

San Joaquin Hills
Transportation
Corridor Agency

Chairman:
Rush Hill
Newport Beach



Transportation Corridor Agencies™

Foothill/Eastern
Transportation
Corridor Agency

Chairwoman:
Lisa A. Bartlett
Dana Point

February 20, 2013

Mr. Darren Bradford
Environmental Scientist
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

**Subject: Response to Shute, Mihaly & Weinberger, LLP Letter
Dated February 6, 2013**

Dear Mr. Bradford:

This provides the response of the Foothill/Eastern Transportation Corridor Agency (F/ETCA) to the letter of Shute, Mihaly & Weinberger (SMW) dated February 6, 2013. SMW claims that the San Diego Regional Water Quality Control Board (Regional Board) should not approve the Waste Discharge Requirements (WDR) Order for the Tesoro Extension Project (Project) and argues that the California Environmental Quality Act (CEQA) requires the additional evaluation of potential cumulative effects of the Tesoro Project. The SMW letter ignores the relevant provisions of CEQA governing actions by responsible agencies. CEQA requires the Regional Board to assume that the Final Subsequent Environmental Impact Report (FSEIR) certified by the F/ETCA regarding the extension of State Route 241 complies with CEQA. The F/ETCA has approved an addendum to the FSEIR that documents that the Project will not have any new significant impacts beyond those evaluated in the FSEIR. As a result, CEQA prohibits the Regional Board from requiring any subsequent or supplement EIR regarding the Project.

The extension of SR 241 in the location of the Project was evaluated in the FSEIR certified by the F/ETCA on February 26, 2006. On behalf of its clients, SMW filed a lawsuit against the F/ETCA claiming that the FSEIR did not comply with CEQA. SMW's clients subsequently entered into a settlement agreement with the F/ETCA and agreed to stay the lawsuit and to dismiss it without prejudice. Under CEQA, once litigation is commenced challenging an EIR, responsible agencies, such as the Regional Board here, are required to assume that the EIR complies with CEQA.¹ Thus,

¹ Pub. Resources Code, § 21167.3.

CEQA prohibits the Regional Board from requiring the preparation of a supplemental or subsequent EIR regarding the Project.²

The SMW letter also ignores the planning history related to the Rancho Mission Viejo Ranch Plan, which included a three-year process to obtain community input on the plan, coordination with regional habitat and resource planning efforts and environmental review under CEQA. The Project will be constructed within an area approved for development by the County of Orange as part of the Rancho Mission Viejo Ranch Plan. The cumulative impacts of development of the Rancho Mission Viejo, including the construction of transportation infrastructure, were evaluated in the Final EIR certified by the County of Orange on November 8, 2004. SMW filed litigation on behalf of several clients challenging the Ranch Plan EIR. On August 16, 2005 five of SMW's clients entered into a settlement agreement with the County of Orange and the Rancho Mission Viejo Company in which SMW's clients settled the litigation and agreed to the development of 14,000 homes, 5 million square feet of commercial development and transportation and other improvements to service the approved development. SMW is well aware of the above requirements of CEQA. Having filed and settled litigation regarding the FSEIR and the Ranch Plan EIR, it cannot now claim that additional environmental analysis of the Tesoro Project is required by CEQA.

The Tesoro Extension Project alignment is substantially the same as alignments previously evaluated between Oso Parkway and Ortega Highway, as shown on Attachment A, SOCTIIP and Tesoro Comparison. Compared to the Preferred Alternative evaluated in the SOCTIIP FSEIR, the Tesoro Extension Project changes the prior folded diamond interchange at Cow Camp Road to a simpler T-intersection configuration and includes some shifts to minimize impacts to surface waters and avoid an existing reservoir used for RMV ranch operations. The Tesoro Extension Project avoids impacts to Corps of Engineers jurisdictional wetlands and limits permanent impacts to waters of the state to 0.40 acre (four tenths of an acre).

1. CEQA Requires the Commission to Conclusively Presume the Final Subsequent EIR Complies with CEQA.

Section 21167.3 of CEQA states:

If an action or proceeding alleging that an [EIR] . . . does not comply with [CEQA] is commenced . . . ***pending final determination of the issue of such compliance, responsible agencies shall assume that the EIR . . . does comply with [CEQA]*** . . .³

² Pub. Resources Code, § 21166.

³ Pub. Resources Code, § 21167.3, subd. (a) (emphasis added); Cal. Code Regs., Tit. 14, Div. 6, Ch. 3 "Guidelines," § 15233 ("If a lawsuit is filed challenging an EIR . . . for noncompliance with CEQA, Responsible Agencies shall act as if the EIR . . . complies with CEQA and continue

On March 23, 2006, the clients identified in the SMW letter filed a petition for writ of mandate (“Petition”) in the Superior Court of San Diego County challenging the certification of the FSEIR and other actions by the F/ETCA with regard to the extension of SR 241. Among other allegations, the Petition alleged that the FSEIR did not comply with CEQA.⁴ The petitioners in the lawsuit subsequently elected to enter into a settlement with the F/ETCA. Pursuant to the settlement, the parties agreed to stay the lawsuit pursuant to the Superior Court Rules and to dismiss the lawsuit without prejudice.

On January 12, 2011 the Superior Court of San Diego County entered the “Stipulated Order Approving Interim Settlement with Tolling Agreement (“Interim Settlement”) and Dismissal Without Prejudice, and Retaining the Court’s Jurisdiction to Set Aside Dismissal and Enforce Interim Settlement.”⁵ As provided in the Interim Settlement, the Court’s Order effectuated a stay of the lawsuit. The Order provided that the “stay shall terminate and no longer be in effect upon the written request filed in Court by any Petitioner in either of the consolidated proceedings to set aside the dismissal and reinstate the proceedings. . . .”⁶

As the Court of Appeal held in *City of Redding v. Shasta County Local Agency Formation Commission*, the Legislature enacted section 21167.3 in order to avoid the kind of collateral attack on the validity of the FSEIR advanced in the SMW letter:

The evident intent of section 21167.3 is to expedite CEQA review where a lawsuit contesting CEQA documentation is pending by designating **one forum** for resolution of claims of unlawful documentation [*i.e.*, a negative declaration or EIR] and by requiring project review to proceed while the claims are resolved. **That forum is the court.**⁷

The Court in *City of Redding* recognized the intent of the Legislature to preclude a collateral attack on the validity of CEQA documentation (whether it is a negative declaration or an EIR) in two forums. SMW obviously understands that

to process the application for the project according to the time limits for Responsible Agency action [in the Permit Streamlining Act]).

⁴ California State Parks Foundation et al. v. Foothill/Eastern Transportation Corridor Agency, Petition for Writ of Mandate, ¶ 48 (San Diego Superior Court No. GIN051194 and GIN0513721.)

⁵ See Attachment B.

⁶ Stipulated Order, Attachment B at ¶ 2.

⁷ *City of Redding v. Shasta County Local Agency Formation Commission* (1989) 209 Cal.App.3d 1169, 1181 (first emphasis in the original, second emphasis added).

section 21167.3 imposes a mandatory obligation on responsible agencies to assume that a challenged EIR complies with CEQA. Having filed the lawsuit challenging the FSEIR, and having agreed to stay the litigation, all persons are now foreclosed from attacking the adequacy of the FSEIR before the Regional Board.

Just as section 21167.3 barred Redding from adjudicating the validity of the lead agency's negative declaration and from assuming the role of lead agency to prepare a subsequent or supplemental EIR, it also bars the Regional Board from re-litigating the validity of the Final EIR or assuming the lead agency role.

Thus, in light of the Legislature's clear mandate in CEQA section 21167.3 and controlling case law, the Regional Board must assume the FSEIR complies with CEQA with regard to the Regional Board's approval of the WDR for the Project.

2. As a Responsible Agency, The Regional Board's Role Under CEQA is Limited.

The F/ETCA is the CEQA lead agency regarding the Project.⁸ As such, it is "responsible for considering the effects, both individual and collective, of all activities involved in a project."⁹ The Regional Board is a responsible agency under CEQA because it has discretionary approval authority over the Waste Discharge Requirement Order.¹⁰

As a responsible agency under CEQA, the Regional Board's role is limited. It is "responsible for considering only the effects of those activities involved in a project which it is required by law to carry out or approve."¹¹ Accordingly, responsible agencies "should review and comment on Draft EIRs and Negative Declarations for projects which the Responsible Agency would later be asked to approve[,] and such "comments shall be limited to those project activities which are within the agency's area of expertise or which are required to be . . . approved by the agency" ¹²

CEQA and the CEQA Guidelines require the Regional Board to rely on the CEQA documentation approved by the F/ETCA. The determination of the lead agency of whether to prepare an EIR

⁸ Pub. Resources Code, § 21067; Guidelines, § 15367.

⁹ Pub. Resources Code, § 21002.1, subd. (d).

¹⁰ Pub. Resources Code, § 21069; Guidelines, § 15381.

¹¹ Pub. Resources Code, § 21002.1, subd. (d).

¹² Guidelines, § 15096, subd. (d); *id.*, § 15086, subd. (c) (same).

shall be final and conclusive for all persons, including Responsible Agencies, unless:

- (1) The decision is successfully challenged as provided in Section 21167 of the Public Resources Code,
- (2) Circumstances or conditions changed as provided in Section 15162, or
- (3) A Responsible Agency becomes a Lead Agency under Section 15052.¹³

None of those conditions is applicable here: the determination not to prepare a subsequent or supplemental EIR has not been successfully challenged in court, no circumstances or conditions have changed that require a subsequent or supplemental EIR (as addressed in the Addendum), and the Regional Board is not eligible to act as the lead agency for CEQA purposes.¹⁴

The SMW letter ignores the relevant provisions of CEQA governing actions by responsible agencies and also ignores the thirty-year planning history of the State Route (SR) 241 and the three-year planning process of the Rancho Mission Viejo Ranch Plan. The construction of an extension of SR 241 in the location of the Project was evaluated in the Final Subsequent Environmental Impact Report certified by the F/ETCA on February 26, 2006. The development of the Ranch Plan, including the construction of transportation infrastructure, was evaluated in the Final EIR certified by the County of Orange on November 8, 2004.¹⁵

3. The FSEIR Evaluated the Cumulative Effects of the Extension of SR 241.

The SMW letter claims that the Regional Board's action on the WDR should be postponed to allow for an evaluation of cumulative effects of potential future extensions of SR 241 south of the terminus of the Project. The FSEIR includes a comprehensive evaluation of six alternative alignments (with both initial and ultimate widths) regarding possible future extensions of SR 241.¹⁶ An additional 11 alternatives (with both initial and ultimate width) were evaluated in the technical studies.¹⁷ The FSEIR also includes

¹³ Guidelines, § 15050, subd. (c).

¹⁴ Guidelines, § 15052, subd. (a).

¹⁵ The Ranch Plan Final Program EIR No. 589. County of Orange, 2004.

¹⁶ See FSEIR Section 2.5, and subsections 2.5.2-2.5.4.

¹⁷ See SOCTIIP Project Alternatives Technical Report in SEIR for details.

a comprehensive evaluation of the potential cumulative effects of other projects in south Orange County, including the Rancho Mission Viejo Ranch Plan.¹⁸

The Ranch Plan Final EIR also included an analysis of the cumulative effects of the RMV Ranch Plan and SR 241.¹⁹ Five of the groups represented by SMW entered into a settlement agreement with the County of Orange and the Rancho Mission Viejo Company regarding the development of 14,000 residential units, 5 million square feet of commercial and office space, as well as supporting infrastructure in the same area as the proposed Tesoro Project.²⁰ The first planning area of the approved Ranch Plan is under construction and more detailed plans for Planning Area 2 (PA 2) are under review by the County of Orange, with development in PA 2 scheduled to start in 2013. The Project is included in PA 2.²¹ Cow Camp Road between Antonio Parkway to west of Chiquita Creek has been constructed. Construction on the next phase of the road, from Chiquita Creek to the eastern boundary of PA 2 is scheduled to begin in June/July 2013.²² The PA 2 Area Plan is being reviewed by the County of Orange, with approval expected in March, 2013, to be followed by land sales and construction.

4. CEQA Prohibits the Board From Requiring the Preparation of a Supplemental or Subsequent EIR.

Once an EIR is certified, CEQA *prohibits* any agency from requiring the preparation of a supplemental or subsequent EIR *unless* the agency finds that the project will have new significant impacts that were not known and could not have been known at the time the EIR was certified.²³ As the courts have explained, although CEQA requires agencies to resolve doubts in favor of preparing an *initial* EIR, such a

¹⁸ See cumulative impacts section of FSEIR, Section 5 and subsection 5.1.3.3 and the cumulative impacts analysis in subsection 5.3.

¹⁹ See Ranch Plan EIR Section 7.3.2.

²⁰ Settlement Agreement dated August 16, 2005. Notice of Settlement and Declaration of Restrictions, Recorded August 17, 2005 (Attachment C).

²¹ Refer to the attached article from the Orange County Register, "Birth of a City," regarding the current status of development of the RMV Ranch Plan (Attachment D).

²² *Board of Directors Agenda, Interstate 5 South County Projects Update Handout*, Orange County Transportation Authority, January 14, 2013.

²³ Pub. Resources Code, § 21166; Guidelines, § 15096, subd. (e)(3); *id.*, § 15162. *Bowman v. City of Petaluma* (1986) 185 Cal.App.3d 1065, 1081 (holding that CEQA and the Guidelines prohibit agencies from preparing subsequent or supplemental EIRs "*unless* 'subsequent changes' necessitating 'major revisions' are shown" (emphasis in original)).

low threshold requirement is not applicable to the decision of whether to prepare a *subsequent or supplemental* EIR.²⁴

[S]ection 21166 comes into play precisely because in-depth review has already occurred, the time for challenging the sufficiency of the original EIR has long since expired . . . , and the question is whether circumstances have *changed* enough to justify *repeating* a substantial portion of the process.²⁵

Therefore, if an agency determines that impacts resulting from changes to the project do not differ significantly from those described in the project EIR, a further EIR is not required.²⁶

In *Santa Teresa Citizen Action Group v. City of San Jose* (2003) 114 Cal.App.4th 689, the court held that substantial evidence supported the agency's determination not to prepare a supplemental or subsequent EIR for a modified route for a pipeline to supply recycled non-potable water to an energy generation facility. The agency had concluded that the modified alignment, as compared to the previously approved alignment, would not cause any significant impacts not disclosed in prior studies or any impacts more severe than previously anticipated.²⁷ The agency prepared an initial study and negative declaration for the impacts of a second phase studied programmatically in the EIR, concluding that there would be no significant impacts in light of an applicable mitigation and monitoring plan adopted for the original program. A new initial study evaluated the alternative alignment, concluding that the impacts of an alternative route parallel to the originally approved route had already been evaluated in the prior EIR for the original program and in the initial study for the original pipeline alignment. The agency adopted the initial study by way of an addendum to the final EIR for the original program, concluding that a subsequent EIR was not required due to a lack of any new significant effects or substantial increase in the severity of effects previously identified.²⁸

In reviewing petitioner's claim that a subsequent or supplemental EIR was required for the project change, the court pointed out that the new pipeline alignment was within the scope of the study in the original EIR and initial study for the second

²⁴ *Id.* at pp. 1073-1074.

²⁵ *Id.*

²⁶ *Id.* at pp. 1078-82.

²⁷ *Id.* at pp. 702-706.

²⁸ *Id.* at pp. 698-699.

phase.²⁹ The court noted that the impacts of the project had been previously studied in the original EIR, that the differences in the potential environmental impacts from the modified project had been acknowledged and the impacts of the new alignment were not substantially different or more severe than the impacts previously studied.³⁰

The F/ETCA has approved an addendum to the FSEIR to evaluate whether the Project may have any environmental impacts that were not evaluated in the FSEIR. The Addendum demonstrates that not only will the Project **not** have any new significant impacts, it will reduce the impacts of the SR 241 extension evaluated in the FSEIR between Oso Parkway and Cow Camp Road.

The Tesoro Extension Project alignment is substantially the same as alignments previously evaluated between Oso Parkway and Ortega Highway, as shown on Attachment A, SOCTIIP and Tesoro Comparison. Compared to the Preferred Alternative evaluated in the SOCTIIP FSEIR, the Tesoro Extension Project changes the prior folded diamond interchange at Cow Camp Road to a simpler T-intersection configuration and includes some shifts to minimize impacts to surface waters and avoid an existing reservoir used for RMV ranch operations. The Tesoro Extension Project avoids impacts to Corps of Engineers jurisdictional wetlands and limits permanent impacts to waters of the state to 0.40 acre (four tenths of an acre).

The Addendum determined that the minor changes to the Project would not result in significant individual or cumulative effects not discussed in the SOCTIIP Final SEIR. In addition, Project impacts would not be more severe, new, or different and no previously rejected mitigation measures were found to be feasible in comparison to the analysis of the Preferred Alternative / A7C-FEC-M between Oso Parkway and Cow Camp Road with the Final SEIR.³¹ Thus, the Regional Board is prohibited from requiring the preparation of a Supplemental or Subsequent EIR regarding the Project.

The use of an Addendum here is consistent with established case law, as summarized by the court in *Mani Brothers Real Estate Group v. City of Los Angeles* (2007) 153 Cal. App 4th 1385.

