State Library and California Historical Society, that portray the historic character and setting of Paraiso Springs during the late nineteenth century. The historic archives shall be subject to review and approval by the Monterey County Historic Resources Review Board. The project applicant shall submit archival-quality reproductions of the approved historic archives (described above) and any future archival and site research on the property that is not currently catalogued with the Monterey County Historical Society, the Monterey Public Library, and the California State Library for their permanent records.

MM3.5-1c- The project applicant shall provide a grant of \$10,000 to the Monterey County Historical Society to assist with accessioning, cataloging, displaying and archiving the collection with the goal to reach the broadest and

most relevant audience.

MM3.5-1d- The project applicant shall prepare a full-color brochure that describes the history of the project site (including Native American, Spanish, Mexican and American periods), that can be placed in a number of venues, including the Soledad Mission, local museums and other visitor-oriented locations, as well as any visitor-serving facilities on-site. The brochure shall include a map of the historic interpretive trails plan (described in Mitigation Measure 3.5-1-e), so that it can be used as a compendium for on-site interpretation. The applicant shall identify a plan and be responsible for all expenses associated with brochure development and the annual reproduction and distribution of these brochures, for as long as the resort is in operation. The full-color brochure shall be subject to review and approval by the Monterey County Historic Resources Review Board.

MM 3.5-1e - The project applicant shall prepare an historic interpretive trails plan that will be constructed on the project site. This plan shall include a designated pedestrian trail with scenic vista points and permanent interpretive signage that describes the historic events (including the Esselen Indians, Spanish Mission influences, and Victorian-era spa resort), features, and names (such as Romie's Glen) of Paraiso Springs. Construction of the trail and interpretive signage shall be completed at the applicant/developer's expense, prior to occupancy of any portion of the project site. The historic interpretive trails plan shall be subject to review and approval by the Monterey County Historic Resources Review Board.

MM 3.5-1f- The project applicant shall provide an interpretive exhibit prominently placed within the new hotel lobby, or other appropriate location on site that is open to the public, that documents the historic events (including Native American, Spanish, Mexican and American periods) at Paraiso Hot Springs. The exhibit shall be subject to review and approval by the Monterey County Historic Resource Review Board.

A review of the three reports prepared by consultants with expertise in historical resources finds the mitigation measures exclude measures proposed by the consultants. The 2005 report prepared by Archaeological Resource Management recommended the following measures excluded from the DEIR:

- The resort complex should be constructed in a historical style, appropriate to the historic associations of the springs with the California missions. Examples of appropriate historical styles would include the Mission Style, Spanish Eclectic, or Spanish Colonial Revival Styles of architecture. Appropriate historical design should be determined through consultation with the planning department, or design review committee.
- Much of the landscaping at the Paraiso Springs resort can be considered a

supporting element which adds to the historic integrity of the complex. Wherever possible the historic landscaping, including the palm trees, oak trees, evergreen trees, and succulents should be maintained and integrated into the new resort complex.

The report prepared by Painter Preservation and Planning, February 2008, concluded:

- No recommendations are made as to creating a specific site design that responds to a historic cultural landscape context. As it has been determined that the site is not a historic vernacular landscape, in that it does not qualify as a historic district due to lack of integrity, no recommendations are made as to respecting specific land use patterns, landscape and/or vegetation in the design of the new resort.
- No recommendations are made as to the architectural style of the proposed new resort. As no historic architectural context exists today on the site, there is no requirement, from a historic point of view and per the Secretary of Interior's Standards, that new construction be compatible with an existing historic context.

The letter from Galvin Preservation Associates to RBF Consulting, June 30, 2008, which included a peer review of the previous two reports agreed with the Painter report to not create a specific site design that responds to the historic cultural landscape context (p. 5). It disagreed with the findings related to architecture with the following statement (p. 5) "...Therefore, I do not believe that it is outside the purview of the County to require that the cabins be reconstructed according to the Secretary of the Interior's Standards for Reconstruction or that any new construction adopt the Gothic Revival style in its design to reflect the historic architectural tradition of the nine historic resources that were present on the site."

The recommended mitigation measures should be revised to include a requirement that new construction adopt the Gothic Revival style in its design to reflect the historic tradition of Paraiso Spring.

20. Historical Resources – Incomplete Evaluation. A memorandum to the Historic Resources Review Board by the project planner concludes that "the Paraiso Site should be considered a Cultural Landscape which was not adequately addressed in either the ARM reports or the Painter Report." John Ford, memorandum to Historic Resources Review Board, Oct. 3, 2010, p. 2. A Draft Resolution for the HRRB states that "[t]he work by Painter identifies that the site is not significant from a cultural standpoint relative to the Victorian era but does not address the significance of the site from the other significant periods of habitation.." Draft Resolution, p. 3. The Draft Resolution also finds that "the evaluation of the Victorian Period as the period of significance is too narrow." *Id.*, p. 2.

We concur with the finding that the analysis of the Cultural Landscape in the DEIR is not adequate. The EIR must be revised and recirculated to provide an adequate analysis of the Cultural Landscape with reference to all of the historic periods in which the site was inhabited. CEQA requires that the analysis of the environmental setting, including the Cultural Landscape, be sufficient to enable the public and decision makers to determine whether the project will cause or contribute to significant impacts.

The Draft Resolution proposes that the missing analysis be supplied in part through an HRRB proposal for a revised mitigation measure 3.5-1b, which calls for development of a “historic context statement for Recreation and Leisure Resources within the unincorporated areas of Monterey County . . . [which] shall identify significant themes in the area’s historical development, identify associated property types, including cultural landscapes, with their character defining features, and establish evaluation criteria and integrity thresholds for important property types sufficient to provide a framework for evaluation [of] resources individually and as distinct contributors for the National, California, and Monterey County registration programs.” Draft Resolution, p. 3. This analysis belongs in the draft EIR. While CEQA may permit the deferral of mitigation, it does not permit the deferral of a description of the environmental setting or the deferral of the analysis of the significance of the effects of the project on that environmental setting.

Adequate analysis of the Cultural Landscape and the project’s effects on that landscape are a necessary preliminary to formulation of adequate mitigation. For example, the mitigation proposed by the DEIR and by the HRRB’s Draft Resolution does not even consider the possibility that offsite mitigation may be appropriate in light of the connection of the project to offsite resources that may be part of the Cultural Landscape, e.g., the Los Coches stagecoach stop and inn associated with use of the project site in another historic period. Indeed, the memorandum to the Historic Resources Review Board by the project planner prematurely concludes that “mitigation must be related to the loss of the structures and cannot be used for other projects, programs or activities that are unrelated to the loss of the structures on the Paraiso Site.” John Ford, memorandum to Historic Resources Review Board, Oct. 3, 2010, pp. 1-2. However, without an adequate description of the Cultural Landscape and an adequate analysis of the project’s effects on that landscape, it is simply too early to limit mitigation to the loss of structures such as the Victorian Cabins.

21. Archeological Resources. The site includes the probable likelihood of Native American human remains. DEIR, pp. 3-102 to 3-103, 3-113 to 3-114, 3-130 to 3-1131. Furthermore, the DEIR’s withholding of archeological studies suggests that they contain evidence of native American human remains. In particular, The DEIR states that the cultural resource reports, including those related to archeological resources and those related to historic resources are “exempt from the public records act and are not available for public review.” DIR, p. 3-102. The only apparent basis for withholding these documents under the public records act would be that they

contain information about “Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.” Gov. Code, § 6254(r).