Therefore, *section 21166* "provides a balance against the burdens created by the environmental review process and accords a reasonable measure of finality and certainty to the results [*1399] achieved. [Citation.] At this point, the interests of finality are favored over the policy of favoring public comment" (*Friends of Davis v. City of Davis, supra*, 83 Cal.App.4th at p. 1018.)

²⁹ *Santa Teresa Citizen Action Group*, 114 Cal.App.4th at pp. 703-704.

³⁰ *Id.* at p. 706.

³¹ See Addendum Section 3.0 and specific findings at pages 1-8 – 1-9 and 3-23.

Applying the above principles, courts have upheld the use of addenda and not required preparation of an SEIR in numerous contexts that are instructive here. Thus, for example, addenda were properly used in cases where many years had elapsed between the original EIR and later project revisions (see *Santa Teresa Citizen Action Group v. City of San Jose* (2003) 114 Cal.App.4th 689 [7 Cal. Rptr. 3d 868] [eight years between certified FEIR and addendum]), and where the project's appearance had changed fairly dramatically (see *Fund for Environmental Defense v. County of Orange* (1988) 204 Cal. App. 3d 1538 [252 Cal. Rptr. 79] [designs changed, square footage increased by 30 percent, number of buildings increased, and project site newly surrounded by wilderness park]; *River Valley Preservation Project v. Metropolitan Transit Development Bd.* (1995) 37 Cal.App.4th 154 [43 Cal. Rptr. 2d 501] [light rail project changed by raising the elevation of a segment of a berm by a factor of two to three times the original height and replacing a golf course with a wetland]).³²

5. The Analysis of the Possible Future Extension of SR 241 is Not Piecemealed.

The SMW letter alleges that the entire 16 miles of a toll road to I-5 should be analyzed by the Regional Board. First, the FSEIR *did* analyze the impact of the potential extension of SR-241 to Interstate-5, and evaluated multiple alignment alternatives that did not extend to I-5.³³

Second, as discussed above, CEQA prohibits the Regional Board from requiring the preparation of a subsequent or supplemental EIR because there is no evidence that the Tesoro Project will result in a new significant impact. Third, the F/ETCA is only seeking the Regional Board's approval of a WDR for the Tesoro Project. The F/ETCA is not seeking the Regional Board's approval for any further extension of SR-241.

The impacts of an extension (indeed, of several alternative alignments of such an extension) of SR 241 to the I-5 were fully analyzed in the Final SEIR and a draft EIR/EIS (the SOCTIIP Final SEIR).³⁴ Those impacts have been fully addressed, and there has been ample public review of the potential impacts of an SR 241 connection to

³² *Id.* at p. 1398.

³³ See FSEIR section 2.6 (Alternatives Eliminated from Further Study), subsection 2.6.9.3. and the Project Alternatives Technical Report.

³⁴ See Attachment E, Future Alignment Alternatives Figure, which shows alignments of an extension that could be built from Cow Camp Road south.

I-5, through CEQA and the California Coastal Commission process on the consistency certification.³⁵ As summarized in Section 7 of this letter, through the SOCTIIP SEIR process alone, public review and involvement has included three scoping meetings, a 92-day review period of the Draft SEIR, publication of a Final SEIR, and public comment up to the time the TCA Board certified the FSEIR.

The F/ETCA has no present plan for an extension of the SR 241 beyond Cow Camp Road, but such an extension is consistent with all local and regional transportation plans and has been analyzed and evaluated in several environmental documents.

SMW relies on *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal. 3d 376, 396 (*Laurel Heights I*) to argue that the Regional Board is required to consider the impacts of a potential future extension of SR 241 to Interstate 5. In *Laurel Heights I*, the University of California proposed to move its School of Pharmacy research unit to a commercial building in San Francisco. While the University acknowledged that the School of Pharmacy would eventually use the entire building, the EIR only evaluated the use of a portion of the building. The Supreme Court concluded that the University's use of the entire building was reasonably foreseeable and therefore, the EIR was required to evaluate the use of the entire building.

In sharp contrast to the facts of *Laurel Heights I*, the SOCTIIP EIR *did* evaluate the environmental impacts of the extension of SR 241 to Interstate-5 in San Diego and also evaluated multiple alternatives to the extension of SR 241. Thus, unlike the EIR in *Laurel Heights*, the SOCTIIP EIR included a detailed evaluation of the potential impacts of extending SR 241 south of Cow Camp Road.

6. The Approval of a WDR for the Tesoro Project Does Not Foreclose Consideration of Alternatives Regarding Future Extensions of SR-241.

The Tesoro Project has been designed to preserve multiple alternatives for possible future extensions of SR 241 as shown in Attachment E. The SOCTIIP Final SEIR included 6 build-alternatives, which extended the SR 241 to points further south including three that would join I-5, two no-build alternatives, one arterial widening build-alternative and one build-alternative that included the widening of I-5. The SEIR resulted in a refined alignment called the A7C-FEC-M and the Final SEIR included that alignment (with modifications) as the Preferred Alternative.

The Project has independent utility and will operate and provide traffic relief regardless of whether there are any future extensions of SR 241.³⁶ Any future

³⁵ See SEIR Addendum page 1-4 summarizing public review and involvement.

³⁶ See the *Tesoro Extension Traffic Analysis*, Stantec Inc., 2012.

expansion will not change the scope or nature of the Project. The Project design, width, footprint and operational characteristics will remain the same whether or not there is any future extension beyond Cow Camp Road. Likewise, the nature of the environmental effects of the Project will remain the same, with or without a future extension.

The F/ETCA proposes the Tesoro Extension Project to provide important transportation benefits to a rapidly growing area in south Orange County and connect with Cow Camp Road, the new major east-west arterial bypass to Ortega Highway.

7. There Has Been Extensive Opportunity for Public Review and Comment. The Regional Board Should Not Postpone Consideration of the WDR.

The construction of a highway on the alignment of the Tesoro Project has been the subject of many years of public review and comments. A summary of this public involvement for the SOCTIIP EIR is provided below.

- Three public scoping meetings in March 2001
- Notice of Preparation of SEIR, June 2001
- Public Review period, 2004. Originally May 7 – August 6, extended to a total of 92 days
- Final SEIR distribution in December 2005
- Public comments between December 2005 and February 23, 2006. Verbal comments received at TCA Board meeting January 11, 2006 and public correspondence commenting on project and SEIR received up to certification on February 23, 2006

Similarly, the Ranch Plan underwent public review through a Notice of Preparation, public review of the Draft EIR, and public comment at a hearing on the EIR in 2004.

As requested by SMW, the Regional Board has made all of the documents, including the Addendum, regarding the WDR available for public review. The public review has been underway by the Board since the application was filed on August 10, 2012. There is no minimum time frame for availability of the documents. All the relevant requirements have been met through the Notice of Availability of the Tentative Order and the Board website section which posts the documents related to the Tentative Order. A Final HMMP has also been posted on the Board's website.

As explained in this letter, an SR 241 toll road extension has been evaluated under CEQA in the SOCTIIP FSEIR and in the Ranch Plan EIR. No additional environmental review is required, and, contrary to SMW's comments, the description and impact analysis meet all requirements for Regional Board action on the WDR.

Should you require any additional information on this Project, please feel free to contact me directly at (949) 754-3475.

Sincerely,

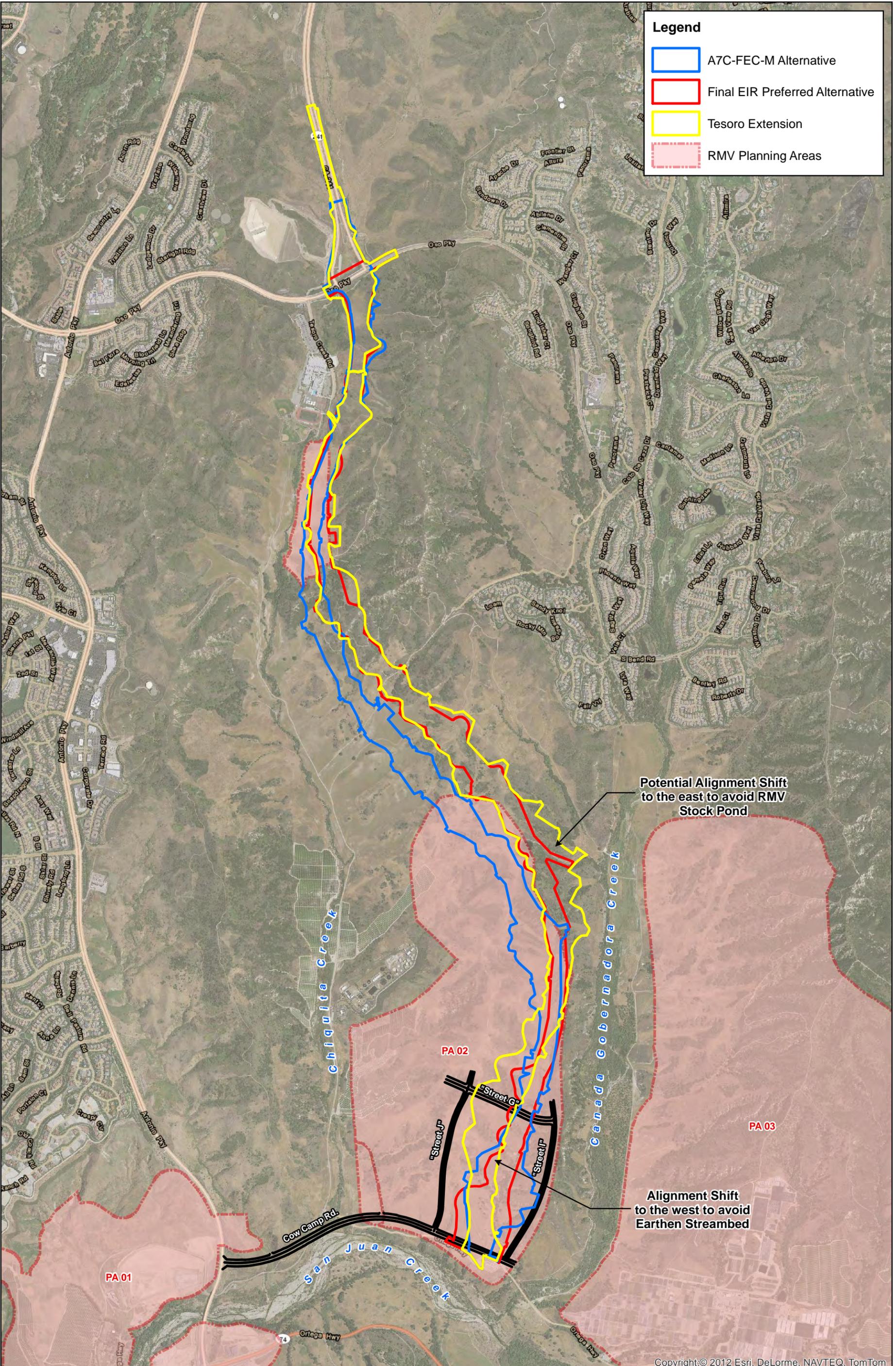
A handwritten signature in cursive script that reads "Valarie McFall".

Valarie McFall, Director
Environmental Services

Attachments

cc: Mr. David Gibson, SDRWQCB
Ms. Ms. Kelly Dorsey, SDRWQCB
Ms. Catherine Hagan, Staff Counsel, SDRWQCB
Mr. Robert Thornton, Nossaman

Attachment A



Legend

- A7C-FEC-M Alternative
- Final EIR Preferred Alternative
- Tesoro Extension
- RMV Planning Areas

Potential Alignment Shift
to the east to avoid RMV
Stock Pond

Alignment Shift
to the west to avoid
Earthen Streambed

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TESORO EXTENSION PROJECT
SOCTIIP and Tesoro Comparison

Source: TCA, Eagle Aerial Imaging -- 2011

Attachment B

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5

F I L E D
Clerk of the Superior Court

JAN 12 2011

BY: A. LIM

6 Attorneys for Defendants,
Foothill/Eastern Transportation Corridor Agency;
The Board of Directors of the Foothill/Eastern Transportation Corridor
7 Agency

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SAN DIEGO - NORTH COUNTY DIVISION

11 CALIFORNIA STATE PARKS FOUNDATION,)
12 et al.,)

Case No: GIN051194 and GIN051371
(Consolidated)

13 Petitioners,

ASSIGNED FOR ALL PURPOSES TO:
THOMAS P. NUGENT, DEPT. 30

14 vs.

15 Foothill/Eastern Transportation)
CORRIDOR AGENCY, a Joint Powers Agency;)
16 BOARD OF DIRECTORS OF THE)
FOOTHILL/EASTERN TRANSPORTATION)
17 CORRIDOR AGENCY; and DOES 1 through 40,)
inclusive,)

~~PROPOSED~~ STIPULATED ORDER
APPROVING INTERIM SETTLEMENT
WITH TOLLING AGREEMENT AND
DISMISSAL WITHOUT PREJUDICE, AND
RETAINING THE COURT'S JURISDICTION
TO SET ASIDE DISMISSAL AND ENFORCE
INTERIM SETTLEMENT

18 Respondents.

Date: January 14, 2011
Time: 10:00 a.m. [status conference]
Dept: 30 [Hon. Thomas P. Nugent]

Date Action Filed: March 23, 2006
Trial Date: Not Set

22 THE PEOPLE OF THE STATE OF)
23 CALIFORNIA, et al.,)

24 Petitioners,

25 vs.

26 Foothill/Eastern Transportation)
CORRIDOR AGENCY, a joint powers authority,)
27 et al.,)

28 Respondents.

[PROPOSED] STIPULATED ORDER APPROVING INTERIM SETTLEMENT, ETC.

1 expressly reserving the Court's jurisdiction to set aside the dismissal and reinstate the proceeding nunc
2 pro tunc when the stay is no longer in effect;

3 H. WHEREAS Code of Civil Procedure section 664.6 independently authorizes, and the
4 parties hereby request, this Court to approve the Parties' Interim Settlement, and to retain jurisdiction to
5 enforce its terms and conditions in order to ensure full performance;

6 I. WHEREAS the Interim Settlement provides for, and is contingent upon, among other
7 things, (a) the Court's approval of the Interim Settlement as set forth herein and its retention of
8 jurisdiction to enforce the Interim Settlement pursuant to Code of Civil Procedure section 664.6, (b) the
9 Court's dismissal of these proceedings without prejudice and reservation of jurisdiction to set aside the
10 dismissal pursuant to Local Rule 2.1.13, and (c) the entry of the stipulated order below;

11 J. WHEREAS, each person signing below represents and warrants that by executing this
12 stipulation, the person is authorized to bind the Party on whose behalf the person is signing; the Party
13 has relied on legal advice from the Party's attorney in entering into this stipulation; the terms and
14 conditions have been completely read and explained to the Party; and the Party fully understands the
15 terms and conditions;

16 K. WHEREAS the Interim Settlement, as memorialized in this stipulation, is in lieu of, and
17 extinguishes and supersedes, any other communication by or between the Parties relating thereto; each
18 of the Parties acknowledge that no other Party, or agent or attorney for any other Party, has made any
19 promise, representation, or warranty whatsoever, express or implied, not contained herein, to induce the
20 other Party to execute this stipulation, and each Party acknowledges that it has not executed this
21 stipulation in reliance upon any promise, representation or warranty not expressly contained herein; this
22 stipulation comprises the entire understanding of the Parties with respect thereto; and this stipulation
23 may only be modified or amended by a mutual agreement of the Parties in writing and signed by the
24 Parties;

25 NOW, THEREFORE, IT IS HEREBY STIPULATED by and between all Parties in these
26 consolidated proceedings, through their respective counsel of record, that the Court should approve the
27 Interim Settlement as memorialized in this stipulation, and enter an order incorporating the following
28 terms and conditions of the Interim Settlement:

1 1. Pursuant to Code of Civil Procedure section 664.6, the Court approves the Interim
2 Settlement of all Parties as memorialized in this stipulated order, including the following settlement
3 terms expressly incorporated into this stipulated order.

4 2. To effectuate a stay of these consolidated proceedings (case numbers GIN 051194 and
5 GIN 051371), the proceedings are hereby dismissed without prejudice pursuant to Local Rule 2.1.13,
6 and the Court expressly reserves its jurisdiction to set aside the dismissal and reinstate these proceedings
7 nunc pro tunc when the stay is no longer in effect. The stay shall terminate and no longer be in effect
8 upon the written request filed in Court by any Petitioner in either of the consolidated proceedings to set
9 aside the dismissal and reinstate the proceedings, following notice to all Parties hereto through their
10 counsel of record. Upon such request, the dismissal shall be set aside, and the proceedings shall be
11 reinstated without the necessity to refile the pleadings or other papers filed in the proceedings prior to
12 the dismissal, all of which shall be deemed filed as of their original filing dates. Until such request is
13 made by Petitioners, the stay shall remain in effect, except as expressly provided herein. The request by
14 any Petitioner to set aside the dismissal and reinstate the proceedings shall not be filed in Court prior to
15 30 calendar days following personal service of written notice from such Petitioner(s) to undersigned
16 counsel of record for each of the Respondents herein of the intention of Petitioner(s) to file such a
17 request ("Request Notice"), but if Respondents have already served Petitioners with a Construction
18 Notice (defined in paragraph 4 herein), Petitioners shall not be required to serve a Request Notice.
19 Unless Petitioners and Respondents otherwise agree in writing, Petitioners and Respondents shall meet
20 and confer within 15 days of personal service of the Request Notice to discuss the proposed request and
21 whether and under what conditions the Parties could avoid the need to reinstate these proceedings while
22 avoiding prejudice to Petitioners' right to challenge the Project and the EIR for the Project.

23 3. Any period applicable to Petitioners within which Petitioners may be required to
24 prosecute or complete legal proceedings for their claims in these consolidated actions shall be deemed
25 tolled in favor of Petitioners during all periods in which a stay of proceedings was or has been in effect,
26 including but not limited to the period between dismissal and reinstatement of the proceedings.

27 4. Respondents shall, prior to start of construction of the Project in reliance on the approvals
28 challenged in these proceedings (i.e., certification of the Final Subsequent EIR ("EIR") for the Project

1 and approval of the Project), give written notice of 60 calendar days by personal service to undersigned
2 counsel of record for each of the Petitioners herein of Respondents' start of construction of the Project
3 ("Construction Notice"). Respondents may give the Construction Notice at any time in their discretion
4 that is in excess of 60 days prior to the start of construction of the Project, including any time when
5 Respondents may not yet have any scheduled date for the start of construction. For the purposes of this
6 paragraph, the term "construction" does not include design activities or the evaluation of any of the
7 following: the impacts of the Project, mitigation measures or alternatives to the Project. For the
8 purposes of this paragraph, the term "Project" includes the Project as previously approved by TCA and
9 any variation thereof or alternative thereto, and the term "construction" means (1) the issuance of a
10 "notice to proceed" with construction, or equivalent direction, by Respondents to any construction
11 contractor for the Project or to any public entity undertaking such activities, including but not limited to
12 TCA, or (2) grading of the Project alignment, including any vegetation clearance in preparation for
13 grading of the Project. Unless Petitioners and Respondents otherwise agree in writing, Petitioners and
14 Respondents shall meet and confer within 15 days of personal service of the Construction Notice to
15 discuss the proposed action and whether and under what conditions the action could be undertaken
16 without the need to reinstate these proceedings while avoiding prejudice to Petitioners' right to
17 challenge the Project and the EIR for the Project, but this meet and confer requirement shall only apply
18 to the extent that it would not duplicate any meet and confer conference that was previously held
19 pursuant to paragraph 2, in order to avoid duplication of requirements. If, following the required meet
20 and confer conference, the Petitioners and Respondents have not otherwise stipulated in writing,
21 Petitioners shall reinstate these proceedings within 90 days of personal service of the Construction
22 Notice, or else Petitioners shall be deemed to have forfeited their right under Paragraph 2 of this
23 stipulated order to reinstate the proceedings. In addition to the Construction Notice, Respondents shall
24 provide by mail service to Petitioners' counsel (a) a copy of any notice of preparation of a supplemental
25 environmental impact report or subsequent environmental impact report regarding the Project, and (b) a
26 copy of any addendum to the EIR.

27 5. Respondents and Proposed Intervenors waive, and shall not assert, any defense to
28 Petitioners' claims based on (1) the non-prosecution of these proceedings during the period between

1 dismissal and reinstatement of the proceedings or any other period in which a stay was in effect, (2) a
2 challenge to the Court's authority to set aside the dismissal and reinstate the proceedings in accordance
3 with this stipulated order, or (3) any other claim, argument, defense, or challenge that would undermine
4 the intent of the Parties to permit Petitioners, in accordance with the terms and conditions of this
5 stipulated order, to reinstate these proceedings without prejudice as if the dismissal had not occurred.
6 This waiver includes, but is not limited to, any defenses against Petitioners of statutes of limitations,
7 laches, or the five-year dismissal statute (Code Civ. Proc., § 583.10).

8 6. Except as expressly provided, nothing in this Interim Settlement or order shall prevent
9 any of the Petitioners from reinstating these proceedings or otherwise pursuing their claims herein, at
10 any time for any reason, including but not limited to, any action by the TCA to implement any aspect of
11 the Project. Respondents and Proposed Intervenors further agree that Petitioners' right to reinstate these
12 proceedings shall not be limited by Petitioners' failure to bring an administrative or judicial challenge to
13 a future action taken by Respondents in reliance on the EIR or in furtherance of the Project, including
14 but not limited to the approval by TCA of a subsequent or supplemental EIR for the Project, an
15 addendum to the EIR, or any amendment or modification of the Project, and Respondents and Proposed
16 Intervenors hereby waive any defense to the claims in any reinstated proceedings based on Petitioners'
17 failure to challenge such future actions.

18 7. Attorneys Fees.

19 a. Because the dismissal of these proceedings is for the purpose of continuing the
20 stay of litigation, this stipulated order does not reflect in any way on the merits of Petitioners' claims or
21 Respondents' defenses. Except as expressly provided in section 7(b) below, this stipulated order does
22 not support or prejudice any Party's claim for attorneys fees or costs, whether incurred before or after
23 the entry of this stipulated order ("Entry Date"), and nothing in this stipulated order shall be construed as
24 an admission or denial by any Party as to the validity of any claims for such attorneys fees or costs, or as
25 prejudicing any Party's ability to assert any and all of its rights and positions in support of, or in
26 opposition to, any future claim for such attorneys fees or costs.

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Dated: December __, 2010

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR
AGENCY;
THE BOARD OF DIRECTORS OF THE
FOOTHILL/EASTERN TRANSPORTATION CORRIDOR
AGENCY

By: *Tom Margro*
Tom Margro

Chief Executive Officer,
Foothill/Eastern Transportation Corridor Agency;
authorized representative on behalf of
The Board of Directors of the Foothill/Eastern
Transportation Corridor Agency

Dated: December __, 2010

SHUTE, MIHALY & WEINBERGER, LLP
WILLIAM J. WHITE

By: _____
William J. White

Attorneys for Petitioners,
California State Parks Foundation;
Endangered Habitats League;
Laguna Greenbelt, Inc.;
Natural Resources Defense Council, Inc.;
Sea and Sage Audubon Society;
Sierra Club; and
Surfrider Foundation

Dated: December __, 2010

CALIFORNIA STATE PARKS FOUNDATION

By: _____
Elizabeth Goldstein
President

Dated: December __, 2010

ENDANGERED HABITATS LEAGUE

By: _____
Dan Silver
Executive Director

[signatures continued on the following page]

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Dated: December __, 2010

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR
AGENCY;
THE BOARD OF DIRECTORS OF THE
FOOTHILL/EASTERN TRANSPORTATION CORRIDOR
AGENCY

By: _____
Tom Margro
Chief Executive Officer,
Foothill/Eastern Transportation Corridor Agency;
authorized representative on behalf of
The Board of Directors of the Foothill/Eastern
Transportation Corridor Agency

Dated: December ~~24~~ 2010

SHUTE, MIHALY & WEINBERGER, LLP
WILLIAM J. WHITE

By: 
William J. White
Attorneys for Petitioners,
California State Parks Foundation;
Endangered Habitats League;
Laguna Greenbelt, Inc.;
Natural Resources Defense Council, Inc.;
Sea and Sage Audubon Society;
Sierra Club; and
Surfrider Foundation

Dated: December __, 2010

CALIFORNIA STATE PARKS FOUNDATION

By: _____
Elizabeth Goldstein
President

Dated: December __, 2010

ENDANGERED HABITATS LEAGUE

By: _____
Dan Silver
Executive Director

[signatures continued on the following page]

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Dated: December __, 2010

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR
AGENCY;
THE BOARD OF DIRECTORS OF THE
FOOTHILL/EASTERN TRANSPORTATION CORRIDOR
AGENCY

By: _____

Tom Margro
Chief Executive Officer,
Foothill/Eastern Transportation Corridor Agency;
authorized representative on behalf of
The Board of Directors of the Foothill/Eastern
Transportation Corridor Agency

Dated: December __, 2010

SHUTE, MIHALY & WEINBERGER, LLP
WILLIAM J. WHITE

By: _____

William J. White
Attorneys for Petitioners,
California State Parks Foundation;
Endangered Habitats League;
Laguna Greenbelt, Inc.;
Natural Resources Defense Council, Inc.;
Sea and Sage Audubon Society;
Sierra Club; and
Surfrider Foundation

Dated: December ~~21~~ 2010

CALIFORNIA STATE PARKS FOUNDATION

By:  _____

Elizabeth Goldstein
President

Dated: December __, 2010

ENDANGERED HABITATS LEAGUE

By: _____

Dan Silver
Executive Director

[signatures continued on the following page]

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Dated: December __, 2010

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR
AGENCY;
THE BOARD OF DIRECTORS OF THE
FOOTHILL/EASTERN TRANSPORTATION CORRIDOR
AGENCY

By: _____

Tom Margio
Chief Executive Officer,
Foothill/Eastern Transportation Corridor Agency,
authorized representative on behalf of
The Board of Directors of the Foothill/Eastern
Transportation Corridor Agency

Dated: December __, 2010

SHUTE, MIHALY & WEINBERGER, LLP
WILLIAM J. WHITE

By: _____

William J. White
Attorneys for Petitioners,
California State Parks Foundation,
Endangered Habitats League,
Laguna Greenbelt, Inc.,
Natural Resources Defense Council, Inc.,
Sea and Sage Audubon Society,
Sierra Club, and
Surfrider Foundation

Dated: December __, 2010

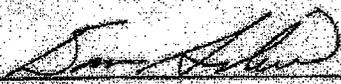
CALIFORNIA STATE PARKS FOUNDATION

By: _____

Elizabeth Goldstein
President

Dated: December 17, 2010

ENDANGERED HABITATS LEAGUE

By:  _____

Dan Silver
Executive Director

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Dated: December 7, 2010

LAGUNA GREENBELT, INC.

By: Elisabeth Brown
Elisabeth Brown
President

Dated: December 7, 2010

NATURAL RESOURCES DEFENSE COUNCIL, INC.

By: _____
Joel Reynolds
Senior Attorney

Dated: December 7, 2010

SEA AND SAGE AUDUBON SOCIETY

By: _____
Scott Thomas
Vice President

Dated: December 7, 2010

SIERRA CLUB

By: _____
Hersh Kelley
Executive Committee Chair,
Angeles Chapter

Dated: December 7, 2010

SURFRIDER FOUNDATION

By: _____
Jim Moriarty
Chief Executive Officer

[signatures continued on the following page]

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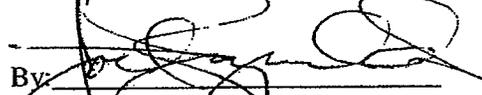
Dated: December __, 2010

LAGUNA GREENBELT, INC.

By: _____
Elisabeth Brown
President

Dated: December 20, 2010

NATURAL RESOURCES DEFENSE COUNCIL, INC.

By: _____

Joel Reynolds
Senior Attorney

Dated: December __, 2010

SEA AND SAGE AUDUBON SOCIETY

By: _____
Scott Thomas
Vice President

Dated: December __, 2010

SIERRA CLUB

By: _____
Hersh Kelley
Executive Committee Chair,
Angeles Chapter

Dated: December __, 2010

SURFRIDER FOUNDATION

By: _____
Jim Moriarty
Chief Executive Officer

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Dated: December __, 2010.

LAGUNA GREENBELT, INC.

By: _____
Elisabeth Brown
President

Dated: December __, 2010.

NATURAL RESOURCES DEFENSE COUNCIL, INC.

By: _____
Joel Reynolds
Senior Attorney

Dated: December 19, 2010.

SEA AND SAGE AUDUBON SOCIETY

By: *Scott Thomas*
Scott Thomas
Vice-President

Dated: December __, 2010.

SIERRA CLUB

By: _____
Hersh Kelley
Executive Committee Chair,
Angeles Chapter

Dated: December __, 2010.

SURFRIDER FOUNDATION

By: _____
Jim Moriarty
Chief Executive Officer

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Dated: December __, 2010

LAGUNA GREENBELT, INC.

By: _____
Elisabeth Brown
President

Dated: December __, 2010

NATURAL RESOURCES DEFENSE COUNCIL, INC.

By: _____
Joni Reynolds
Senior Attorney

Dated: December __, 2010

SEA AND SAGE AUDUBON SOCIETY

By: _____
Scott Thomas
Vice President

Dated: December 20, 2010

SIERRA CLUB

By: Hersh Kelley
Hersh Kelley
Executive Committee Chair,
Angeles Chapter

Dated: December __, 2010

SURFRIDER FOUNDATION

By: _____
Jim Moriarty
Chief Executive Officer

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Dated: December __, 2010

LAGUNA GREENBELT, INC.

By: _____
Elisabeth Brown
President

Dated: December __, 2010

NATURAL RESOURCES DEFENSE COUNCIL, INC.

By: _____
Joel Reynolds
Senior Attorney

Dated: December __, 2010

SEA AND SAGE AUDUBON SOCIETY

By: _____
Scott Thomas
Vice President

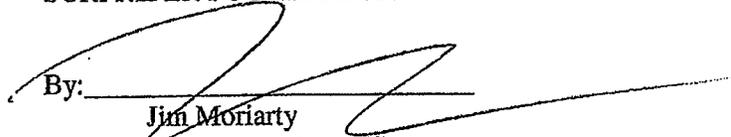
Dated: December __, 2010

SIERRA CLUB

By: _____
Hersh Kelley
Executive Committee Chair,
Angeles Chapter

Dated: December 20, 2010

SURFRIDER FOUNDATION

By: 
Jim Moriarty
Chief Executive Officer

[signatures continued on the following page]

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Dated: December 27, 2010

ALVARADO SMITH
THERRY R. MONTOYA

By: 
Thierry R. Montoya

Attorneys for Proposed Intervenors
Orange County Business Council; Orange
County Hispanic Chamber of Commerce; South
Orange County Chamber of Commerce; Black
Chamber of Commerce of Orange County; Los
Angeles and Orange County Building and
Construction Trades Council; Orange County
Taxpayers Association

Dated: December __, 2010

ORANGE COUNTY BUSINESS COUNCIL


By: _____
Lucy Dunn

Dated: December __, 2010

ORANGE COUNTY HISPANIC CHAMBER OF
COMMERCE

By: _____
Joel Ayala

Dated: December __, 2010

SOUTH ORANGE COUNTY CHAMBER OF COMMERCE

By: _____
Duane Cave

[signatures continued on the following page]

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Dated: December __, 2010

ALVARADO SMITH
THIERRY R. MONTOYA

By: _____
Thierry R. Montoya

Attorneys for Proposed Intervenors
Orange County Business Council; Orange
County Hispanic Chamber of Commerce; South
Orange County Chamber of Commerce; Black
Chamber of Commerce of Orange County; Los
Angeles and Orange County Building and
Construction Trades Council; Orange County
Taxpayers Association

Dated: December __, 2010

ORANGE COUNTY BUSINESS COUNCIL

By: _____
Lucy Dunn

Dated: December __, 2010

ORANGE COUNTY HISPANIC CHAMBER OF
COMMERCE

By: 
Javier Mier

Dated: December __, 2010

SOUTH ORANGE COUNTY CHAMBER OF COMMERCE

By: _____
Duane Cave

[signatures continued on the following page]

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Dated: December __, 2010

ALVARADO SMITH
THIERRY R. MONTOYA

By: _____
Thierry R. Montoya

Attorneys for Proposed Intervenor
Orange County Business Council; Orange
County Hispanic Chamber of Commerce; South
Orange County Chamber of Commerce; Black
Chamber of Commerce of Orange County; Los
Angeles and Orange County Building and
Construction Trades Council; Orange County
Taxpayers Association

Dated: December __, 2010

ORANGE COUNTY BUSINESS COUNCIL

By: _____
Lucy Dunn

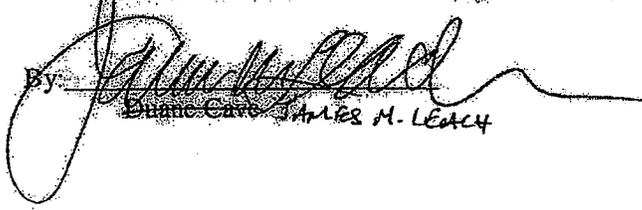
Dated: December __, 2010

ORANGE COUNTY HISPANIC CHAMBER OF
COMMERCE

By: _____
Joel Ayala

Dated: December 29, 2010

SOUTH ORANGE COUNTY CHAMBER OF COMMERCE

By: 
James H. Leach

[signatures continued on the following page]

1 Dated: December __, 2010

BLACK CHAMBER OF COMMERCE OF ORANGE
COUNTY

2
3 By: _____
4 Bobby McDonald

5
6 Dated: December __, 2010

LOS ANGELES AND ORANGE COUNTY BUILDING
AND CONSTRUCTION TRADES COUNCIL

7
8 By: 
9 Richard Slauson

10
11 **STIPULATED ORDER**

12 The "[Proposed] Stipulated Order Approving Interim Settlement with Tolling Agreement and
13 Dismissal Without Prejudice, and Retaining the Court's Jurisdiction to Set Aside Dismissal and Enforce
14 Interim Settlement," having been fully considered by the Court, and with good cause being shown to the
15 satisfaction of the Court,

16 **IT IS HEREBY ORDERED AS FOLLOWS:**

17 1. The stipulated terms and conditions set forth in full in paragraphs 1 through 9, inclusive,
18 of the foregoing Interim Settlement are hereby adopted as an order of the Court and are expressly
19 incorporated herein.

20 2. Counsel for Respondents shall give notice of entry of this stipulated order.