CEQA Guidelines Section 15064.5(d) provides that when an initial study identifies the existence of, or the probable likelihood, of Native American human remains within the project, a lead agency shall work with the appropriate Native American as identified by the Native American Heritage Commission as provided in PRC Sec. 50967-98.

While the DEIR identifies a process of addressing events related to the discovery of human remains during construction, it does not indicate if the appropriate Native Americans were consulted during preparation of the DEIR. If such consultation has not occurred the County must see that it does and that the EIR is updated to reflect such consultation.

## **Hazards**

22. **Fire Hazard.** The project site is located in one of the foothill/canyon areas of the Central Salinas Valley that has been identified as a very high fire hazard area (Monterey County 1987). DEIR, p. 3-173. Although the DEIR acknowledges that fuel loading is a principal element of wildland fires, the DEIR’s discussion of wildfire hazards does not discuss the response to fuel loading: clearance of fire prone vegetation. DEIR, p. 3-181.

The clearance of fire prone vegetation is required under numerous requirements, e.g., Monterey County Wildfire Protection Plan, Monterey County Building Codes, etc. Additionally SB 1241 recently signed by Governor Brown establishes requirements for high fire hazard safety zones. The DEIR should identify applicable requirements and the impacts they would have on biological resources. Please address the following specific questions:

The undeveloped habitat surrounding the project site increases the risk for wildland fires in the vicinity of the project site. The proposed project would place urban uses in a largely unpopulated area, creating the potential for increased fire hazard and additional demand on existing service providers. We are concerned that regulatory requirements for defensible space and fuel modification to mitigate fire hazard would have unanticipated effects on biological and aesthetic resources.

Mandated clearing, trimming, thinning activity, or such activity that is permitted without additional environmental review, including cumulative review, has the potential to cause impacts to biological resources that this DEIR has not evaluated. The DEIR must be revised to clarify the extent and nature of fuel modification and defensible space activity, to identify affected biological resources, and to propose

mitigation and/or alternatives for any significant impacts that this activity would cause.

The Monterey County Community Wildfire Protection Plan (“MCCWPP”) incorporates the California Department of Forestry and Fire Protection’s General Guidelines for Creating Defensible Space at Appendix E. According to those guidelines, defensible space of between 30 and 100 feet must be maintained around all buildings and structures. The DEIR has not discussed or identified the boundaries of defensible space and the impacts of fuel modification requirements for the project. The “guidelines apply to any person who owns, leases, controls, operates or maintains a building or structure in, upon, or adjoining any mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or any land that is covered with flammable material.” According to the guidelines, “vegetation surrounding a building or structure is fuel for a fire.” Although clearing responsibility is limited to 100 feet away from buildings and other structures, “groups of property owners are encouraged to extend clearances beyond the 100 foot requirement in order to create community-wide defensible spaces.” This encouragement to expand clearances beyond the 100-foot requirement was not considered or analyzed in the DEIR. Before one can conclude that impacts of the project on biological resources will be less than significant, the boundaries of this community-wide defensible space need to be determined and analyzed.

The guidelines also state that “Properties with greater fire hazards will require more clearing. Clearing requirements will be greater for those lands with steeper terrain, larger and denser fuels, fuels that are highly volatile, and in locations subject to frequent fires.”

The following table, page 6 of the guidelines, provides plant spacing guidelines on various slopes to prevent fire from moving from one plant or group of plants to another. In addition to these guidelines for trees and shrubs, the guidelines recommend that “grass generally should not exceed 4 inches in height.”

<b>Plant Spacing Guidelines</b>		
Guidelines are designed to break the continuity of fuels and be used as a “rule of thumb” for achieving compliance with Regulation 14 CCR 1299.		
<b>Trees</b>	<b>Minimum horizontal space from edge of one tree canopy to the edge of the next</b>	
	Slope	Spacing
	0% to 20 %	10 feet
	20% to 40%	20 feet
	Greater than 40%	30 feet
<b>Shrubs</b>	<b>Minimum horizontal space between edges of shrub</b>	
	Slope	Spacing
	0% to 20 %	2 times the height of the shrub
	20% to 40%	4 times the height of the shrub
	Greater than 40%	6 times the height of the shrub
<b>Vertical Space</b>	<b>Minimum vertical space between top of shrub and bottom of lower tree branches:</b> 3 times the height of the shrub	

*Adapted from: Gilmer, M. 1994. California Wildfire Landscaping/Landscaping*

Depending upon slope, trees must be removed or pruned to allow 10 to 30 feet of space between canopies. If applied to dense oak woodland, these guidelines would transform oak woodland into oak savannah, fundamentally changing the plant community and its dependent flora and fauna. The application of these guidelines was not considered or analyzed in the DEIR.

Depending upon slope, a group of shrubs 4 feet high, manzanita for example, would need to be removed or pruned to allow 8 to 24 feet between shrubs. Again, these guidelines would fundamentally change the plant community and its dependent flora and fauna. The application of these guidelines was not considered or analyzed in the DEIR.

The understory of oak woodland would also require modification to ensure vertical space between the top of shrubs and the bottom branches of the trees. A shrub standing 4 feet tall would require that trees be limbed up 12 feet. For animals dependent, like the Monterey dusky-footed woodrat, on forest habitats of moderate canopy and moderate to dense understory, this fuel modification guideline could have significant impacts. The DEIR acknowledges that vegetation clearing may cause significant impacts to Monterey dusky-footed woodrat, which is present at the project site. DEIR, p. 3-68. However, there is no analysis of potential impacts to the Monterey dusky-footed woodrat of fuel modification work.

Alternatively, if continuous tree canopy is to be preserved while creating defensible space, guidelines direct property owners to “remove all surface fuels greater than 4 inches in height.” In addition, guidelines call for trees to be limbed up between 6 feet and 15 feet, depending upon slope. Small trees can be retained if the lower 1/3 of their branches are removed and if they are spaced to avoid spread of fire to other

vegetation or to a building or structure. [Page 8, General Guidelines for Creating Defensible Space]

When implemented, the fuel modification guidelines have potential to significantly impact nesting, migratory and foraging/hunting habitats of most special-status species listed as likely to occur on the project site. Impacts of fuel modification to habitats upon which all special-status species in the area depend have not been analyzed in the DEIR.

*The Monterey County Voluntary Oak Woodland Stewardship Guidelines*, adopted by the Board of Supervisors September 22, 2009 with Technical information obtained from Dr. Mark Stromberg, Director, Hastings Natural History Reserve (University of California), discusses the benefits of and the threats to oak woodlands. At page 9, Section 2.3.2, Habitat Fragmentation and Isolation, the Guidelines state,

“As human development continues in Monterey County, intact oak woodlands and habitat will become more fragmented and degraded. Smaller oak woodlands that are isolated from other habitats are less able to support certain plants and animal species, which can become extirpated (i.e. locally extinct). For example, many birds and mammals need oak woodland and will not venture out to open areas, or even cross open areas. Thus some oak woodlands become critical corridors for dispersal of young and movement of wide-ranging adults. As an ecosystem is simplified (i.e. has fewer species), it becomes weakened and less resilient.”

The DEIR fails to analyze impacts to critical corridors by implementing fuel modification guidelines which open up areas in oak woodlands.

The Guidelines continue,

“The system further erodes as individual trees become isolated. Oak trees can only cross-pollinate if they are within approximately 1,000 yards of another oak. Declines in acorn production amongst isolated oaks not only reduce oak establishment, thus potentially reducing the oak population, but also decrease food availability for the numerous animal species that forage on acorns.”

Because the DEIR does not consider or analyze impacts of wildfire suppression guidelines, it is impossible to determine the project’s potential for isolating individual oaks. By the County’s adopted standards, simply counting the number of oaks removed by construction activities does not adequately account for impacts to oak woodlands and other biological resources.

The DEIR must be revised to clarify the extent and nature of fuel modification and defensible space activity, to identify affected biological resources, and to propose mitigation and/or alternatives for any significant impacts that this activity would cause.

Fuel modification activities, including activities that are required or permitted without additional environmental review, also have the potential to substantially alter the viewshed and to create aesthetic impacts that have not been evaluated. The DEIR assumes that existing vegetation and tree replanting will screen views and avoid impacts. However, that screening may be precluded or compromised by fuel modification activities. This is particularly so for the proposed hillside condominiums where steep slopes will mandate more clearing. Views of hillsides with denuded or partially denuded fire breaks around prominent new development will differ substantially from the views suggested in the DEIR. The aesthetic analyses of both the applicant's project and the alternatives must be revised and recirculated to evaluate likely changes to the landscape from fuel modification.

The DEIR has not provided a complete or coherent description of the project because it has not explained the extent of mandated or permitted fuel modification and defensible space activity. The DEIR must provide a complete description of the project in this regard. Because the DEIR has not actually identified the measures that will be taken to protect the project from wildfire, it is unclear whether and how the project will create fire hazards by locating more development in hazardous areas. The DEIR must meaningfully assess the actual fire hazard created by the project.

Please explain how the 30 and 100 foot defensible space requirements under Public Resources Code section 4291 would be implemented for the project. Please explain whether the County mandates or permits defensible space creation or fuel modification activities in excess of the section 4291 requirements.

Please explain whether and how the project would comply with or implement the Monterey County Community Wildfire Protection Plan . Please identify specific provisions of the MCCWPP the project would implement, or with which it would comply, including large and small scale fuel modification activities.

Please identify the specific state and local regulations that would require or permit fuel modification of defensible space. Please explain what additional CEQA review would be required for future fuel modification activity, identifying any applicable CEQA exemptions for such activity. Please explain when and how an environmental review of the cumulative effect of required or permitted fuel modification activity for the project will be undertaken.

### **Water Quality and Supply**

23. Surface Water Quality. The DEIR states, "Within the Central Salinas Valley Area Plan planning area, surface water quality is an issue only for the Salinas River." DEIR, p. 3-185. The Central Coast Watershed Studies identifies the following impaired surface water bodies: Arroyo Seco River and Arroyo Seco River at Thorn Rd. (1999-2000 CCAMP data).

24. Well Interference. The DEIR states that there are few other wells in the vicinity of the site and that “it [is] assumed that the nearest neighboring well would be no closer than about 7,500 feet.” DEIR, p. 3-201. The DEIR’s conclusion that would be no adverse effect on neighboring wells is predicated on the assumption that there are no wells within 5,600 feet. Id. The basis for this assumption is not stated and it appears to be incorrect.

As indicated on the attached maps designated Paraiso Area Springs and Wells, Figures 1 and 2, it appears that there are in fact five wells and two springs within a mile of the proposed project well. These maps were compiled based on local information using Google data.

In light of the evidence that the DEIR apparently misrepresented the environmental setting and cumulative baseline conditions and simply overlooked the project’s adverse effects local wells and springs, the County should revise and recirculate the DEIR to provide an adequate analysis of well interference.

25. Long Term Sustainable Water Supply. CSV Policy 5.2b permits visitor serving uses only if “proposed development can be phased to ensure that existing groundwater supplies are not committed beyond their safe, long-term yields where such yields can be determined.” Because of this policy, and because CEQA mandates a careful analysis of water supply impacts, the EIR must provide evidence that the project would have a long term sustainable water supply. For the reasons set out below, the DEIR does not do so.

The proposed project would require 63.5 acre-feet per year. DEIR, p. 3-261. The DEIR finds the certified FEIR for adoption of the 2010 Monterey County General Plan (October 26, 2010, Resolution Nos 10-290 and 10-291) found that “current water supply planning with mitigation, is adequate to address overdraft and saltwater intrusion in the Salinas Valley up to the 2030 planning horizon.” DEIR, p. 4.3-2). The DEIR cites the 2010 General Plan’s reliance on the Salinas Valley Water Project (“SVWP”) as the basis of its conclusion that long term water supplies will be sufficient. DEIR, p. 3-200. As discussed below, the 2010 General Plan in turn relied on the SVWP EIR to support its conclusions regarding water supply sufficiency.

26. Failure To Disclose Litigation Challenging The General Plan’s Reliance On The SVWP. The DEIR does not disclose existing litigation challenging reliance on the SVWP as basis to conclude that there is an adequate water supply for new uses in the Salinas Valley Groundwater Basin (“SVGB”). Suits filed by LandWatch Monterey County and by The Open Monterey Project challenge the EIR for the 2010 Monterey County General Plan, also known as the GPU5 EIR. (Monterey County Superior Court Case No. M109434 and M109441, both filed November 24, 2010). LandWatch’s petition for a writ of mandate to set aside the 2010 General Plan EIR

challenged the uncritical reliance on the SVWP EIR despite unanticipated changes to existing and projected land use and water demand.

LandWatch's petition alleges:

- The 2010 General Plan EIR failed to adequately disclose baseline conditions in the SVGB.
- It did not reflect the increase in irrigated agriculture that occurred between 1995, the SVWP EIR's baseline year, and the 2010 General Plan's baseline year, during which time thousands of acres of irrigated farmland were added in the SVGB. By contrast, the SVWP EIR projected that water would be sufficient only because it projected that irrigated farmland would decrease from 1995 to 2030.
- It did not provide complete or accurate baseline pumping data for the SVGB, because it omitted many wells, including non-reporting wells within Zones 2, 2A, and 2B and all wells within Zone 2C but outside Zones 2, 2A, and 2B. Thus there is no coherent analysis to determine whether water use is declining, as projected by the SVWP EIR, or increasing, as common sense would suggest in light of the substantial unanticipated increase in irrigated agricultural acreage.
- It did not reconcile the 1995 baseline from the SVWP EIR to the 2005 baseline in the 2010 General Plan EIR. For example, the 2010 General Plan EIR does not provide the assumptions regarding the agricultural acreage, location, cropping, or water use intensity assumed for 1995 in the SVWP EIR and the acreage, location, cropping, and water use intensity in the 2010 General Plan EIR baseline year.
- It did not resolve discrepancies in the 1995 baseline agricultural acreage assumed in SVWP EIR and the background technical reports for the SVWP EIR.
- The 2010 General Plan EIR failed to provide accurate projections of water demand through 2030.
- It failed initially to include water demand for projected increases in irrigated farmland, even though it did project that thousands of acres of additional land would come under irrigation contrary to the SVWP EIR, which projected a decrease in irrigated acreage between 1995 and 2030.
- Only when repeatedly pressed on this point did the County finally acknowledge that growth in agriculture would result in increased water demand. However, it then equivocated as to the location of this growth in agriculture, suggesting that 25% of it might, or might not, occur outside the SVGB.
- The 2010 General Plan EIR provided four conflicting projections of urban demand through 2030, the last of which reduced previous projected demand by an amount just sufficient to offset the belatedly acknowledged increase in agricultural demand, so that combined agricultural and urban demand would remain within the total demand projected by the SVWP EIR. These

reductions in urban demand were based on misconstruing the effects of SBX77 as mandating an across-the-board 20% reduction in existing and future urban water demand, even though SBX77 does not mandate this outcome.