21 Dated: December __, 2010

22
23 _____
24 Hon. Thomas P. Nugent
25 JUDGE OF THE SUPERIOR COURT

1 Dated: December __, 2010

BLACK CHAMBER OF COMMERCE OF ORANGE
COUNTY

2
3 By: 
4 Bobby McDonald

5
6 Dated: December __, 2010

LOS ANGELES AND ORANGE COUNTY BUILDING
AND CONSTRUCTION TRADES COUNCIL

7
8 By: _____
9 Richard Stanson

10
11 **STIPULATED ORDER**

12
13 The "[Proposed] Stipulated Order Approving Interim Settlement with Tolling Agreement and
14 Dismissal Without Prejudice, and Retaining the Court's Jurisdiction to Set Aside Dismissal and Enforce
15 Interim Settlement," having been fully considered by the Court, and with good cause being shown to the
16 satisfaction of the Court,

17 **IT IS HEREBY ORDERED AS FOLLOWS:**

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19 of the foregoing Interim Settlement are hereby adopted as an order of the Court and are expressly
20 incorporated herein.

21 2. Counsel for Respondents shall give notice of entry of this stipulated order.

22 Dated: ~~December __, 2010~~
JAN 12 2011

THOMAS P. NUGENT

23 _____
24 Hon. Thomas P. Nugent
25 JUDGE OF THE SUPERIOR COURT
26
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and am not a party to the within action; my business address is Nossaman, LLP, 445 S. Figueroa Street, 31st Floor Los Angeles, California 90071-1602.

On January 10, 2011, at my employer's above-stated place of business, I served the foregoing document(s) described as **[PROPOSED] STIPULATED ORDER APPROVING INTERIM SETTLEMENT WITH TOLLING AGREEMENT AND DISMISSAL WITHOUT PREJUDICE AND RETAINING THE COURT'S JURISDICTION TO SET ASIDE DISMISSAL AND ENFORCE INTERIM SETTLEMENT** on interested parties in this action by placing () the original (X) a true copy thereof enclosed in a separate sealed envelope to each addressee as follows:

[SEE ATTACHED SERVICE LIST]

(X) (By U.S. Mail) I am readily familiar with my employer's business practice for collection and processing of correspondence for mailing with the United States Postal Service. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter is more than one day after date of deposit for mailing in affidavit. I deposited such envelope(s) with postage thereon fully prepaid in a collection box from where it would be placed in the United States Mail at Los Angeles, California that same day in my employer's ordinary course of business.

() (By Personal Service) I caused to be delivered by hand true and correct copies thereof on the interested parties in this action by having the _____ messenger service personally deliver same in a sealed envelope to the office of the addressee(s) as above indicated.

() (By Facsimile) I served a true and correct copy by facsimile pursuant to C.C.P 1013(e), to the number(s) listed above or on attached sheet. Said transmission was reported complete and without error.

() (By Federal Express) I served a true and correct copy by Federal Express or other overnight delivery service, for delivery on the next business day. A true and correct copy of the Federal Express or other overnight delivery service airbill is attached hereto.

(X) (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

() (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on January 10, 2011 at Los Angeles, California.



Judith Robbins

SERVICE LIST

California State Parks Foundation, et al. v. Foothill/Eastern Transportation Corridor Agency, et al.
San Diego County Superior Court Case No.: GIN051194 (Consolidated)

William J. White, Esq. SHUTE, MIHALY & WEINBERGER, LLP 396 Hayes Street San Francisco, California 94102 Telephone: (415) 552-7272 Facsimile: (415) 552-5816	Attorneys for Petitioners CALIFORNIA STATE PARKS FOUNDATION, ENDANGERED HABITATS LEAGUE, LAGUNA GREENBELT, INC., NATURAL RESOURCES DEFENSE COUNCIL, SEA AND SAGE AUDUBON SOCIETY, SIERRA CLUB, and SURFRIDER FOUNDATION
Joel R. Reynolds, Esq. NATURAL RESOURCES DEFENSE COUNCIL 1314 Second Street Santa Monica, California 90401 Telephone: (310) 434-2300 Facsimile: (310) 434-2399	Attorneys for Petitioner NATURAL RESOURCES DEFENSE COUNCIL
Michael D. Fitts, Esq. 1718 Esplanade, Apt. 523 Redondo Beach, California 90277-5339 Telephone: (310) 947-1908 Facsimile: (323) 908-3543	Attorneys for Petitioner ENDANGERED HABITATS LEAGUE
EDMUND G. BROWN JR., Attorney General MATT RODRIQUEZ, Chief Assistant Attorney General KEN ALEX, Senior Assistant Attorney General BRIAN HEMBACHER OLIVIA W. KARLIN Deputy Attorneys General 300 South Spring Street, Suite 1702 Los Angeles, California 90013 Telephone: (213) 897-2638 Facsimile: (213) 897-2802	Attorneys for Petitioners THE PEOPLE OF THE STATE OF CALIFORNIA, ex rel. ATTORNEY GENERAL EDMUND G. BROWN JR. and STATE PARK AND RECREATION COMMISSION
Ruben A. Smith Keith E. McCullough Thierry R. Montoya Reginald Roberts, Jr. ADORNO YOSS ALVARADO & SMITH 1 MacArthur Place, Suite 200 Santa Ana, California 92707 Telephone: (714) 852-6800 Facsimile: (714) 852-6899	Attorneys for Intervenors, ORANGE COUNTY BUSINESS COUNCIL, et al.

Attachment C

Recorded in Official Records, Orange County

Tom Daly, Clerk-Recorder

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RECORDING REQUESTED BY
FIRST AMERICAN TITLE COMPANY
SUBDIVISION DEPARTMENT

RECORDING REQUESTED BY,
AND WHEN RECORDED MAIL TO:

Rancho Mission Viejo, L.L.C.
28811 Ortega Highway
San Juan Capistrano, California 92675
Attn: General Counsel

187276CM

Space Above for Recorder's Use

NOTICE OF SETTLEMENT AND DECLARATION OF RESTRICTIONS

THIS NOTICE OF SETTLEMENT AND DECLARATION OF RESTRICTIONS ("Declaration") is entered into by and among RANCHO MISSION VIEJO, LLC, a Delaware limited liability company, DMB SAN JUAN INVESTMENT NORTH, LLC, a Delaware limited liability company, RMV MIDDLE CHIQUITA, LLC, a California limited liability company, RMV RANCH HOUSE, LLC, a California limited liability company, RMV HEADQUARTERS, LLC, a California limited liability company, RMV SAN JUAN WATERSHED, LLC, a California limited liability company, RMV SAN MATEO WATERSHED, LLC, a California limited liability company and RMV BLIND CANYON, LLC, a California limited liability company. The individual entities identified above are collectively referred to hereafter as "RMV."

TO ALL INTERESTED PARTIES, PLEASE BE ADVISED AS FOLLOWS:

A. RMV is the owner of the real property located in the unincorporated area of Orange County, California, and more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "RMV Property"). The RMV Property is commonly known as the "Rancho Mission Viejo."

B. Prior to the date hereof, the County of Orange, a political subdivision of the State of California ("County"), approved a comprehensive land development and conservation plan for the RMV Property ("Ranch Plan Approvals").

C. Following issuance of the Ranch Plan Approvals, a Verified Petition for Writ of Mandate was filed in the Superior Court for Orange County (Case No. 04CC01637) challenging the Ranch Plan Approvals (the "Ranch Plan Litigation"). The Petitioners identified in the Ranch Plan Litigation are ENDANGERED HABITATS LEAGUE, a California not-for-profit corporation, NATURAL RESOURCES DEFENSE COUNCIL, INC., a not-for-profit corporation organized under the laws of the State of New York, SEA AND SAGE AUDUBON

OCOLIB1DB0212163.01(4JFP011.DOC)

1-1R/411242.4

THIS INSTRUMENT FILED FOR RECORD BY
FIRST AMERICAN TITLE COMPANY AS AN ACCOMMODATION
ONLY IT HAS NOT BEEN EXAMINED AS TO ITS EXECUTION
OR ITS EFFECT UPON THE TITLE.

SOCIETY, a chapter of The National Audubon Society, LAGUNA GREENBELT, INC., a California not-for-profit corporation, and SIERRA CLUB, a California not-for-profit corporation (collectively the "Resource Organizations"). County is identified as the Respondent in the Ranch Plan Litigation and RMV is identified as the Real Party in Interest.

D. Concurrent herewith, RMV, the Resource Organizations and County have entered into that certain Settlement Agreement dated _____, 2005 ("Settlement Agreement"), incorporated by reference herein as if fully set forth, pursuant to which RMV, the Resource Agencies and County resolved the dispute embodied in the Ranch Plan Litigation. This Declaration has been executed and recorded for the purpose of imparting notice of the Settlement Agreement and the respective rights and obligations of the parties thereto as set forth therein. All of the terms, covenants and conditions set forth in the Settlement Agreement shall be incorporated hereby by reference as though set forth fully herein. In the event of any inconsistency between this Declaration and the Settlement Agreement, the Settlement Agreement shall control. This Declaration, and the Settlement Agreement, shall bind the parties hereto and their respective heirs, successors and assigns, all in accordance with their individual terms.

E. In connection with the negotiation and execution of the Settlement Agreement, RMV has agreed to certain restrictions on, and obligations regarding, the development of certain portions of the RMV Property, which restrictions and obligations shall be enforceable by the Resource Organizations, RMV or County, as more fully set forth in the Settlement Agreement, as part of a common development plan consistent with the protection of the environment, and shall bind all current and subsequent owners of the RMV Property.

F. Each conveyance, transfer or assignment of any part of, or interest in or to, the Property or portion thereof ("Transfer") is made subject to the provisions of this Declaration, and the obligations and restrictions referenced herein are made part of such Transfer. The person to whom such Transfer is made shall be bound by the liabilities created hereunder as such liabilities relate to the Property or portion thereof, or interest therein, acquired by such transferee.

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IN WITNESS WHEREOF, the parties hereto have executed one or more copies of this Declaration as of the date first set forth above.

“RMV”

DMB SAN JUAN INVESTMENT NORTH, LLC,
a Delaware limited liability company

By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
as authorized agent and manager

By: Anthony R. Moiso
Anthony R. Moiso
President and Chief Executive Officer

By: Donald L. Vodra
Donald L. Vodra
Chief Operating Officer

RMV MIDDLE CHIQUITA, LLC,
a California limited liability company

By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
as authorized agent and manager

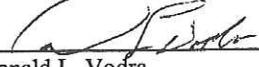
By: Anthony R. Moiso
Anthony R. Moiso
President and Chief Executive Officer

By: Donald L. Vodra
Donald L. Vodra
Chief Operating Officer

RMV RANCH HOUSE, LLC,
a California limited liability company

By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
as authorized agent and manager

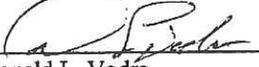
By: 
Anthony R. Moiso
President and Chief Executive Officer

By: 
Donald L. Vodra
Chief Operating Officer

RMV HEADQUARTERS, LLC,
a California limited liability company

By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
as authorized agent and manager

By: 
Anthony R. Moiso
President and Chief Executive Officer

By: 
Donald L. Vodra
Chief Operating Officer

RMV SAN JUAN WATERSHED, LLC,
a California limited liability company

By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
as authorized agent and manager

By: Anthony R. Moiso
Anthony R. Moiso
President and Chief Executive Officer

By: Donald L. Vodra
Donald L. Vodra
Chief Operating Officer

RMV SAN MATEO WATERSHED, LLC,
a California limited liability company

By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
as authorized agent and manager

By: Anthony R. Moiso
Anthony R. Moiso
President and Chief Executive Officer

By: Donald L. Vodra
Donald L. Vodra
Chief Operating Officer

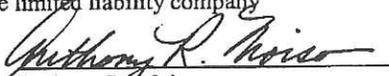
RMV BLIND CANYON, LLC,
a California limited liability company

By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
as authorized agent and manager

By: Anthony R. Moiso
Anthony R. Moiso
President and Chief Executive Officer

By: Donald L. Vodra
Donald L. Vodra
Chief Operating Officer

RANCHO MISSION VIEJO, LLC,
a Delaware limited liability company

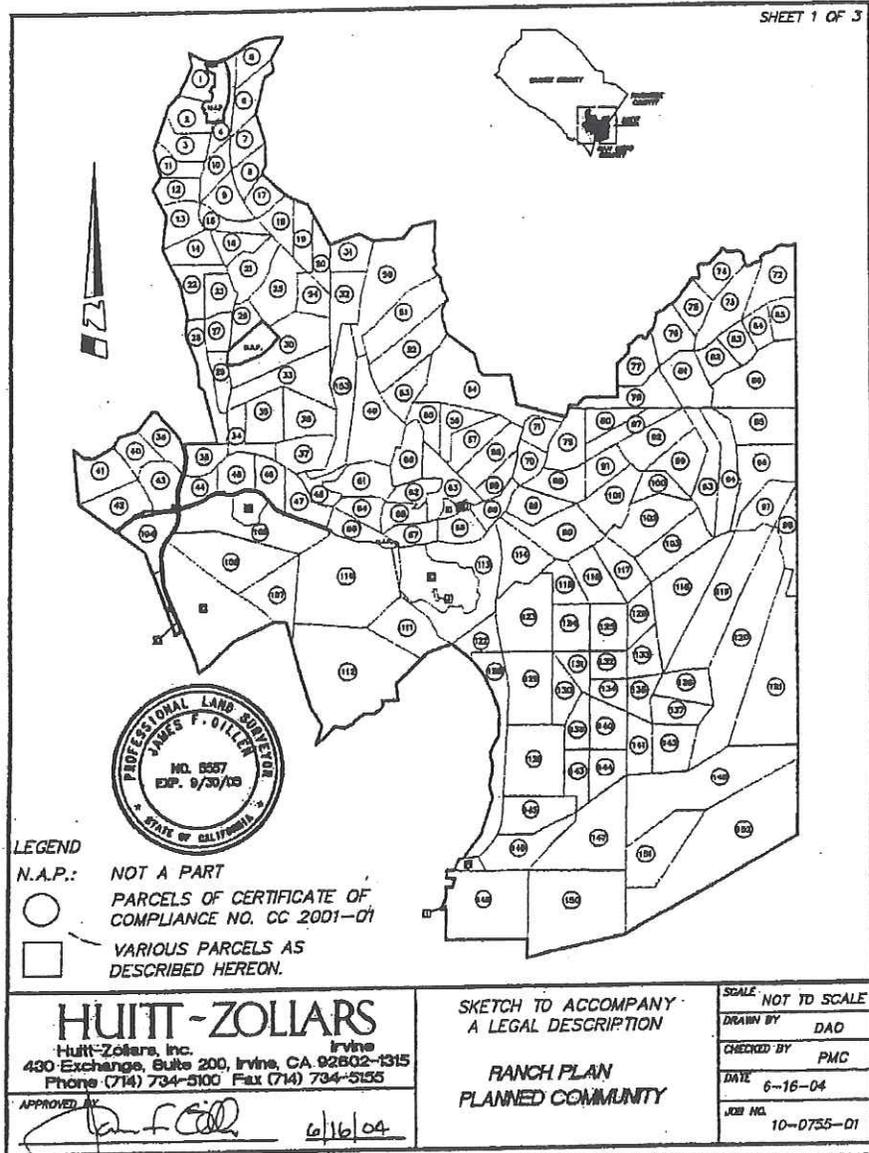
By: 
Anthony R. Moiso
President and Chief Executive Officer

By: 
Donald L. Vodra
Chief Operating Officer

EXHIBIT A

LEGAL DESCRIPTION OF RMV PROPERTY

[TO BE PROVIDED]



SHEET 2 OF 3

NOTE:

PARCEL A IS SHOWN HEREON AS INDIVIDUAL PARCELS AS NUMBERS IN A CIRCLE ○.
PARCELS B THROUGH I ARE SHOWN HEREON AS INDIVIDUAL PARCELS AS LETTERS IN A SQUARE □.

LEGAL DESCRIPTION:

PARCEL A: PARCELS 1 THROUGH 107, INCLUSIVE, 110 THROUGH 126, INCLUSIVE, AND 128 THROUGH 153, INCLUSIVE, OF CERTIFICATE OF COMPLIANCE NO. CC 2001-01 IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN AND DESCRIBED IN THAT CERTAIN DOCUMENT RECORDED JULY 26, 2001 AS INSTRUMENT NO. 20010508835 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM THE LAND AS DESCRIBED IN THE GRANT DEED TO THE FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY RECORDED MAY 30, 1996 AS INSTRUMENT NO. 19960289157, OF SAID OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL B: PARCEL 2, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON THE MAP FILED IN BOOK 90, PAGES 23 THROUGH 27, INCLUSIVE, OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL C: PARCEL 1 OF PARCEL MAP 85-476, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON THE MAP FILED IN BOOK 248, PAGES 7 AND 8 OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER.