- The 2010 General Plan does not provide effective policies or mitigation to ensure that water use remains within the safe yield for the SVGB projected by the SVWP EIR.

The County is or should be familiar with these issues. We incorporate the administrative record of the 2010 General Plan as it relates to these issues by reference, including, but not limited to comments by or on behalf of LandWatch, The Open Monterey Project, FANS, and Julie Engell, including comments on the GPU5 DEIR, FEIR, and supplementary materials to the FEIR.

For these reasons, and others, it remains improper for an EIR for a development project to rely uncritically on the SVWP as evidence that there will be as sufficient long term water supply without aggravating the existing overdraft and seawater intrusion impacts.

One potential consequence of the existing litigation seeking to set aside the 2010 General Plan is that petitioners may obtain injunctive relief, which may 1) prevent reliance on the SVWP as the basis to conclude water supplies are sufficient for development projects, and/or 2) enjoin new development projects from relying on SVGB water supplies.

The Ferrini Ranch DEIR's failure to disclose the existence and substance of this litigation is a material omission, which requires revision and recirculation of the DEIR.

27. Comprehensive hydrogeologic investigation requirements not met. Preliminarily, we note that the project's VTM application cannot have properly been deemed complete absent an adequate Initial Water Use and Nitrate Loading Impact Questionnaire and a Comprehensive Hydrogeologic Investigation addressing the relevant basin. Monterey County Code sections 19.05.040. The DEIR does not provide such a document. For example, nowhere does the DEIR provide an estimate of existing water use at the site. See, e.g., DEIR, p. 3-261; DEIR, Appendix G, Ch2MHill, Estimated Potable Water Demand and Potable Water Source, Jan. 27, 2009, rev. Aug. 3, 2010.

The NOP promised that the EIR would provide a comprehensive hydrogeologic report including a water balance analysis and an analysis of impacts on groundwater resources. DEIR, App. A, NOP, p. 2. MCWRA objected to the omission of a water balance calculation showing pre-project and post-project recharge and water use. DEIR, Appendix F, MCWRA, Nov. 24, 2010. The County Planning Department again advised the project applicant in December 2012 that a water balance analysis is required to "complete the discussion on Long Term Water Supply as required under

the 1982 General Plan.” John Ford, letter to John Thompson, Dec. 12, 2012, pp. 2-3. However, the DEIR contains no response to these multiple requests that a water balance analysis be included in the DEIR.

At minimum, the DEIR must provide the baseline groundwater pumping from the project site to enable the public and decision makers to evaluate the project-specific (as opposed to cumulative) water supply impacts.

28. Basin Yield Not Identified. Please identify the groundwater pumping level for the SVGB that would avoid overdraft and continued sea water intrusion. Please identify the year by which this level must be attained to obtain these results. We note that the SVWP EIR concludes that seawater intrusion could be addressed adequately if groundwater pumping declines from 463,000 afy in 1995 to 443,000 afy in 2030. SVWP EIR, Table 1-2.
29. Baseline Year Not Specified. Please identify the baseline year for the EIR’s water analysis. We note that the baseline is normally the environmental conditions at the time of the NOP. Here the NOP was issued five years ago, in May 2008. As discussed below, the baseline year assumptions should include the land use status for which baseline demand is modeled using historical average water use factors.
30. Baseline Cumulative Agricultural Demand Information Not Provided. The Paraiso Springs Resort DEIR bases its conclusion that water supply is adequate on the 2010 General Plan, which in turn relies on the SVWP and the SVWP EIR. The DEIR does not provide meaningful baseline information for the SVGB to allow the public to understand if existing groundwater pumping plus cumulative future water demand will exceed the groundwater pumping level that constitutes overdraft and causes continued sea water intrusion. Nor is the public able to reconcile current baseline information with the 1995 baseline information in the SVWP EIR, upon which the Paraiso Springs Resort EIR relies. The EIR must provide this information.

The County has represented that the baseline water demand for meaningful analysis, such as the analysis provided by the SVWP EIR, must not be determined with reference to a single year:

“Agricultural water demand varies substantially from year to year depending on climatic conditions, including temperatures, precipitation, and the timing of temperatures and precipitation. MCWRA used a long-term period of hydrologic conditions to identify what the demand of 1995’s agriculture would be under a [sic] long-term average climatic conditions. This is an appropriate approach for modeling water use as the use of a single year would not be sufficiently representative.” GPU5 FEIR Supplement, p. S-12.

MCWRA states that baseline water use for the SVWP EIR was determined as the 45-year average pumping demand applied to “an overlay of land use as documented in

1995.” Curtis Weeks, MCWRA. Memo to General Plan Update Team, Sept. 13, 2010. Thus, the SVWP baseline was determined by applying average water use factors to the land use pattern in place as of 1995. In other words, the SVWP baseline was modeled, not simply measured in the year 1995, and it “represents the annual demand of the 1995 land use baseline averaged over 45 years of hydrology/climatic conditions.” GPU5 FEIR Supplement, p. S-12, note 1.

The 2010 General Plan EIR reports that there were material changes to the “1995 land use baseline” between 1995 and 2005. The SVWP EIR projected that farmland would decrease by 1,849 acres between 1995 and 2030. SVWP EIR, section 7.2.3. However, the GPU5 DEIR shows that farmland actually grew substantially between 1995 and 2006: 8,209 acres of habitat were converted to farmland between 1996-2006, the ten year period immediately following the SVWP EIR’s 1995 baseline year. GPU5 DEIR, p. 4.9-46, Table 4.9-6. This increase was offset by 2,837 acres of farmland converted to urban uses, but the County acknowledged that the net increase in farmland was at least 5,684 acres. Monterey County, Responses to October 26, 2010 letter from M.R. Wolfe & Associates (Landwatch), Oct. 26, 2010, p. 3. Most of this new farmland was in the Salinas Valley. GPU5 DEIR Exhibits 4.9-7, 4.9-8 and 4.9-9 (mapping locations of conversions between 1996-2006); GPU5 FEIR pp. 2-2-38 (acknowledging that the projection that most future conversions would occur in Salinas Valley is based on “historic trend analysis.”)