EXCEPTING THEREFROM THE LAND AS DESCRIBED IN THE GRANT DEED TO LAST ROUND UP, INC. RECORDED SEPTEMBER 4, 1987 AS INSTRUMENT NO. 87-504837 OF SAID OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL D: PARCEL 1 OF PARCEL MAP 93-159, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON THE MAP FILED IN BOOK 280, PAGES 49 AND 50 OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL E: PARCEL 1 OF PARCEL MAP 94-153, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON THE MAP FILED IN BOOK 287, PAGES 9 AND 10 OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL F: PARCEL 1 OF PARCEL MAP 95-161, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON THE MAP FILED IN BOOK 296, PAGES 11 AND 12 OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL G: PARCEL 2 OF LOT LINE ADJUSTMENT NO. LL 2003-004, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON EXHIBIT B ATTACHED TO THAT CERTAIN DOCUMENT RECORDED MARCH 19, 2003 AS INSTRUMENT NO. 2003000294469 OF SAID OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

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SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made as of this 16th day of August, 2005, by and between DMB SAN JUAN INVESTMENT NORTH, LLC, a Delaware limited liability company, RMV MIDDLE CHIQUITA, LLC, a California limited liability company, RMV RANCH HOUSE, LLC, a California limited liability company, RMV HEADQUARTERS, LLC, a California limited liability company, RMV SAN JUAN WATERSHED, LLC, a California limited liability company, RMV SAN MATEO WATERSHED, LLC, a California limited liability company, RMV BLIND CANYON, LLC, a California limited liability company, and RANCHO MISSION VIEJO, LLC, a Delaware limited liability company (collectively "RMV" and individually an "RMV Entity"), the COUNTY OF ORANGE, a political subdivision of the State of California (the "County"), and the ENDANGERED HABITATS LEAGUE, a California not-for-profit corporation, NATURAL RESOURCES DEFENSE COUNCIL, INC., a not-for-profit corporation organized under the laws of the State of New York, SEA AND SAGE AUDUBON SOCIETY, a California not-for-profit corporation and a chapter of The National Audubon Society, LAGUNA GREENBELT, INC., a California not-for-profit corporation, and SIERRA CLUB, a California not-for-profit corporation (collectively the "Resource Organizations" and individually a "Resource Entity"). The County and each of the RMV Entities and each of the Resource Entities are referred to collectively herein as the "Parties" and each individually as a "Party."

RECITALS

- A. RMV is the owner of approximately 22,815 acres of real property located in the unincorporated area of Orange County, California, commonly known as the "Rancho Mission Viejo" and referred to herein as the "Ranch Plan Area."
- B. In November, 2001, RMV, acting through its duly authorized agent and manager, submitted planning application PA01-114 to the County seeking a General Plan Amendment (GPA01-01), Zone Change (ZC01-02) and Development Agreement (DA04-01) for the Ranch Plan Area. The collective elements of PA01-114, commonly known as "The Ranch Plan," set forth a comprehensive land development and conservation plan for the Ranch Plan Area.
- C. The County prepared Program Environmental Impact Report No. 589 ("Program EIR No. 589") to address the environmental impacts of the Ranch Plan.
- D. Throughout the County's processing of the Ranch Plan, the Resource Organizations, individually and/or collectively, participated in the review process and expressed their concerns regarding the potential impacts the Ranch Plan could have on the environment, and particularly the impacts related to biological resources.
- E. At the conclusion of a public hearing on November 8, 2004, the Orange County Board of Supervisors: (i) adopted Resolution No. 04-290, certifying Program EIR No. 589 as complete, adequate and in full compliance with the requirements of CEQA and the State CEQA Guidelines; (ii) adopted Resolution No. 04-291, amending the Land Use Element, Transportation Element and Resources Element of the Orange County General Plan relative to the Ranch Plan Area; (iii) adopted Resolution No. 04-292 and Ordinance No. 04-014, rezoning the entire Ranch

Plan Area to the PC "Planned Community" District and adopting the Ranch Plan Planned Community Program Text; (iv) adopted Resolution No. 04-293 and Ordinance No. 04-015, approving the execution and delivery of Development Agreement DA-04-01 for implementation of the Ranch Plan; and (v) adopted Resolution No. 04-294, establishing the South County Roadway Improvement Program ("SCRIP") to provide for the imposition, collection and disbursement of fees to facilitate the construction of certain transportation improvements in Orange County that will relieve traffic congestion on existing and future transportation systems.

F. On December 8, 2004, the Resource Organizations filed a Verified Petition for Writ of Mandate in the Superior Court for Orange County (Case No. 04CC01637) challenging the County's approval of the Ranch Plan, including its certification of Program EIR No. 589 and its approval and adoption of the Ranch Plan Development Agreement and the SCRIP (the "Ranch Plan Litigation").

G. The Parties are desirous of: (i) resolving the dispute embodied in the Ranch Plan Litigation; and (ii) establishing a mutually acceptable framework for future implementation of the Ranch Plan consistent with protection of the environment.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual terms, covenants, conditions, promises and benefits contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **DEFINITIONS.** For the purposes of this Agreement, the following terms shall have the meanings set forth below:

1.1 **Defined Open Space.** The term "Defined Open Space" shall mean all portions of the Ranch Plan Area not specifically identified or depicted as Development Areas on the attached Exhibit A.

1.2 **Development Areas.** The term "Development Areas" shall mean those portions of the Ranch Plan Area specifically identified and depicted as Development Areas on Exhibit A. The boundaries of the individual Development Areas are drawn accurately at the scale depicted in Exhibit A. The outside boundary of each Development Area, denoted Planning Areas 1, 2, 3 and 5, respectively, represents the maximum area that may be developed in each of those respective Development Areas. The boundaries for each Development Area shall be refined more precisely pursuant to the Master Area Plan approval process and upon subsequent recordation of subdivision maps for each Development Area. Refinements to the final Development Area boundaries shall be within the maximum area represented respectively in Exhibit A.

1.3 **Existing Agricultural/Ranching Practices.** The term "Existing Agricultural/Ranching Practices" shall mean all ranching and agricultural uses, activities, programs, and events that are occurring at the present time, and/or that have occurred at any time since 1970 within the Ranch Plan Area, including, but not limited to, Portola Camp, RMV's periodic horseback rides, and their associated accessory uses. Existing Agricultural/Ranching

Practices shall be subject to any applicable laws, rules and regulations governing agricultural and ranching activities, including the Adaptive Management Plan ("AMP") adopted for the Project (defined in Section 1.8 below) (as said AMP becomes applicable to portions of the Ranch Plan Area only upon dedication of individual portions as open space) and any applicable NCCP (defined in Section 1.5 below), MSAA (defined in Section 1.4 below) and/or SAMP (defined in Section 1.12 below).

1.4 MSAA. The term "MSAA" shall mean a Master Streambed Alteration Agreement adopted pursuant to the California Fish and Game Code.

1.5 NCCP. The term "NCCP" shall mean a Natural Community Conservation Plan adopted pursuant to Section 2800 *et seq.* of the California Fish and Game Code and/or a Habitat Conservation Plan ("HCP") adopted pursuant to the federal Endangered Species Act.

1.6 Open Space Uses. The term "Open Space Uses" shall mean the following uses in Defined Open Space areas: (i) uses consistent in nature, intensity, extent and location with Existing Agricultural/Ranching Practices as defined in Section 1.3, except those uses and activities specifically identified on the attached Exhibit B; (ii) continuation of non-ranching/agricultural uses and activities as of the Effective Date (defined in Section 2 below), except those uses and activities specifically identified on the attached Exhibit B; (iii) any infrastructure substantially consistent with the Project Approvals (defined in Section 1.9 below), as required by the County, Orange County Transportation Authority, Orange County Fire Authority, or any other governmental authority or public/private utility in connection with the development of any Planning Area (defined in Section 1.7 below), subject to any applicable limitations set forth in Sections 4.8 and 5, below; (iv) any use imposed by or through the condemnation power of any public agency or utility; (v) habitat conservation or restoration that is consistent with either (1) the AMP adopted for the Project or (2) any applicable NCCP, MSAA and/or SAMP; (vi) other conservation or restoration uses, if approved by the Resource Organizations, USFWS (defined in Section 1.14 below), or CDFG (defined in Section 1.14 below), or, where ACOE (defined in Section 1.14 below) has sole jurisdiction, ACOE; and (vii) uses allowed pursuant to Sections 3.6, 3.7, 4.2(a) and 4.2(b), below.

1.7 Planning Areas. The term "Planning Areas" shall mean those Planning Areas described in the Project Approvals (defined in Section 1.9 below), as modified by this Agreement and depicted as Planning Areas on Exhibit A.

1.8 Project. The term "Project" shall mean that project described in the Project Approvals and as may be implemented by the Subsequent Project Approvals (defined in Section 1.13 below).

1.9 Project Approvals. The term "Project Approvals" shall mean the approvals granted by the County on November 8, 2004 for the permitting, entitlement, implementation, development and operation of the Project, consisting of Planning Application No. PA01-114, General Plan Amendment No. GPA01-01, Zone Change No. ZC01-02, Development Agreement No. DA04-01, the SCRIP and Program EIR No. 589.

1.10 Ranch Plan Planned Community Text. The term "Ranch Plan Planned Community Text" shall mean the text of Zone Change No. ZC01-02, as finally adopted in the Project Approvals.

1.11 Resource Organization Designee. The term "Resource Organization Designee" shall mean the individual or entity identified and duly appointed by the collective Resource Organizations to review and process, on behalf of all Resource Organizations, each request for acknowledgment tendered by RMV, its successors and/or assigns in accordance with the provisions of Section 3.3(b), below, and each request for verification certification tendered by any Party, its successors and/or assigns in accordance with the provisions of Section 15.2, below.

1.12 SAMP. The term "SAMP" shall mean a Special Area Management Plan adopted pursuant to Section 4 of the federal Clean Water Act.

1.13 Subsequent Project Approvals. The term "Subsequent Project Approvals" shall mean approvals, permits and entitlements granted by local, state and/or federal agencies after November 8, 2004 that are necessary for development, implementation and operation of the Project.

1.14 Wildlife/Resource Agencies. The term "Wildlife/Resource Agencies" shall mean, collectively, the United States Fish and Wildlife Service ("USFWS"), United States Army Corps of Engineers ("ACOE"), the California Department of Fish and Game ("CDFG"), and any other local, state and/or federal regulatory agency responsible for the entitlement and/or implementation of the Project.

2. EFFECTIVE DATE. This Agreement shall be effective as of the date ("Effective Date") when all of the following conditions have occurred: (i) all of the Resource Organizations have ratified and approved the terms of this Agreement; (ii) the County Board of Supervisors has ratified and approved the terms of this Agreement; (iii) RMV has ratified and approved the terms of this Agreement; and (iv) all of the signatories for all Parties as set forth below have signed this Agreement.

3. APPROVED USES AND PRACTICES.

3.1 Right to Develop in Conformity with Project Entitlements. Except as otherwise expressly provided in this Agreement, RMV shall have the right, but not the obligation, to develop and implement the Project in accordance with the Project Approvals and Subsequent Project Approvals.

3.2 Development and Use of Project in Conformity with Settlement Agreement. RMV shall not file any application for, or otherwise seek, a Subsequent Project Approval from the County, or any municipal corporation that becomes a succeeding land use permitting authority through annexation, that is inconsistent with the Project Approvals or this Agreement. The Parties acknowledge that the Subsequent Project Approvals granted by the Wildlife/Resource Agencies and/or other permitting authorities may vary from the scope and nature of the Project as contemplated by this Agreement. Irrespective of the scope, nature and extent of Project development activity hereafter authorized/approved by the Wildlife/Resource

Agencies and/or other permitting authorities, RMV shall develop and implement the Project in a manner that complies with the terms and provisions of this Agreement.

3.3 Confirmation of Development Area Boundaries.

(a) At the time of its submission, RMV shall provide to each Resource Organization a copy of any application seeking approval of a Master Area Plan for any Development Area. The Resource Organizations may notify RMV and the County that the boundaries for the Development Area that is the subject of the application are not in conformity with those boundaries depicted in Exhibit A. The provision of such notice shall commence the process set forth in Section 14.2, below.

(b) At any time following the Resource Organizations' receipt of any Master Area Plan application, RMV may request that the Resource Organization Designee provide written acknowledgment of the conformance of the Development Area boundary reflected in Exhibit A with the Development Area boundary depicted in the Master Area Plan application. If the Resource Organization Designee does not provide such written acknowledgement within thirty (30) calendar days of RMV's request, the Development Area boundary in the Master Area Plan application shall be deemed to conform to the Development Area boundary in Exhibit A.

(c) **Allocation/Reallocation of Authorized Development.** RMV shall have the right, consistent with the provisions of the Ranch Plan Planned Community Text, to relocate and/or reallocate residential units, residential uses, and non-residential square footage and uses among and between individual Planning Areas in order to allow, within the Development Areas depicted in Exhibit A, for the full development of residential units, residential uses and nonresidential square footage and uses authorized in the Project Approvals and Subsequent Project Approvals, and to allow for the fulfillment of Project conditions of approval and Development Agreement obligations (including facilitating the County's efforts and obligations regarding affordable housing as set forth in the Project Development Agreement), provided that any such reallocation complies with the other terms and provisions of this Agreement. This Section 3.3(c) applies only to uses within Development Areas and is not intended to authorize any additional or expanded uses within Defined Open Space.

3.4 Open Space Uses. Except as expressly authorized by this Agreement, uses within Defined Open Space shall be limited to Open Space Uses. Except as otherwise limited or modified by this Agreement, RMV shall have the right, but not the obligation, to conduct and perform any/all of the Open Space Uses within any/all portions of the Ranch Plan Area.

3.5 Conduct of Ranching and Agricultural Practices in Development Areas. RMV shall have the right, but not the obligation, to carry out and conduct ranching and agricultural practices throughout the Development Areas (and each of them) in a manner consistent with the Project Approvals and Subsequent Project Approvals.

3.6 Recycling and Recovery Facility. RMV shall have the right, but not the obligation, to relocate, maintain, operate and/or lease a recycling and recovery facility

("Recycling Facility") adjacent to Avenida La Pata and within the bounds of the area depicted as "Recycling and Recovery Facility Area" in the attached Exhibit C. The Recycling Facility shall not exceed fifteen (15) acres in size, and use of the facility/area shall be limited to the collection, sorting, processing, storage and distribution of recyclable materials.

3.7 Employee Housing. RMV shall have the right, but not the obligation, to relocate, maintain, and operate employee housing within the bounds of the area proximately depicted as "Employee Housing Area" in the attached Exhibit D.

4. ACTIVITIES WITHIN IDENTIFIED PLANNING AREAS.

4.1 Planning Area 6. No development activities shall occur in Planning Area 6 (depicted as "PA 6" in Exhibit A) other than Open Space Uses.

4.2 Planning Area 7. Development activities within Planning Area 7 (depicted as "PA 7" in Exhibit A) shall be limited to Open Space Uses and the following uses/activities:

(a) **Rancho Mission Viejo Headquarters Facilities.** RMV shall have the right, but not the obligation, to construct, maintain, access and occupy new headquarters facilities (the "RMV HQ") within the boundaries of Planning Area 7 of substantially the same size, scale, range of uses (including office uses for general and administrative purposes, ranch-related guest houses, public meeting space, helistops and associated infrastructure, such as fuel modification and water quality facilities), and traffic generation (calculated in accordance with I.T.E. Trip Generation Manual, as amended), as RMV's existing headquarters facility. The new RMV HQ shall be located within the bounds of the area depicted as "Rancho Mission Viejo Headquarters" in the attached Exhibit E (the "RMV HQ Area"). The RMV HQ Area shall not exceed 25 acres in size. RMV shall use its best efforts to site and design the RMV HQ so as not to cause an increase in existing pollutant and sedimentation levels in Cristianitos Creek. RMV shall have sole discretion and authority over the design, functionality and time and phasing of construction of the new facility, subject to the limitations set forth in this paragraph.

(b) **Orchard Operations.** RMV shall also have the right, but not the obligation, to establish, cultivate and maintain an additional 50 acres of land for orchard purposes. The additional orchard acreage shall be located within the bounds of the area depicted as "Potential Orchards" in the attached Exhibit F. Siting of the orchards shall be: (i) consistent with the location of, or criteria for location of, the orchards established by an approved NCCP; or (ii) in the absence of an approved NCCP, shall avoid sensitive species and habitats. In the absence of an approved NCCP, RMV shall solicit the comments of the Resource Organizations with respect to the siting of the orchards and shall make any requested adjustments or modifications to the proposed location to the extent practicable and financially feasible. RMV shall use its best efforts to utilize reclaimed water resources for irrigation of all orchard areas located within Planning Area 7.

4.3 Planning Area 8. Development activities within Planning Area 8 (depicted as "PA 8" in Exhibit A) shall be limited to Open Space Uses and the following uses/activities:

(a) 500-Acre Development Area. RMV shall have the right, but not the obligation, to conduct development activities, including fuel modification, within a maximum 500-acre portion of Planning Area 8 (the "PA 8 Development Area"). The portions of Planning Area 8 outside of the PA 8 Development Area shall be deemed Defined Open Space subject to the applicable limitations set forth in this Agreement. RMV's development rights within the PA 8 Development Area shall be as follows:

(i) Scope of Approved Development Activities and Uses. Only those development activities and uses that are authorized by the Project Approvals and Subsequent Project Approvals shall be allowed within the PA 8 Development Area.

(ii) Timing. Development activities within the PA 8 Development Area shall not occur until the current ground lease between RMV and Northrop-Grumman is no longer in effect, and the PA 8 Development Area configuration has been established following the completion of the monitoring and telemetry studies required by this Section 4.3.

(iii) Configuration of PA 8 Development Area.

(1) Identification of PA 8 Development Area; Studies. The location and configuration of the 500-acre PA 8 Development Area shall be determined by RMV, subject to the requirements described below, at any time following the completion of five (5) years of monitoring and telemetry studies assessing population, habitat and home range for the arroyo toad, and the submittal of those studies and information to the Resource Organizations and the relevant Wildlife/Resource Agencies. RMV shall be responsible for identifying the consultants undertaking the studies and the proposed elements and scope of the studies. RMV shall provide notice of the identity of the consultants undertaking the studies to the Resource Organizations, and shall obtain written approval of said consultants and the proposed scope of the studies from the Resource Organizations, USFWS or CDFG. RMV shall bear all costs and expenses associated with the preparation of the studies.

(2) Collaborative Process -- Executed NCCP. In the event that an NCCP applicable to Planning Area 8 has been fully executed by the County and RMV prior to the submittal of an application for development within the PA 8 Development Area, this paragraph shall apply. RMV shall solicit and give due consideration to the Resource Organizations' comments on the proposed configuration of the 500-acre PA 8 Development Area prior to submittal of any development applications relating to the PA-8 Development Area. RMV shall have full authority and discretion over the content of the entitlement application(s), the timing thereof, and the ultimate configuration of the PA 8 Development Area, provided that the configuration is consistent with the NCCP and any conditions mandated/imposed by the relevant Wildlife/Resource Agencies.

(3) Collaborative Process -- No Executed NCCP. In the event that an NCCP applicable to Planning Area 8 has not been fully executed by the County and RMV prior to the submittal of an application for development within Planning Area 8, RMV and the County shall meet and confer with the Resource Organizations and the relevant Wildlife/Resource Agencies concerning the development of a financially feasible and practicable

configuration of the 500-acre PA 8 Development Area that minimizes edge effects, fragmentation and species impacts. RMV shall provide advance, written notice to the other Parties and the relevant Wildlife/Resource Agencies concerning RMV's desire to proceed with development activities in Planning Area 8. Within thirty (30) days following the delivery of said notice, the Parties and the relevant Wildlife/Resource Agencies shall meet to address the configuration of the PA 8 Development Area and to share information/ideas concerning RMV's development intentions. At the conclusion of this thirty-day period, RMV shall prepare a proposed configuration of the PA 8 Development Area and provide notice of the proposed configuration of the PA 8 Development Area to the other Parties and the relevant Wildlife/Resource Agencies. Prior to proceeding with implementation of development activities, RMV shall solicit comments from the other Parties and the relevant Wildlife/Resource Agencies concerning the proposed configuration and shall make any requested adjustments or modifications to the proposed configuration to the extent practicable and financially feasible, and provided that such adjustments would not reduce the PA 8 Development Area below 500 acres.

(iv) Sedimentation and Pollutant-Loading. RMV shall use its best efforts to design and implement all development within the PA 8 Development Area in a manner that maintains sedimentation and pollutant-loading at Gabino Creek, Cristianitos Creek and Talega Creek at levels that are equivalent to, or less than, existing levels. Program EIR No. 589, including the monitoring data summarized in Section 4.5 of Program EIR No. 589 and more fully set forth in Appendices C-1 through C-4 and G-8 of Program EIR No. 589, shall be used to establish the appropriate baselines for identifying current sedimentation and pollutant-loading levels within the portion of the creeks adjacent to and immediately downstream of the proposed development. If the configuration for Planning Area 8 Development Area causes development to drain into Talega Creek, RMV shall augment the data contained in Program EIR No. 589 to provide information to establish the appropriate baselines for identifying current sedimentation and pollutant-loading levels for Talega Creek. In order to ensure compliance with this Section 4.3(a)(iv), RMV shall create, in connection with future applicable entitlement applications prepared for Planning Area 8, a monitoring and remedial action plan consistent with the terms of this Agreement. RMV shall provide the proposed monitoring and remedial action plan to the Resource Organizations for comment and shall make any requested adjustments or modifications to the extent practicable and financially feasible.

(v) Design and Management Features. All development within the PA 8 Development Area shall be constructed so as to reduce impacts to and impede human (and pet) interface with the surrounding natural landscape, at and beyond the edge of the PA 8 Development Area. In furtherance of this requirement, all development within the PA 8 Development Area shall adhere to the design and management features set forth in the attached Exhibit G.

4.4 Planning Area 9. No development activities shall occur in Planning Area 9 (depicted as "PA 9" in Exhibit A) other than those activities, programs and events specifically identified as Open Space Uses.

4.5 Planning Area 2. Development activities within Planning Area 2 (depicted as "PA 2" in Exhibit A) shall be limited to Open Space Uses and the following uses/activities:

(a) Lower Chiquita. Within that area located southerly of the Santa Margarita Water District ("SMWD") wastewater treatment facility more specifically depicted and identified as "Lower Chiquita" in the attached Exhibit H, development may proceed in accordance with the terms established in the Project Approvals and Subsequent Project Approvals.

(b) Lands Proximate to SMWD Wastewater Treatment Facility. Within that area located northerly and easterly of the SMWD wastewater treatment facility more specifically depicted and identified as "SMWD/Chiquita Development Area" in Exhibit H, development may proceed in accordance with the terms established in the Project Approvals and Subsequent Project Approvals. All development activities within the bounds of the SMWD/Chiquita Development Area shall be graded such that uses are oriented away from open space areas located to the north, northwest and east of said Development Area, and views of structures potentially visible from the on-ground vantage points identified as the "Chiquita Creek Vantage Points" on Exhibit H are eliminated.

(c) Middle Chiquita. Within that portion of Planning Area 2 located southerly of and adjacent to Tesoro High School more specifically depicted and identified as "Middle Chiquita Development Area" in Exhibit H, development may proceed, but shall be limited solely to the construction, use and maintenance of residential structures, cemetery facilities and related infrastructure. Residential uses (including multi-family and high density) shall be limited to a total of fifteen (15) acres and shall be contiguous to the high school site. Native vegetation shall be utilized to buffer all cemetery facilities from adjoining open space areas. In addition, to the extent practicable, native landscaping shall be incorporated into and throughout the cemetery facilities.

4.6 Planning Area 3.

(a) Development activities within Planning Area 3 (as reconfigured and depicted in Exhibit A as "PA 3") may proceed in accordance with the terms established in the Project Approvals and Subsequent Project Approvals, except that RMV shall identify and maintain within Planning Area 3 a development setback (the "Planning Area 3 Setback") sufficient to provide a restricted use area not less than 200 meters in width, extending perpendicularly and generally westerly of the centerline of San Juan Creek. The conceptual location of the setback area is depicted in Exhibit A. Notwithstanding any other provision of this Agreement, activities within the Planning Area 3 Setback shall be consistent with the provisions and limitations set forth in Section 4.8, below. Nothing in this Agreement shall limit or otherwise restrict RMV's right to seek and obtain from the relevant Wildlife/Resource Agencies a modification and/or reduction of any other required setback area(s) located westerly of the Planning Area 3 Setback required by this Agreement.

(b) Existing uses of Cow Camp in Planning Area 3 shall not be replaced unless RMV obtains a NCCP or Biological Opinion that addresses potential impacts to the arroyo toad. This Section 4.6(b) shall not apply to the relocation of up to ten (10) units of employee housing as set forth in Section 3.7.

4.7 Planning Area 4. Development activities within Planning Area 4 (depicted as "PA 4" in Exhibit A) shall be limited to Open Space Uses and the following uses/activities:

(a) Identification of PA 4 Development Area. RMV shall have the right, in its sole discretion, to identify a 550-acre development area within Planning Area 4 that generally approximates the location and configuration depicted as "PA 4 Development Area" in Exhibit A. The Parties acknowledge that identification of the precise configuration of the PA 4 Development Area is not presently possible and is subject to modification and adjustment as constraints and opportunities are identified during the performance of future studies and analyses, provided that the final configuration contains no more than 550 acres and is generally similar to that depicted in Exhibit A. Upon RMV's identification of the final PA 4 Development Area configuration, RMV shall provide written notice to the Resource Organizations concerning the identification and shall provide a map/graphic that depicts the final configuration.

(b) SMWD Potential Reservoir Site. RMV, individually and/or through its designee (*e.g.*, SMWD), shall have the right, but not the obligation, to identify, locate and develop at any time an additional 175 acres of land located within Planning Area 4 as a site for a reservoir and accessory uses necessary for the operation of the reservoir. If RMV elects to develop the reservoir site pursuant to this Section 4.7(b), RMV shall solicit from Resource Organizations proposed mitigation measures to ensure the design, construction and operation of the reservoir that minimizes environmental impacts, including impacts caused by invasion of exotic species, and shall implement those measures to the extent they are practicable, economically feasible, and not inconsistent with any mitigation imposed by USFWS, CDFG or any other permitting agency.

(c) Development Activities and Setback Area. Upon final identification/configuration of the PA 4 Development Area, development activities may proceed within said Development Area in accordance with the terms established in the Project Approvals and Subsequent Project Approvals, except that RMV shall identify and maintain within Planning Area 4 a development setback (the "Planning Area 4 Setback") sufficient to provide a restricted use area not less than 200 meters in width, extending perpendicularly and generally easterly of the centerline of San Juan Creek. The conceptual location of the setback area is depicted in Exhibit A. Notwithstanding any other provision of this Agreement, activities within the Planning Area 4 Setback shall be consistent with the provisions and limitations set forth in Section 4.8, below. Nothing in this Agreement shall limit or otherwise restrict RMV's right to seek and obtain from the relevant Wildlife/Resource Agencies a modification and/or reduction of any other required setback area(s) located easterly of the Planning Area 4 Setback required by this Agreement.

4.8 Uses in Setback Areas. To ensure biologically functional upland habitat for the arroyo toad, development activities and uses within the Planning Area 3 Setback (*see* Section 4.6, above) and the Planning Area 4 Setback (*see* Section 4.7, above) shall be restricted to the following:

(a) Installation, cultivation and maintenance of predominately native plant species biologically appropriate to the setting.

(b) Creation, installation and maintenance of limited fuel modification zones, trails and interpretative signage that are consistent with local, state and federal agency approvals and requirements.

(c) Creation, installation and maintenance of the following infrastructure facilities necessary for implementation of the Project, provided that said facilities are consistent with any approved/executed NCCP, MSA and/or SAMP or otherwise authorized by USFWS, or CDFG: (i) natural treatment systems for water quality treatment and related drainage facilities (*e.g.*, outfalls), if such facilities meet arroyo toad ecological requirements as determined by USFWS; (ii) bridge crossings approved by CDFG, (iii) underground water, sewer and power facilities, if accompanied by surface restoration; (iv) other necessary infrastructure facilities that cannot be located within a Development Area outside the Planning Area 3 or Planning Area 4 Setback; and (v) pedestrian, vehicular and other access reasonably necessary to accomplish and perform the uses and activities permitted in this Section 4.8.

5. CRISTIANITOS ROAD. RMV shall have the right to construct, use and maintain Cristianitos Road as a private access road serving: (i) the new RMV headquarters facility; (ii) the Donna O'Neill Land Conservancy; (iii) Existing Agricultural/Ranching Practices; (iv) uses consistent with the existing lease for the Northrop Grumman-Capistrano Test Site; and (v) Open Space Uses. Notwithstanding the private nature of the right-of-way, Cristianitos Road may be utilized as an accessway for emergency service providers and others during times of emergency and crisis, whether said emergency/crisis is private or public in nature, and whether said emergency occurs within or without the boundaries of the Ranch Plan Area or any individual Planning Area. Cristianitos Road shall not otherwise be used to serve development in Planning Area 8 or other development. The precise location, size and geometry of Cristianitos Road shall be determined by RMV, subject to local and regional standards, requirements and constraints, but shall not significantly differ from its current condition.

6. PHASED DEDICATION AND MANAGEMENT OF OPEN SPACE. All portions of the Defined Open Space located within the San Mateo Creek and San Juan Creek watersheds shall ultimately be placed in conservation, agricultural or other restrictive easements (collectively "Conservation Easements"). The Conservation Easements shall incorporate the terms of this Agreement and shall provide a right of enforcement to the Resource Organizations. The required Conservation Easement dedications within each watershed shall occur in phases as development proceeds within the respective watershed, and shall be consistent with the requirements of local, state and federal approvals and entitlements. The specific portions of the Defined Open Space to be placed in a Conservation Easement in the San Juan Creek watershed in connection with the implementation of the Project in Development Areas 1 through 7 and Development Area 9 shall be roughly proportionate to the size of the relevant Development Area and the sensitivity of resources impacted by said Development Area. All of the Defined Open Space in the San Mateo Creek watershed shall be placed in a Conservation Easement upon commencement of development in Development Area 8. As and when dedicated (*i.e.*, upon recordation of a Conservation Easement), the open space areas located and conserved within the individual watersheds will be managed in accordance with the terms and requirements of the relevant Conservation Easement(s), any requirements contained in any applicable NCCP, SAMP or related program(s), any requirements contained in the AMP, and any other permit(s) issued in connection with RMV's development activities within the San Mateo Creek watershed and/or the

San Juan Creek watershed, as appropriate. Conservation Easements will be consistent with the provisions of this Agreement.

7. LONG-TERM MANAGEMENT FUNDING STRATEGY.

7.1 RMV shall cause to be established a long-term funding program for management and oversight of all Defined Open Space areas placed into Conservation Easements. Individual funding resources for the program shall be developed over time as the Project is implemented. Sources of funds may include, but not be limited to: (i) imposition of periodic assessments and/or fees upon development within the Project area; (ii) conservation and habitat bond proceeds; (iii) amounts collected pursuant to the special rule and fee program established for the Southern Subregion NCCP/HCP under Section 4(d) of the Endangered Species Act; and (iv) amounts received from agencies, governmental authorities and other entities/individuals engaged in open space preservation and management activities.

7.2 In the event RMV: (i) conveys or otherwise transfers its fee interest in all or a portion of the Defined Open Space lands to an unaffiliated third party (other than to a public agency or body or a utility); or (ii) relinquishes or otherwise transfers its management authority/rights over all or a portion of the Defined Open Space lands to an unaffiliated third party (other than to a public agency or body or a utility), RMV shall ensure that a funding program is in place adequate to meet the long-term management and oversight needs of those portions of the Defined Open Space conveyed and relinquished.

7.3 Prior to the commencement of any grading or construction activities in connection with new development within any Subarea Plan portion of a Planning Area ("Subarea"), RMV shall provide the Resource Organizations documentation demonstrating that: (i) an Open Space Management Fund ("Fund") has been established for the sole purpose of managing the Defined Open Space to be dedicated in conjunction with development of the subject Subarea consistent with the obligations and requirements established in the Conservation Easements, the AMP, and any other program, permit or entitlement applicable to the Project; (ii) all funds necessary to fully implement management and monitoring requirements for the dedicated open space associated with the Subarea for at least a five-year period have been obtained or committed; (iii) a long-term funding plan for the dedicated open space associated with the Subarea for subsequent years is in place; and (iv) a management plan governing the Defined Open Space lands to be dedicated in conjunction with development of the subject Subarea and incorporating all applicable requirements has been developed. The documentation shall include a detailed five-year budget identifying the projected costs of implementing the plan. After recordation of Conservation Easements, and pending any conveyance and relinquishment of Defined Open Space lands, RMV and/or its designee shall implement the open space management plan using the resources in the Fund.

8. LIMITED RIGHT OF INSPECTION. RMV shall provide Resource Organization representatives Joel Reynolds and/or Dan Silver the opportunity to physically verify, on an annual basis, RMV's compliance with the terms of this Agreement. RMV shall have the right to approve any person nominated to undertake this verification in place of either Joel Reynolds or Dan Silver, and RMV's approval shall not be unreasonably withheld. In the alternative, if the Resource Organizations so elect, the verification of RMV's compliance with

the terms of this Agreement shall be undertaken by the County, in which case the County shall perform the next inspection no later than one (1) year from the date of the last inspection, and on an annual basis thereafter, unless and until such time as the Resource Organizations, by written notice to the County and RMV, elect to resume inspections pursuant to this Section 8. The County's findings from this annual inspection shall be included verbatim in the Annual Monitoring Report required by Section 1. B.11 of the Ranch Plan Planned Community Text, which shall be provided to the Resource Organizations.

9. DISMISSAL OF LITIGATION, ATTORNEYS FEES, AND WAIVER OF CLAIMS.

9.1 Dismissal of Ranch Plan Litigation. Within fifteen (15) days following Effective Date, the Resource Organizations shall dismiss, with prejudice, the Ranch Plan Litigation.

9.2 Attorneys' Fees and Costs. RMV shall pay to the Resource Organizations the sum of Three Hundred Fifty Thousand and No/100 Dollars (\$350,000.00) in full satisfaction of any award to which Resource Organizations may be entitled under Section 1021.5 of the California Code of Civil Procedure. RMV and the Resource Organizations agree that the Resource Organizations may not seek or be awarded any additional amounts for attorneys' fees or costs in connection with the Ranch Plan Litigation. RMV shall pay the foregoing amount within thirty (30) days following the dismissal of the Ranch Plan Litigation. The County shall have no liability for the payment of the attorneys' fees or costs of RMV or the Resource Organizations incurred in connection with the Ranch Plan Litigation.

9.3 Release and Waiver of Claims.

(a) Mutual Release and Waiver.