In addition to the change in total irrigated farmland after 1995, there may also have been changes after 1995 to the cropping patterns and irrigation methods assumed or projected by the SVWP EIR. In addition to reductions in water use attributed to the projected decrease in farmland, the SVWP EIR projects some reduction in per acre water use compared to 1995 due to changes in water use efficiency and cropping patterns, as follows:

“Agricultural needs, which make up a far greater share of water use, are projected to decrease by approximately 51,700 AFY (a 13% reduction) as a result of several factors, including increased irrigation efficiencies, changes in crops (i.e., increase in lower water-demand grape production), and some conversion of land from agriculture to urban uses. Although some agricultural land will be converted to urban uses, some of this acreage will be replaced by conversion of non-agricultural or non-irrigated land to irrigated uses. An overall slight net reduction in agricultural land uses would be expected. Because the agricultural portion of the total existing water needs in the Basin is approximately 90% of the total, and agricultural water use reductions would be substantial, an overall reduction of 17,000 AFY in basin-wide water use in 2030 is projected.” SVWP EIR, § 3.2.4.

“Agricultural land uses would shift, with a large increase in relative acreage devoted to vineyards (a 25% increase between 1995 and 2030 was assumed), and a decrease to all other uses (truck crops, field crops, pasture, and

orchards). Conversion of agricultural acreage to urban uses is also assumed to occur, but would be generally replaced by land not currently in agricultural use. Net agricultural acreage would remain effectively unchanged. Through cropping patterns, as well as conservation realized through incorporation of new technologies, a 5% increase in water conservation, compared to water use by the same crops, would be expected between 1995 and 2030. The shift in agricultural land uses coupled with water conservation and cropping patterns would result in a net reduction of 60,000 acre-feet per year (AFY) by 2030.” SVWP EIR, § 7.2.1.

However, we note that data in the GPU5 EIR indicates that the increase in viticulture came largely from the unanticipated conversion of previously unfarmed habitat to viticulture, and not just from replacement of existing crops with grapes. About 40% of the 8,209-acre increase in farmland between 1996-2006 was for viticulture. GPU5 DEIR, p. 4.9-63. In identifying conversion of habitat to farmland, the GPU5 DEIR states that “between 1996 and 2006, there was an annual average increase of about 800 acres per year in vineyard acreage.” GPU5 DEIR, p. 4.9-45. Thus, a significant portion of the increase in viticulture acreage projected by the SVWP EIR represents an increase in water demand due to the irrigation of new acreage, not a decrease in demand due to shifting to viticulture from more water-intensive crops.

In order to determine whether the SVWP EIR still provides an adequate basis to evaluate the sufficiency of water supply under cumulative conditions, the public must be able to understand and reconcile the assumptions in both the SVWP EIR and the Paraiso Springs Resort EIR, accounting for differences in relevant factors, including the actual farmland acreage, cropping patterns, and water conservation methods. In particular, the public must be able to understand the effects of the unanticipated growth in new farmland between 1995 and the Paraiso Springs Resort EIR baseline year.

Please identify the total baseline cumulative agricultural groundwater demand deriving water from the SVGB for the Paraiso Springs Resort EIR’s baseline year. For the purpose of this response, please provide the following information for both the SVWP EIR 1995 baseline year and the Paraiso Springs Resort EIR baseline year:

- Irrigated farmland acreage
- Relevant assumptions regarding cropping patterns, e.g., total number of acres of crops classified by similar per-acre water use (such as row crops, viticulture, tree crops)
- Relevant water use factors for each crop type, e.g., the per acre water usage for each type crop (taking into account the number of crops per year)
- Relevant assumptions regarding the existing and future level of water conservation, if not reflected in the water use factors

- Any other factors used in the SVWP analysis to project agricultural demand that may vary between 1995 and the Paraiso Springs Resort EIR baseline year.

In sum, we ask that the EIR provide the “overlay of land use as documented in 1995” (Curtis Weeks, MCWRA. Memo to General Plan Update Team, Sept. 13, 2010) and the land use overlay in the Ferrini Ranch baseline year, and provide the modeled historic average water use factors for those baseline land uses.

31. Inclusion Of Project Demand In SVWP EIR Not Demonstrated. It is not clear that projected future demand from the Project was actually included in projected 2030 demand in the SVWP EIR in light of evidence indicating that the Project site was not included in the modeling for the SVWP. The DEIR admits that the project site is only “partially” within the SVGB. DEIR, p. 3-185. Furthermore, it appears that the portion of the site within the SVGB is not the portion from which project water would be pumped.

Please identify and provide documentation that demand from expected development at the project site was included in planning documents for the SVWP and for the SVWP EIR. Please identify the specific pages of any relevant documentation that address the project site. Please provide any map or list of parcels that was used to determine or illustrate whether the Project site was included in the demand projections for the SVWP and for the SVWP EIR. If the Project site was in the SVWP EIR demand projections, please explain why it was omitted from the SVIGSM Subareas as identified in the SVWP EIR Figure 3-2.

Since the DEIR admits that the project site is only partially within the SVGB, we seek information as to whether the SVIGSM may have included demand from the project site through modeling of boundary conditions. We understand that the SVIGSM “boundary conditions” consist of an assumption regarding groundwater flows at the edge of the area modeled by the SVIGSM:

“By definition, a boundary condition [in the SVIGSM] is any external influence or effect that either acts as a source or sink, adding to or removing water from the groundwater flow system. The boundary conditions used in the mode are no-flow, constant head, river and general head boundary. . . The eastern, northern, and southern edges of the active model area represent subsurface underflow and were simulated using the general head boundary package with a specified head based on the model simulated groundwater elevation from the SVIGSM.” North Marina Ground Water Model Evaluation of Potential Projects, Geoscience Support Services, Inc., July 25, 2008, p. 12 (appendix E to the October 2009 CalAm Coastal Water Project Final EIR).”

For those portions of the project outside the SVIGSM modeled area used for the SVWP EIR, please explain whether and how its existing and projected demand were

“accounted for in model boundary conditions” as suggested by Table W2 in the Revised Supplemental materials to the Final EIR for the 2010 General Plan. Please explain whether and how the model boundary conditions contain discernible assumptions or information about existing and future water demand from the Project site in particular. In particular, please explain how existing boundary conditions were adjusted for changes in future demand outside the SVIGSM, if they were in fact adjusted. If the boundary conditions do contain information about the existing and future demand from the project site, please identify that information.

The DEIR states that the project is within Zone 2C. Please explain whether the MCWRA assessments for Zone 2C are based on and vary with land use type, e.g., grazing, row crops, urban development. If so, please explain on what basis the applicant has been paying assessments, e.g., what land use has been assumed. Please provide documentation confirming the date on which the applicant and/or its predecessor in interest began paying assessments for Zone 2C. Please provide the hydrologic assessment which formed the rationale for including the project site in Zone 2C.