(i) Resource Organizations. Except for the obligations provided in this Agreement, the Resource Organizations (individually and on behalf of their respective affiliates, directors, officers, employees, governing boards and committees) hereby unconditionally release, remise, acquit and forever discharge RMV and County, and each of their respective representatives, elected and appointed officials, staff, attorneys, employees, agents, heirs, officers, directors, successors and assigns, members, affiliates, partners, joint venturers, subsidiaries, parents, receivers, trustees and shareholders, from any and all claims or causes of action, including any and all administrative or judicial hearings or appeals, or any other litigation in a court of law, either at law or in equity, of any kind, nature and description, presently known or unknown and whether presently existent or arising in the future, relating to the Ranch Plan Litigation, the Project Approvals and/or the Subsequent Project Approvals, which the Resource Organizations currently hold, may hereafter hold or may have held in the past.

(ii) RMV and County. Except for the obligations provided in this Agreement, RMV and the County (individually and on behalf of their respective representatives, elected and appointed officials, staff, attorneys, employees, agents, heirs, officers, directors, successors and assigns, members, affiliates, partners, joint venturers, subsidiaries, parents, receivers, trustees and shareholders) hereby unconditionally release,

remise, acquit and forever discharge the Resource Organizations and each of their respective representatives, members, affiliates, directors, officers, employees, governing boards and committees, from any and all claims or causes of action, including any and all administrative or judicial hearings or appeals, or any other litigation in a court of law, either at law or in equity, of any kind, nature and description, presently known or unknown and whether presently existent or arising in the future, relating to the Ranch Plan Litigation, the Project Approvals and/or the Subsequent Project Approvals, which RMV and/or the County currently hold, may hereafter hold or may have held in the past.

(b) Waiver of California Civil Code Section 1542. The Resource Organizations, the County and RMV agree that the releases contained in Section 9.3(a), above, extend to all claims of any kind or nature, whether known or unknown, suspected or unsuspected, and in that regard the Parties acknowledge that each has read, been advised by counsel concerning, and has considered and understands the full nature, extent and import of the provisions of Section 1542 of the Civil Code of California, which reads as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

The Parties further declare that they knowingly and willingly enter into this Agreement notwithstanding the provisions of Section 1542 of the Civil Code of California. Upon the advice of counsel, the Parties waive and relinquish, now and forever, any and all rights that they now have or may have in the future under Section 1542 to the fullest extent allowed by law.

10. NOTICE OF SETTLEMENT AND DECLARATION OF RESTRICTIONS. Within fifteen (15) days of the Effective Date, RMV shall record in the Office of the Orange County Recorder a "Notice of Settlement and Declaration of Restrictions" in the form attached hereto as Exhibit I.

11. FUTURE STATEMENTS, SUPPORT AND CHALLENGES.

11.1 Joint Public Announcement of Settlement. The Parties hereto shall work in good faith and cooperatively to announce the successful resolution of the Ranch Plan Litigation and the terms of this Agreement in a form substantially similar to the "Joint Public Statement" attached hereto as Exhibit J. The Parties shall also participate in a press conference and/or meeting for the purpose of delivering the Joint Public Statement and demonstrating their mutual commitment to the terms, spirit and purpose of this Agreement.

11.2 Future Statements. No Party, without the prior written consent of the other Parties, shall submit, issue or make any official statements or comments (whether oral or written) to the press or public contradicting the Joint Public Statement.

11.3 Future Support.

(a) Comprehensive Support. At RMV's request, the Resource Organizations (and any of them) may elect to participate in public hearings, press conferences

and other public contexts in support of the Project, the Project Approvals, the Subsequent Project Approvals and any other matter relative to the entitlement, implementation and/or construction of the Project. Endangered Habitats League and Sea and Sage Audubon shall commit to support the Project, as modified by this Agreement, in the context of an approved NCCP.

(b) Specific Support. In addition to the comprehensive support described in Section 11.3(a), above, the Resource Organizations and their respective employees, officers, governing boards and committees covenant that they shall provide the following specific assistance:

(i) Support the extension of Avenida Pico (or similar roadway) from San Clemente to Planning Area 8 in a form that avoids or minimizes impacts to biological resources and is consistent with Wildlife/Resources Agency approvals and with the intended purpose of the roadway.

11.4 Future Challenges.

(a) Comprehensive Restrictions. The Resource Organizations and their respective employees, officers, governing boards and committees covenant not to take any action to challenge, administratively or judicially, RMV's actions in pursuing the development of the Project as permitted by the Project Approvals and Subsequent Project Approvals, all as modified by this Agreement. The Resource Organizations also covenant that neither they nor their respective employees, officers, governing boards or committees shall counsel others to challenge, administratively or judicially, RMV's actions in pursuing the development of the Project as permitted by the Project Approvals and the Subsequent Project Approvals, all as modified by this Agreement.

(b) Limitations. Nothing in this Section 11.4 shall preclude the Resource Organizations from the following:

(i) Submitting comments to the Wildlife/Resource Agencies on any proposed NCCP, SAMP or MSAA insofar as those agreements pertain to lands outside of the Project Boundary shown in Exhibit A ("Project Boundary").

(ii) Submitting comments to the Wildlife/Resource Agencies on any proposed NCCP, SAMP or MSAA insofar as those agreements pertain to the proposed Foothill South Toll Road extension ("Toll Road").

(iii) Challenging or otherwise opposing the Toll Road in any manner.

(iv) Challenging or otherwise opposing any project to be undertaken by a public agency on land to be condemned within the Project Boundary, including the reservoir identified in Section 4.7(b), but not including any infrastructure required for the Project as set forth in Section 1.6 above.

(v) Supporting, challenging, or otherwise opposing any decision by the Wildlife Agencies with respect to listing or de-listing any species as threatened or endangered, or designating or modifying the designation of critical habitat.

(vi) If the Resources Organizations take any action pursuant to subsections (i) through (v), inclusive, of this Section 11.4(b), the Resource Organizations shall not use such listing or critical habitat designation as a basis for modification of the Project and shall state that the Resource Organizations have agreed that the species listing and/or the designation of critical habitat does not create the need for any additional protection associated with the Project for species within the Project Boundary.

(vii) In any litigation relating to the Toll Road, the Resource Organizations shall:

(1) refrain from taking any action to make RMV a party to such action, unless a court of competent jurisdiction makes a determination that RMV is a necessary and indispensable party or otherwise requires RMV to be named as a party, provided however no Party makes any admission with respect to such determination.

(2) refrain from seeking any form of relief that would require modification of the Project;

(3) oppose any motion to join RMV as a party, whether made under Rule 19 of the Federal Rule of Civil Procedure, or otherwise;

(4) represent to the court, through competent evidence, that the Resource Organizations have agreed that species listing and/or the designation of critical habitat does not create the need for any additional protection associated with the Project for species within the Project Boundary; and

(5) release, covenant not to enforce, and oppose the enforcement of, any provision of any judgment or other order in such action that requires modification of the Project.

(c) Specific Restrictions. In addition to the comprehensive restrictions/covenants set forth in Section 11.4(a), above, the Resource Organizations and their respective employees, officers, governing boards and committees covenant not to engage in (or counsel others to engage in) the following specific conduct/activities:

(i) Administratively or judicially oppose any permits granted by the Wildlife/Resource Agencies relative to the PA 8 Development Area. Nothing in this Section shall preclude the Resource Organizations from submitting to the Wildlife/Resource Agencies comments on or objections to RMV's proposed configuration of the PA 8 Development Area in connection with the meet and confer sessions set forth in Section 4.3(a)(iii)(3) above.

(ii) Administratively or judicially oppose any development application that seeks, consistent with Section 3.3, to relocate and/or reallocate residential units,

residential uses, and non-residential square footage and uses among and between individual Planning Areas within Development Areas.

11.5 Sierra Club. Notwithstanding any other provision to the contrary, the obligations of Petitioner Sierra Club under this Section 11, and Section 12 below, shall be limited to the obligations set forth in this Section 11.5. The Sierra Club and its respective employees, officers, governing boards and committees covenant not to take any action to challenge, in a formal administrative or judicial proceeding, any of the following:

(a) RMV's actions in pursuing the development of the Project as permitted by the Project Approvals and Subsequent Project Approvals, all as modified by this Agreement. Nothing in this Section 11.5(a) shall preclude the Sierra Club from the following:

(i) Submitting comments to the Wildlife/Resource Agencies on any proposed NCCP, SAMP or MSAA insofar as those agreements pertain to lands outside of the Project Boundary.

(ii) Submitting comments to the Wildlife/Resource Agencies on any proposed NCCP, SAMP or MSAA insofar as those agreements pertain to the proposed Foothill South Toll Road extension ("Toll Road").

(iii) Challenging or otherwise opposing the Toll Road in any manner.

(iv) Challenging or otherwise opposing any project to be undertaken by a public agency on land to be condemned within the Project Boundary, including the reservoir identified in Section 4.7(b), but not including any infrastructure required for the Project as set forth in Section 1.6 above.

(v) Supporting, challenging, or otherwise opposing any decision by the Wildlife Agencies with respect to listing or de-listing any species as threatened or endangered, or designating or modifying the designation of critical habitat.

(vi) If the Sierra Club takes any action pursuant to subsections (i) through (v), inclusive, of this Section 11.5(a), the Sierra Club shall not use such listing or critical habitat designation as a basis for modification of the Project or for seeking any additional protection associated with the Project for species within the Project Boundary.

(b) The extension of Avenida Pico (or similar roadway) from San Clemente to Planning Area 8 in a form that avoids or minimizes impacts to biological resources consistent with Wildlife/Resources Agency approvals and with the intended purpose of the roadway.

(c) Any permits granted by the Wildlife/Resource Agencies relative to the PA 8 Development Area, provided that nothing in this Section 11.5 shall preclude the Sierra Club from submitting to the Wildlife/Resource Agencies comments on or objections to RMV's proposed configuration of the PA 8 Development Area in connection with the meet and confer sessions set forth in Section 4.3(a)(iii)(3), above.

(d) Any development application that seeks, consistent with Section 3.3, to relocate and/or reallocate residential units, residential uses, and non-residential square footage and uses among and between individual Planning Areas within Development Areas.

11.6 Limitations. Nothing in this Section 11 shall preclude Resource Organizations from opposing or challenging any action of RMV that is inconsistent with the Project Approvals, Subsequent Approvals, or this Agreement.

12. ASSISTANCE IN ACHIEVING GLOBAL ACCEPTANCE OF RESOLUTION. The Parties shall work cooperatively and use their best efforts to obtain global acceptance of the terms, provisions and conditions of this Agreement by the Center for Biological Diversity, the California Native Plant Society, the Surfrider Foundation, and the Friends of Harbors, Beaches and Parks.

13. NO ACQUISITION FUNDING. The Parties acknowledge that no acquisition funding is necessary or otherwise required precedent to the Parties' execution and performance of the terms and provisions of this Agreement. Notwithstanding this acknowledgement, RMV shall have the right, and not the obligation, to seek funding from other public and private sources in connection with development of the Ranch Plan Area.

14. REMEDIES.

14.1 Available Remedies In The Event Of Breach.

(a) The Parties agree that, in the event of a breach under this Agreement, and following exhaustion of the process set forth in Section 14.2 below, the sole and exclusive remedies available to the other Parties shall be: (i) to enforce, by specific performance, the obligations hereunder of the breaching party; or, (ii) obtain an appropriate injunction to ensure compliance with the terms of this Agreement; or, (iii) to exercise any other rights or remedies specifically set forth herein. No Party shall be required or compelled to take any action, or refrain from taking any action, other than those actions required by this Agreement.

(b) The Parties agree, that in the event of a breach by the Resource Organizations, or any one of them, of the provisions of Section 11.4(a) or Section 11.5(a) of this Agreement, the Resource Organization(s) shall provide an official letter disavowing any action taken by the Resource Organization(s) or a member of the Resource Organization(s) which is prohibited by Section 11.4 and shall provide said letter to RMV and the County.

(c) The Parties agree, that in the event of a breach by the Resource Organizations, or any one of them, of the provisions of Section 11.4(b) of this Agreement, RMV shall have the right to submit this form of letter to the appropriate agency in the form attached hereto as Exhibit K.

(d) The Parties agree, that if the Sierra Club takes any action pursuant to subsections (i) through (v), inclusive, of Section 11.5(a), and does not affirmatively state that the Sierra Club has agreed that the species listing and/or the designation of critical habitat does not create the need for any additional protection associated with the Project for species within the

Project Boundary, RMV shall have the right to submit the form of letter to the appropriate agency in the form attached hereto as Exhibit K.

14.2 Process in the Event of Breach.

(a) Notice of Breach. Within ten (10) business days of its determination that another Party has breached the provisions of this Agreement, a Party shall notify the other Party of this determination in writing and provide a written explanation of the basis of its determination.

(b) Response to Notice of Breach. Within fifteen (15) business days of its receipt of the notice set forth in Section 14.2(a), above, the Party receiving said notice shall provide a written response to the notifying Party indicating its concurrence with, or rejection of, the determination of breach, or indicating that the alleged breach has no bearing on that Party's obligations under this Agreement, as the case may be.

(c) Meet and Confer Obligation. Should the Parties disagree with respect to the determination of breach of this Agreement, or the remedy necessary to cure any alleged breach, as soon as is feasible, but in no event later than fifteen (15) days of the receipt by the Party claiming the breach of all responses by the alleged breaching Party, or other mutually agreeable date, the Parties shall meet and confer in good faith in an attempt to resolve any differences.

(d) Court Resolution of Breaches. It is the intent of the Parties that the Superior Court for the State of California in and for the County of Orange (the "Court") shall be the appropriate venue for resolving any disputes between the Parties as to the enforcement or interpretation of this Agreement. In the event that the dispute is not resolved through the procedures set forth in this Section 14.2, then the Party claiming the breach shall be entitled immediately to seek relief from the Court. No Party shall be entitled to seek relief from the Court without having complied with procedures set forth in this Section 14.2, except where the alleged breach would result in irreparable harm if immediate relief were not obtained.

15. RELEASE AND VERIFICATION.

15.1 Self-Executing Release.

(a) The terms, conditions and obligations of this Agreement shall be deemed automatically satisfied, terminated and released, without the need for further documentation or avowal from any Party, as to any portion of a Development Area, except for Planning Area 8 Development Area, ("Released Property") where the Released Property is the subject of a conveyance to buyer or transferee who is entitled to receive, by reason of such conveyance, a subdivision public report pursuant to California Business and Professions Code Section 11018.2 or any similar statute hereafter in effect.

(b) With respect to the Planning Area 8 Development Area, the terms, conditions and obligations of this Agreement shall be deemed automatically satisfied, terminated and released, without the need for further documentation or avowal from any Party, as to any portion of Planning Area 8 (the "Planning Area 8 Released Property"), where: (i) the Planning

Area 8 Released Property is the subject of a conveyance to buyer or transferee who is entitled to receive, by reason of such conveyance, a subdivision public report pursuant to California Business and Professions Code Section 11018.2 or any similar statute hereafter in effect; and (ii) the conditions, restrictions and covenants applicable to Planning Area 8 Development Area have been recorded at the time of subdivision.

15.2 Verification Certification. Any Party may, at any time, and from time to time, deliver written notice to any other Party requesting such Party to certify in writing, in the form attached hereto as Exhibit L, that, to the knowledge of the certifying Party, the certifying Party has not served the Party requesting the certification with a notice of breach pursuant to the provisions of Section 14.2 of this Agreement that has not been resolved to the satisfaction of the certifying Party. A Party receiving a request hereunder shall execute and return such certificate within thirty (30) days following the receipt thereof. The Director of the Planning and Development Services Department of County (or his/her designee) shall have the right to execute on behalf of the County any certificate requested pursuant to the provisions of this Section 15.2; the Resource Organization Designee shall have the right to execute on behalf of the Resource Organizations (and each of the Resource Entities) any certificate requested pursuant to this Section 15.2. Notwithstanding the preceding sentence, in no event shall the Resource Organization Designee or the Resource Organizations be required to furnish RMV more than three (3) verification certifications in any given calendar year.

16. MISCELLANEOUS.

16.1 No Prior Assignments. The Parties hereto represent and warrant that they have not heretofore assigned or transferred or purported to assign or transfer, to any other person, entity, firm or corporation whatsoever, any claim, debt, liability, demand, obligation, expense, action or causes of action herein released.

16.2 Binding on Successors. This Agreement and its terms shall be binding upon and enforceable against each of the Parties hereto and each and all of their respective successors, assignees, buyers, grantees, vendees, or transferees, and their direct or indirect affiliates, partners, joint venturers, subsidiaries, parents, representatives, receivers, trustees, officers, directors, employees, agents, shareholders, members and elected and appointed officials and each of them, wherever located.

16.3 Right To Enforce. Only the Parties hereto may enforce this Agreement against any other Party, and their respective successors, assignees, buyers, grantees, vendees, or transferees, and their direct or indirect affiliates, partners, joint venturers, subsidiaries, parents, representatives, receivers, trustees, officers, directors, employees, agents, shareholders, members and elected and appointed officials and each of them.

16.4 Assignment. The Resource Organizations, collectively and individually, shall not be entitled to assign or otherwise transfer their respective rights under this Agreement without the prior written consent of RMV, which consent may be withheld in the sole discretion of RMV, except that if there is only one Resource Organization in existence at the time of a proposed transfer which requires the prior written consent of RMV, such consent shall not be

unreasonably withheld. RMV may assign its rights under this Agreement by written assignment executed by RMV and such assignee.