32. Projection Of Cumulative Future Agricultural Demand Not Provided. Determination of the sufficiency of the SVGB as a water supply for cumulative future demand has been called into question by changes to the projections of future agricultural demand that have occurred since the assumptions were developed for the SVWP EIR. It is also called into question by the fact that Zone 2C is apparently larger than the area that was modeled for the SVWP and SVWP EIR. Both of these points are addressed below.
- a. GPU5 Admits Substantial Growth In Agriculture After 2008: First, as noted above, the GPU5 EIR eventually admitted that there would be a substantial increase in irrigated acreage in the SVGB not anticipated by the SVWP EIR. The GPU5 EIR eventually projected that a net change in agricultural acreage of 9,531 acres compared to the SVWP EIR would require an additional 17,537 AFY, based on the expectation that this additional acreage would require 1.84 afy per acre. GPU5 FEIR Supplement, pp. S-20, S-134 to 138. This analysis considered only the projected increase in agricultural acreage from 2008 to 2030, and did not include any increase in demand to reflect the net increase in farmland between 1995 and 2008.
  - b. GPU5 Admits Substantial Growth In Agriculture Between 1995 to 2006: Also as noted, the County admitted that irrigated acreage increased by a net of 5,684 acres between 1995 and 2006. Monterey County, Responses to October 26, 2010 letter from M.R. Wolfe & Associates (LandWatch), Oct. 26, 2010, p. 3. (However, the County claimed that this increase in farmland, which is based on Department of Conservation Farmland Mapping and Monitoring Program data, would not somehow increase water demand, a claim that simply defies logic. Monterey County, Responses to October 26,

2010 letter from M.R. Wolfe & Associates (LandWatch), Oct. 26, 2010, p. 3.)

- c. 2003 SVWP Engineers Report Documents Substantially More Acreage In Zone 2C Than Assumed By the SVWP EIR In Projecting Demand: It is evident that Zone 2C includes substantially more irrigated acreage than was assumed by the SVWP EIR. In determining baseline and 2030 agricultural water demand, the SVWP EIR assumed that irrigated agricultural acreage was 196,357 acres in 1995 and would be 194,508 acres in 2030. SVWP EIR, §7.2.3. By contrast the 2003 SVWP Engineers Report ([http://www.mcwra.co.monterey.ca.us/SVWP/final\\_engineers\\_report.pdf](http://www.mcwra.co.monterey.ca.us/SVWP/final_engineers_report.pdf)), which was prepared to define Zone 2C and to support an assessment for the SVWP, identifies substantially more irrigated acreage within Zone 2C than the SVWP EIR. Tables 3-5 and 3-9 in the Engineers Report identify 212,003 irrigated acres within the proposed Zone 2C assessment district. SVWP Engineers Report, pp. 3-10, 3-15. These data were based on “parcel information, including land use, acreage, zone and other data” developed by MCWRA. *Id.*, p. 3-10. Significantly, nowhere in the SVWP Engineers Report is there any explanation of the relation of the area of agricultural demand modeled in the SVWP EIR, based on 1995 land use data and assumed 2030 conditions, and the Zone 2C area, based on MCWRA data developed in 2003. The criteria for including land in Zone 2C was not whether it had been included in the SVIGSM or the SVWP EIR land use assumptions. *Id.* p. 3-3. Instead, “[i]t was concluded that the proposed Zone 2C should encompass the entire area within the Salinas Valley and Monterey County that overlies water bearing alluvium.” *Id.*, p. 3-3. Regardless of the hydrological basis for defining Zone 2C, its water demand should be consistent with the projected demand in the SVWP EIR if the County is to conclude that the SVWP ensures that there is sufficient water supply within Zone 2C.

In sum, since the SVWP EIR predicated its conclusion that overdraft and saltwater intrusion would be controlled by 2030 if irrigated agricultural land were reduced to 194,508 acres, then the SVWP EIR’s analysis does not support the conclusion that there is sufficient water for all of the much larger, and growing, irrigated acreage within Zone 2C.

Accordingly, we seek information about the currently projected cumulative demand for agricultural water from the SVGB and the relation of that demand to the assumptions used to prepare the SVWP EIR.

Please provide the currently projected 2030 cumulative agricultural water demand for the SVGB and compare this to the projection made in the SVWP EIR. For the purpose of this response, please provide the following information:

- Projected 2030 irrigated farmland acreage. Please indicate the total acres currently projected to be irrigated in 2030 that will derive water from the SVGB and, separately, the total acres that were projected to be irrigated in 2030 in the SVWP EIR. Please identify and account for any differences.
- Relevant current assumptions regarding cropping patterns, e.g., number of acres of crops classified by similar per-acre water use (such as row crops, viticulture, tree crops), and, separately, the assumptions regarding cropping patterns made in the SVWP EIR. Please account for any differences in the current projections and the projections made for the SVWP EIR.
- Relevant current assumptions for water use factors for each crop type, e.g., the per acre water usage for each type crop (taking into account the number of crops per year), and, separately, assumed water use factors in the SVWP EIR. Please account for any differences in the current projections and the projections made for the SVWP EIR.
- Relevant assumptions regarding the level of water conservation, if not reflected in the water use factors; and, separately, assumed level of water conservation in the SVWP EIR. Please account for any differences in the current projections and the projections made for the SVWP EIR.
- Any other factors used in the SVWP analysis to project agricultural demand that may vary between the SVWP's 2030 projection and the Parasio Springs Resort DEIR 2030 cumulative projection for the SVGB. Please account for any differences in the current projections and the projections made for the SVWP EIR.
- The geographic scope of the farmland included in the current projection of 2030 agricultural water demand from the SVGB, and, separately, the geographic scope of farmland included in the projection of 2030 agricultural demand in the SVWP EIR. Please account for any differences in the current projections and the projections made for the SVWP EIR.

33. Geographic Scope Of Cumulative Agricultural Demand In SVWP EIR Unclear.

Additional evidence suggests that the area for which the County claims benefits from the SVWP is larger than the groundwater basin area actually modeled for the SVWP and the SVWP EIR.

The DEIR and the 2010 General Plan assume that the entire area within the Zone 2C assessment area will have an adequate water supply. However, the groundwater area modeled for the SVWP and the SVWP EIR does not include all of Zone 2C. For example, the geographic scope of the area within SVWP EIR Figure 3-2, Salinas

Valley Groundwater Basin SVIGSM Subareas, does not include the Project area and other areas within Zone 2C. SVWP EIR, § 3.1. Table W2 in the Revised Supplemental Materials to the Final EIR for the 2010 General Plan identifies a number of areas within Zone 2C that are outside the SVIGSM model boundary. For all but one of these areas, Table W2 states that the area “would be accounted for in model boundary conditions.” GPU5 FEIR Supplement, p. S-16. The GPU5 EIR claims that “[a]reas outside the SVIGSM modeled area were addressed in SVIGSM for the SVWP EIR through consideration of boundary flows.” Despite this, it nonetheless “conservatively” provides ad hoc adjustments to baseline demand and to projected 2030 demand for these areas, an adjustment that belies the claim that the baseline and future demand was somehow already accounted for.

Please explain how its existing and projected future demand for areas outside the SVIGSM were “accounted for in model boundary conditions” as indicated by Table W2 in the Revised Supplemental materials to the Final EIR for the 2010 General Plan. Please explain whether and how the model boundary conditions contain discernible assumptions or information about existing and future water demand from each of these areas. In particular, please explain how existing boundary conditions were adjusted for changes in future demand outside the SVIGSM. If the boundary conditions do contain information about the existing and future demand from these areas, please identify that information, including the specific information for each of the areas identified in Table W-2 of the GPU5 FEIR Supplement.

In sum, it is unclear whether and how the SVWP EIR’s 1995 baseline water use and its 2030 agricultural demand forecast included agricultural acreage outside the SVIGSM modeled area. Given the confusion in the GPU5 EIR on this topic, and the discrepancies between the acreage assumed in the SVWP EIR and the 2003 SVWP Engineers Report, the public needs to understand the relation between the following geographic areas:

- SVIGSM modeled areas (presumably represented in SVWP EIR Figure 3-3);
- the area for which the SVWP EIR included demand in its 1995 baseline and projected 2030 agricultural demand;
- the area currently included in Zone 2C.

Accordingly, please provide maps of 1) the agricultural areas that the SVWP EIR included in its identification of baseline agricultural demand and 2) the agricultural areas the SVWP EIR included in its projections of 2030 agricultural demand, if it differs. Please provide a map or figure that overlays those two areas on the SVWP EIR Figure 3-3 (showing SVIGSM modeled areas). Please identify and quantify the acreage differences between the SVIGSM modeled area and the areas included in the 1995 baseline and 2030 irrigated acreage projections.

Please also overlay the SVWP EIR Figure 3-3 showing SVIGSM modeled areas and the current Zone 2C boundary. For those areas that are included in Zone 2C but were

not included in the SVIGSM modeled areas, please provide the following information:

- identify and quantify the total acreage (whether irrigated or not),
- identify and quantify the 1995 irrigated acreage,
- identify and quantify the currently irrigated acreage, its water demand, and the basis for determining this water demand,
- quantify the projected future irrigated acreage through 2030, its water demand, and the basis for determining this water demand.

34. Baseline And Projected Cumulative Urban Demand Not Provided. The DEIR provides no information about current and projected cumulative urban demand.

Please provide the current baseline cumulative urban (non-agricultural) water use supplied from the SVGB. In responding, please provide the following information:

- Identify the Paraiso Springs Resort DEIR's baseline year for urban water use.
- Identify the portion of baseline urban water use attributed to domestic water supply and explain how this was determined.
- Identify the population served for this domestic baseline water supply and explain how this was determined. We would like to determine current per capita water baseline water use with reference to actual data for domestic water use in the SVGB. This determination is particularly critical since the County has claimed that baseline water use will be reduced 20% across the board as a result of SBX77, as discussed below.
- Identify the portion of baseline urban water use attributed to industrial and commercial water use and explain how this was determined. We request this information because SBX77 applies different requirements to industrial and commercial water use than to domestic water use.
- Identify the geographic scope of the baseline urban water use data, i.e., what communities and rural areas are included?
- Compare the geographic scope of the Paraiso Springs Resort cumulative analysis baseline urban water use data to the following areas:
  - the SVIGSM modeled area for the SVWP EIR
  - Zone 2C
- Identify each source of urban baseline water use information used in this response

Please provide the current projection of 2030 cumulative urban water use to be supplied by the SVGB. In responding, please provide the following information:

- Identify the 2030 population for which domestic water supply is to be provided and explain how this was determined
- Identify the 2030 per capita water usage for domestic water supply and explain how this was determined.

- Identify the 2030 industrial and commercial water use and explain how this was determined.

Please identify the geographic scope of the 2030 cumulative urban water use projection.

- Compare the geographic scope of baseline 2030 water use projection to the following areas:
  - the SVIGSM modeled area for the SVWP EIR
  - Zone 2C.
- If the DEIR cumulative urban demand projection relies on any projected decreases in water use attributed to future conservation and/or SBX77, please identify those decreases and explain how they were determined.

### **Land Use**

35. Air Quality Policies. Table 3.9.1 addressing project consistency with the 1982 General Plan and Central Salinas Valley Area Plan omits Policies 20.1.2 and 20.1.4 identified in comments under Air Quality above. The proposed project would be inconsistent with these two policies.

### **Transportation**

36. Shuttle Should Be Mandatory. The traffic analysis identifies 492 trips per day would be reduced by employees taking shuttles. A mitigation measure requiring shuttle service for employees should be included to insure enforcement of this provision. DEIR, p. 3-274.

37. Potentially Infeasible Road Widening Is Inadequate Mitigation. The traffic analysis concludes that mitigation for acknowledged safety hazards from the increased traffic on Paraiso Springs Road will be unnecessary because the project includes a Phased Roadway Improvement Plan whereby Paraiso Springs Road will eventually be widened from the project boundary to 6500 feet east of that boundary, "as feasible." DEIR, p. 3-278. As proposed, the Phased Roadway Improvement Plan might not in fact result in widening all, most, or even any of Paraiso Springs Road if that widening were subsequently found to be infeasible. Furthermore, no explanation is provided as to what contingencies might render the proposed widening infeasible.

Mitigation measures may either be "measures which are proposed by project proponents to be included in the project" or "other measures proposed by the lead, responsible or trustee agency or other persons which are not included but the lead agency determines could reasonably be expected to reduce adverse impacts if required as conditions of approving the project." CEQA Guidelines, § 15126.4(a)(1)(A). Thus, in effect, the proposed Phased Roadway Improvement

Plan, identified as a measure proposed by project proponents to avoid safety impacts, constitutes a form of mitigation. Mitigation measures must be feasible. CEQA Guidelines, § 15126.4(a)(1).

However, the “as feasible” qualification of the Phased Roadway Improvement Plan renders this mitigation uncertain and leaves open the entirely undefined possibility that the mitigation may be subsequently found infeasible and safety impacts not rendered less than significant.

In light of this, please identify each factor that may render it infeasible to widen Paraiso Springs Road to 20 feet. In particular, please demonstrate that there is sufficient right of way under control of a public agency to permit widening the roadway with adequate shoulders as required to meet the AASHTO standards set out in its *Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT ≤ 400)*. See DEIR, p. 3-277 and App. H.

Please also identify the public agency in control of the proposed roadway widening (e.g., the County, Caltrans, both) and advise whether that agency has agreed to permit the widening project.

Please identify any other impediments to the widening, and explain how and when the County will make a final determination that the proposed widening is infeasible.

If the proposed widening cannot be determined to be feasible before approval of the project, the County must either identify alternative feasible mitigation for the safety hazards due to the increased traffic on Paraiso Springs Road or find the safety impacts to be significant and unavoidable.

38. Failure To Meet Roadway Safety Design Standards. The project will eventually result in average daily traffic on Paraiso Springs Road in excess of 400 trips. DEIR, p. 3-275. Despite the acknowledged potential safety hazards from this traffic level on the narrow and currently disused Paraiso Springs Road, the DEIR does not propose to require the project proponents to meet the relevant safety standards.

Common sense, the 2010 General Plan (Policy C-2.3), and the 1982 General Plan (Policy 39.2.1) require that roadways meet relevant safety standards. The DEIR's discussion of safety (DEIR, pp. 3-277 to 278) cites AASHTO guidance for Low Volume Roads and proposes some improvements. However, the DEIR does not propose to require that the project's Phased Roadway Improvement Plan actually meet the relevant AASHTO safety standards.

In particular, as the peer review of the traffic report points out, after the project is implemented the road should be required to meet at least the design standards of a Rural Recreational and Scenic Road, not merely the less stringent design standards for a Rural Minor Access Road because it does not meet ASSHTO's functional classification for a Rural Minor Access Road. The critical difference is that more

conservative design standards are required for Rural Recreational and Scenic Roads because a higher proportion of drivers may not be familiar with the road. A Rural Recreational and Scenic Road must be at least 20 feet wide with a 6 foot clear zone width with more conservative barriers, sight distances, horizontal alignment, and vertical alignment. DEIR, App. H, Hexagon Transportation Consultants, letter to J. Onciano, May 6, 2011, p. 5.

The DEIR traffic consultant's explanation for not meeting the relevant AASHTO standards for a Rural Recreational and Scenic Road is absurd. Responding to the Hexagon peer review comment, the DEIR's traffic consultant states "[t]he comment relates to mitigations, of which the project needs none." DEIR, App. H, Hatch Mott Macdonald, letter to J. Thompson, Sept 27, 2011, p. 14. Essentially the DEIR consultant argues that the project need not meet the relevant AASHTO road design standard because no mitigation is required. But the DEIR's conclusion that no mitigation is required is based on meeting the relevant AASHTO standard. DEIR, p. 3-277.

Finally, as the peer review points out, the DEIR fails to address the fact that projected future traffic will exceed 400 trips, which is the upper limit for applying ASSHTO's design standards for very low volume roads. DEIR, App. H, Hexagon Transportation Consultants, letter to J. Onciano, May 6, 2011, p. 6. At this point, even more stringent design standards would apply. However, the DEIR's traffic consultant simply ignored this issue. DEIR, App. H, Hatch Mott Macdonald, letter to J. Thompson, Sept 27, 2011, p. 14. The proposed Phased Roadway Improvement Plan fails to require that the project meet the more stringent standards applicable when traffic exceeds 400 trips per day.

In light of this, the DEIR's analysis must be revised and additional mitigation proposed to address traffic safety.

### **Cumulative Impacts**

39. AQMP. The air quality cumulative impact analysis does not include a quantified consistency determination with the Air Quality Management Plan. The MBUAPCD should be contacted for a consistency determination to identify if the project would have a significant impact on regional air quality (ozone levels).

### **Alternatives Analysis**

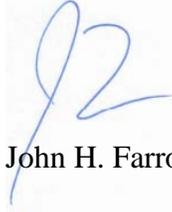
40. Failure To Address Admittedly Significant Climate Change Impact. The analysis fails to identify an alternative that would mitigate impacts on climate change. Since over 50% of GHG emissions is attributed to mobile source emissions, either an alternative that results in fewer trips should be identified or a mitigation measure requiring the purchase of CO2 offsets recommended.

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Thank you for the opportunity to review and comment on the DEIR.

Yours sincerely,

M. R. WOLFE & ASSOCIATES, P.C.



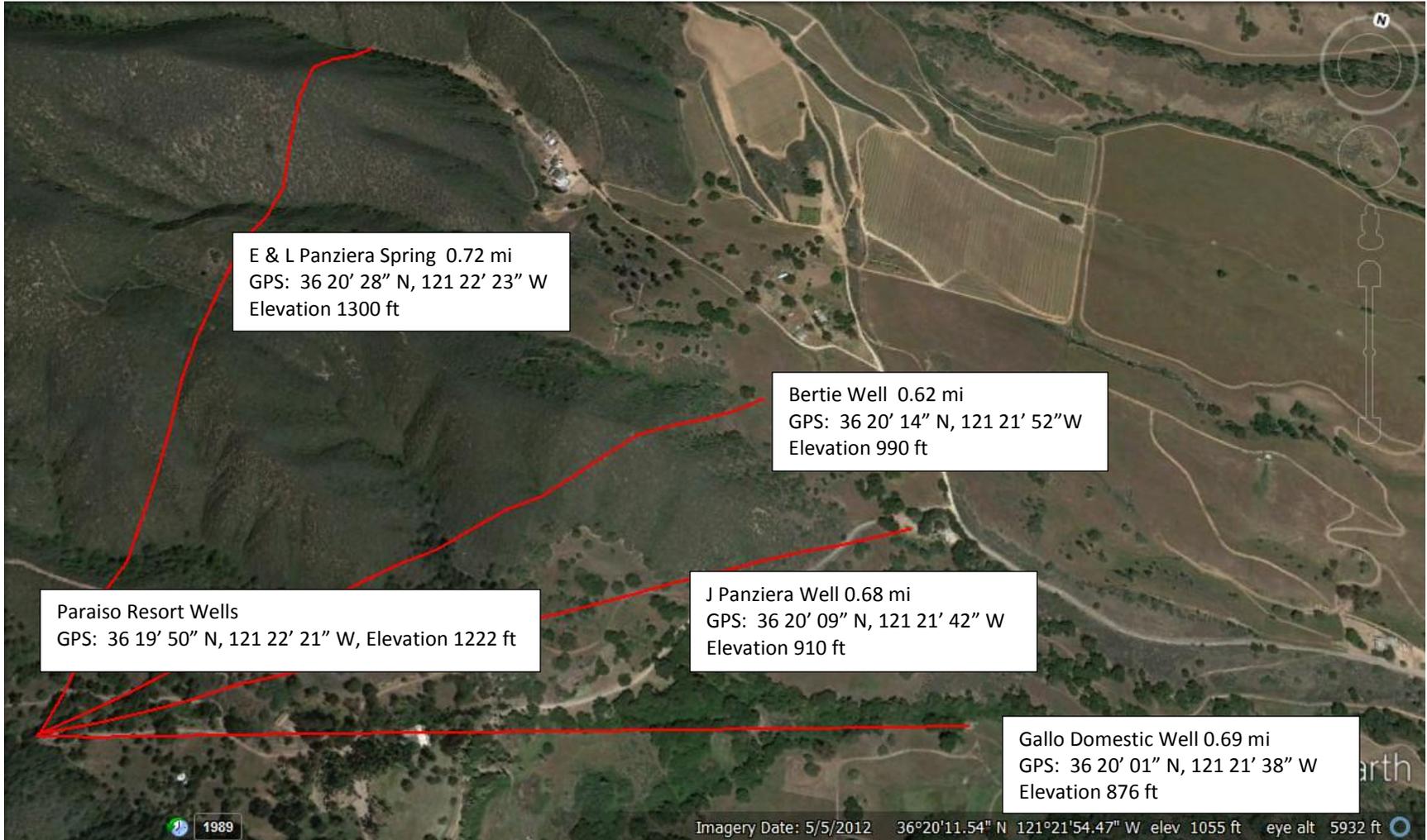
John H. Farrow

JHF:am

cc: Amy White



PARAISO AREA SPRINGS & WELLS  
FIGURE 1 OF 2  
9/25/13



Google Earth Map

PARAISO AREA SPRINGS & WELLS  
FIGURE 2 OF 2  
9/25/13



Pisoni Ag Well 0.98 mi  
GPS: 36 20' 37" N, 121 22' 44" W  
Elevation 1500 ft

Paraiso Resort Wells  
GPS 36 20' 22: N, 121 22' 21" W, Elevation 1222 ft

Pura Well-Dry 0.93 mi  
GPS: 36 20' 11" N, 121 21' 26" W  
Elevation 820 ft

Pura Spring Water 0.48 mi  
GPS: 36 20' 01" N, 121 21' 5" W  
Elevation 995 ft