16.5 Settlement of Disputed Claims. The Parties hereto understand and agree that this settlement is a compromise of disputed claims, and that no Party's actions under this Agreement shall be construed as an admission of liability. The Parties hereto expressly acknowledge that nothing in this Agreement or any action taken in furtherance of this Agreement shall be deemed an admission regarding the adequacy of Program EIR No. 589, the Project, the Project Approvals or the Subsequent Project Approvals.

16.6 Entire Agreement. This writing constitutes the entire agreement among the Parties. Any amendment of this Agreement shall only be valid upon written execution of such amendment by the Parties. Further, none of the Parties to this Agreement shall be bound by any representations, warranties, promises, statements, or information unless expressly set forth herein.

16.7 Factual Investigation. Each Party has conducted its own factual investigation, is not relying on any other Party, and assumes the risk that there are material unknown facts or that facts are other than as is presumed. The Parties further acknowledge that they are aware that they may hereafter discover material facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of this Agreement, and further acknowledge that there may be future events, circumstances, or occurrences materially different from those they know or believe likely to occur, but that it is their intention to enter into and be bound by this Agreement.

16.8 Agreement May Be Pleaded as a Defense. In connection with any demand or cause of action related to a matter released in Sections 9.3(a) and (b), this Agreement may be pleaded as a defense by the Parties hereto and shall operate to effect a dismissal of such demand or cause of action.

16.9 Captions. The captions of the various sections in this Agreement are for convenience and organization only, and are not intended to be any part of the body of this Agreement, nor are they intended to be referred to in construing the provisions of this Agreement.

16.10 Exhibits. All exhibits referenced in this Agreement are made a part of and incorporated herein.

16.11 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

16.12 Notices, Demands and Communications Between the Parties. Formal written notices, demands, correspondence and communications between the Parties shall be sufficiently given if delivered personally (including delivery by private courier), dispatched by certified mail, postage prepaid and return receipt requested, or delivered by nationally recognized overnight courier service, or by electronic facsimile transmission followed by delivery of a "hard" copy to the offices of the Parties indicated below.

If to Resource Organizations: Endangered Habitats League
8424-A Santa Monica Blvd, # 592
Los Angeles, CA 90069
Attn: Dan Silver
Executive Director

Natural Resources Defense Council, Inc.
1314 Second Street
Santa Monica, CA 90401
Attn: Joel Reynolds
Senior Attorney

Sea and Sage Audubon Society
c/o 24911 Hayuco
Mission Viejo, CA 92692
Attn: Scott Thomas
Conservation Co-Chair

Laguna Greenbelt
P.O. Box 860
Laguna Beach, CA 92652
Attn: Elisabeth Brown
President

Sierra Club
Angeles Chapter
3435 Wilshire Blvd., Suite 320
Los Angeles, CA 90010-1904
Attn: Executive Committee Chair

With a copy to: Shute, Mihaly & Weinberger, LLP
396 Hayes Street
San Francisco, CA 94102
Attn: William J. White

Sierra Club Environmental Law Program
85 Second Street, 2nd Floor
San Francisco, CA 94105
Attn: Coordinating Attorney

If to County: Director, Resources and Development
Management Department
300 North Flower Street, 8th Floor
Santa Ana, CA 92701
Attn: Bryan Speegle, Director

With a copy to: Orange County Counsel
10 Civic Center Plaza, 4th Floor
Santa Ana, CA 92701
Attn: Jack W. Golden, Supervising Deputy Counsel

If to RMV: c/o Rancho Mission Viejo, LLC
28811 Ortega Highway
P.O. Box 9
San Juan Capistrano, CA 92693
Attn: Mr. Richard Broming

With a copy to: Morgan, Lewis & Bockius LLP
5 Park Plaza, Suite 1750
Irvine, CA 92614
Attn: Rollin B. Chippey II

Such written notices, demands, correspondence and communications may be sent in the same manner to such persons and addresses as any Party may from time-to-time designate in writing at least fifteen (15) days prior to the name or address change and as provided in this Section 16.12.

Notices personally delivered shall be deemed to have been received upon delivery. Notices delivered by certified mail, as provided above, shall be deemed to have been given and received on the first to occur of: (a) actual receipt by any of the addressees designated above as the Party to whom notices are to be sent; or (b) within five (5) days after a certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. Notices delivered by nationally recognized overnight courier service (such as Federal Express) as provided above shall be deemed to have been received twenty-four (24) hours after the date of deposit. Notices delivered by electronic facsimile transmission shall be deemed received upon receipt of sender of electronic confirmation of delivery, provided that a "hard" copy is delivered by overnight courier as provided above.

16.13 Counterparts. This Agreement may be executed in one or more counterparts, and all the counterparts shall constitute but one and the same Agreement, notwithstanding that all Parties hereto are not signatories to the same or original counterpart.

16.14 Nonwaiver. Unless otherwise expressly provided in this Agreement, no waiver by a Party of any provision hereof shall be deemed to have been made unless expressed in writing and signed by such Party. No delay or omission in the exercise of any right or remedy accruing to any Party upon any breach under this Agreement shall impair such right or remedy or be construed as a waiver of any such breach theretofore or thereafter occurring. The waiver by a Party of any breach of any term, covenant or condition herein stated shall not be deemed to be a waiver of any other term, covenant or condition.

16.15 Authority. The persons signing below represent that they have the authority to bind their respective Party and that all necessary board of supervisors', board of directors', shareholders' or other approvals have been obtained.

16.16 Understanding of Terms. The Parties each hereby affirm and acknowledge that they have read this Agreement, that they know and understand its terms, and have signed it voluntarily and after having been advised by counsel. The Parties have had a full and unhindered opportunity to consult with their attorneys, accountants, financial advisors and such other consultants, as they may have desired prior to executing this Agreement.

16.17 Construction. The Parties acknowledge that each Party and its counsel have reviewed this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendment or exhibits hereto.

16.18 No Third Party Beneficiaries. This Agreement shall not create or bestow any lien or property right in any third party. The Parties agree that no third party beneficiary to this Agreement exists and that nothing contained herein shall be construed as giving any other person or entity third party beneficiary status.

16.19 No Requirement to Build. The Parties hereto agree that, notwithstanding anything to the contrary herein, this Agreement shall not obligate RMV to undertake all or any part of the Project; however, if and when RMV proceeds to construct the Project, RMV shall do so in conformance with the provisions of this Agreement.

16.20 Further Assurances. The Parties shall promptly perform, execute and deliver or cause to be performed, executed and delivered any and all acts, deeds and assurances, including the delivery of any documents, as either Party may reasonably require in order to carry out the intent and purpose of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed one or more copies of this Agreement as of the date first set forth above.

“RMV”

DMB SAN JUAN INVESTMENT NORTH, LLC,
a Delaware limited liability company

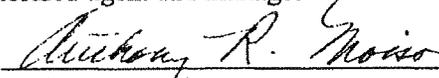
By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
as authorized agent and manager

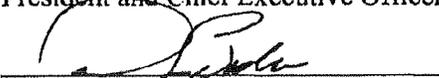
By: 
Anthony R. Moiso
President and Chief Executive Officer

By: 
Donald L. Vodra
Chief Operating Officer

RMV MIDDLE CHIQUITA, LLC,
a California limited liability company

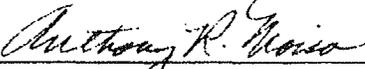
By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
as authorized agent and manager

By: 
Anthony R. Moiso
President and Chief Executive Officer

By: 
Donald L. Vodra
Chief Operating Officer

RMV RANCH HOUSE, LLC,
a California limited liability company

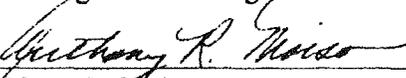
By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
as authorized agent and manager

By: 
Anthony R. Moiso
President and Chief Executive Officer

By: 
Donald L. Vodra
Chief Operating Officer

RMV HEADQUARTERS, LLC,
a California limited liability company

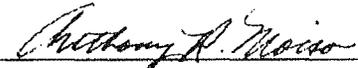
By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
as authorized agent and manager

By: 
Anthony R. Moiso
President and Chief Executive Officer

By: 
Donald L. Vodra
Chief Operating Officer

RMV SAN JUAN WATERSHED, LLC,
a California limited liability company

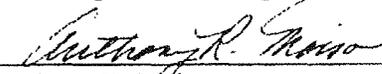
By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
as authorized agent and manager

By: 
Anthony R. Moiso
President and Chief Executive Officer

By: 
Donald L. Vodra
Chief Operating Officer

RMV SAN MATEO WATERSHED, LLC,
a California limited liability company

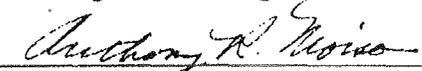
By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
as authorized agent and manager

By: 
Anthony R. Moiso
President and Chief Executive Officer

By: 
Donald L. Vodra
Chief Operating Officer

RMV BLIND CANYON, LLC,
a California limited liability company

By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
as authorized agent and manager

By: 
Anthony R. Moiso
President and Chief Executive Officer

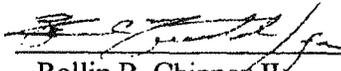
By: 
Donald L. Vodra
Chief Operating Officer

RANCHO MISSION VIEJO, LLC,
a Delaware limited liability company

By: 
Anthony R. Moiso
President and Chief Executive Officer

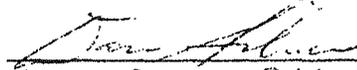
By: 
Donald L. Vodra
Chief Operating Officer

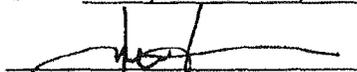
Approved as to Form
Morgan, Lewis & Bockius LLP

By: 
Rollin B. Chippey II

“Resource Organizations”

ENDANGERED HABITATS LEAGUE,
a California not-for-profit corporation

By: 
Name: Dan Silver
Title: President

By: 
Name: JESS MARTIN
Title: TREASURER

NATURAL RESOURCES DEFENSE COUNCIL,
INC., a not-for-profit corporation organized under
the laws of the State of New York

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

SEA AND SAGE AUDUBON SOCIETY,
a California not-for-profit corporation and a
chapter of The National Audubon Society

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

"Resource Organizations"

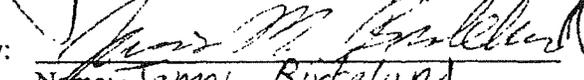
ENDANGERED HABITATS LEAGUE,
a California not-for-profit corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

NATURAL RESOURCES DEFENSE COUNCIL,
INC., a not-for-profit corporation organized under
the laws of the State of New York

By: 
Name: Steel Reynolds
Title: Senior Attorney

By: 
Name: James Birkeland
Title: Staff Attorney

SEA AND SAGE AUDUBON SOCIETY,
a California not-for-profit corporation and a
chapter of The National Audubon Society

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

“Resource Organizations”

ENDANGERED HABITATS LEAGUE,
a California not-for-profit corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

NATURAL RESOURCES DEFENSE COUNCIL,
INC., a not-for-profit corporation organized under
the laws of the State of New York

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

SEA AND SAGE AUDUBON SOCIETY,
a California not-for-profit corporation and a
chapter of The National Audubon Society

By: Thomas C. Croon
Name: THOMAS C. CROON
Title: PRESIDENT

By: Scott E. Thomas
Name: SCOTT E. THOMAS
Title: CONSERVATION CHAIR

LAGUNA GREENBELT, INC.,
a California not-for-profit corporation

By: [Signature]
Name: Elisabeth M. Brown, Ph.D
Title: President

By: [Signature]
Name: WAYNE A YBARLA
Title: SECRETARY

SIERRA CLUB,
a California not-for-profit corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Approved as to Form
Shute, Mihaly & Weinberger,
LLP

By: _____
William J. White

LAGUNA GREENBELT, INC.,
a California not-for-profit corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

SIERRA CLUB,
a California not-for-profit corporation

By: Virgil B. Shields
Name: Virgil B. Shields
Title: Angeles Chapter Chair

By: William J. White
Name: WILLIAM CORCORAN
Title: SR. Regional Representative

Approved as to Form
Shute, Mihaly & Weinberger, LLP

By: _____
William J. White

LAGUNA GREENBELT, INC.,
a California not-for-profit corporation

By: _____
Name: _____
Title: _____

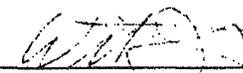
By: _____
Name: _____
Title: _____

SIERRA CLUB,
a California not-for-profit corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Approved as to Form
Shute, Mihaly & Weinberger, LLP

By:  _____
William J. White

"County"

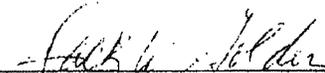
COUNTY OF ORANGE,
a political subdivision of the State of California

By: Orange County Board of Supervisors

By: Office of the County Counsel, County of Orange
Its: Authorized Agent and Delegate

By: Benjamin P. de Mayo, County Counsel

By:



Jack W. Golden
Supervising Deputy

List of Exhibits

Exhibit A – Ranch Plan Settlement Area Map

Exhibit B – Uses Prohibited in Defined Open Space

Exhibit C – Map Depicting Boundaries of Recycling and Recovery Facility Area

Exhibit D – Map Depicting Boundaries of Employee Housing Area

Exhibit E – Map Depicting Boundaries of RMV HQ Area

Exhibit F – Map Depicting Boundaries of Potential Orchards

Exhibit G – Design and Management Features for PA 8 Development Area

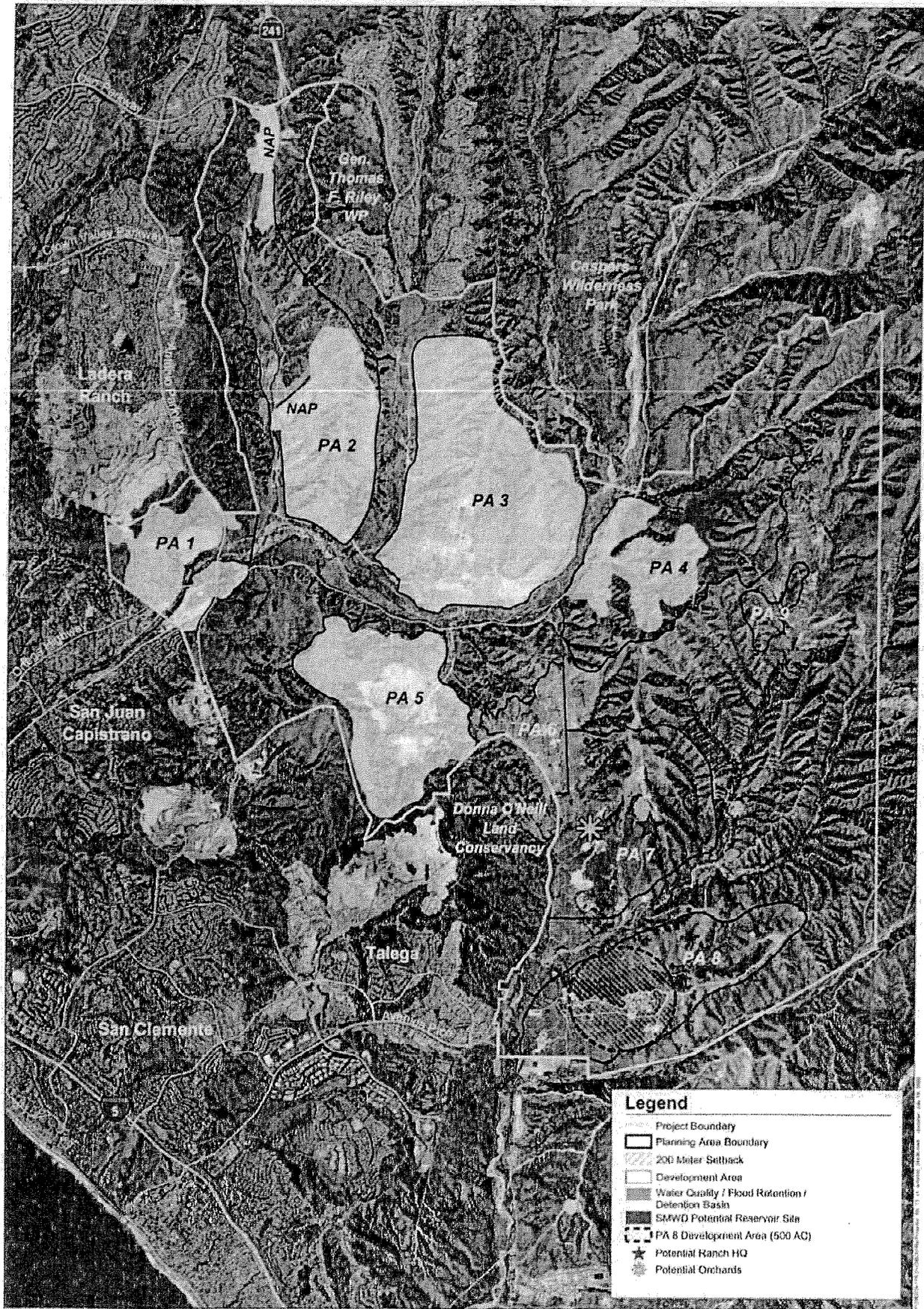
Exhibit H – Map Depicting Planning Area 2 / Chiquita Project Areas

Exhibit I – Notice of Settlement Agreement and Declaration of Restrictions

Exhibit J – Joint Public Announcement

Exhibit K – Form of Letter to Address Breach of Section 11.4(b) and 11.5(a)

Exhibit L – Form of Verification Certification



Ranch Plan Settlement Area Map

EXHIBIT B

Exhibit B

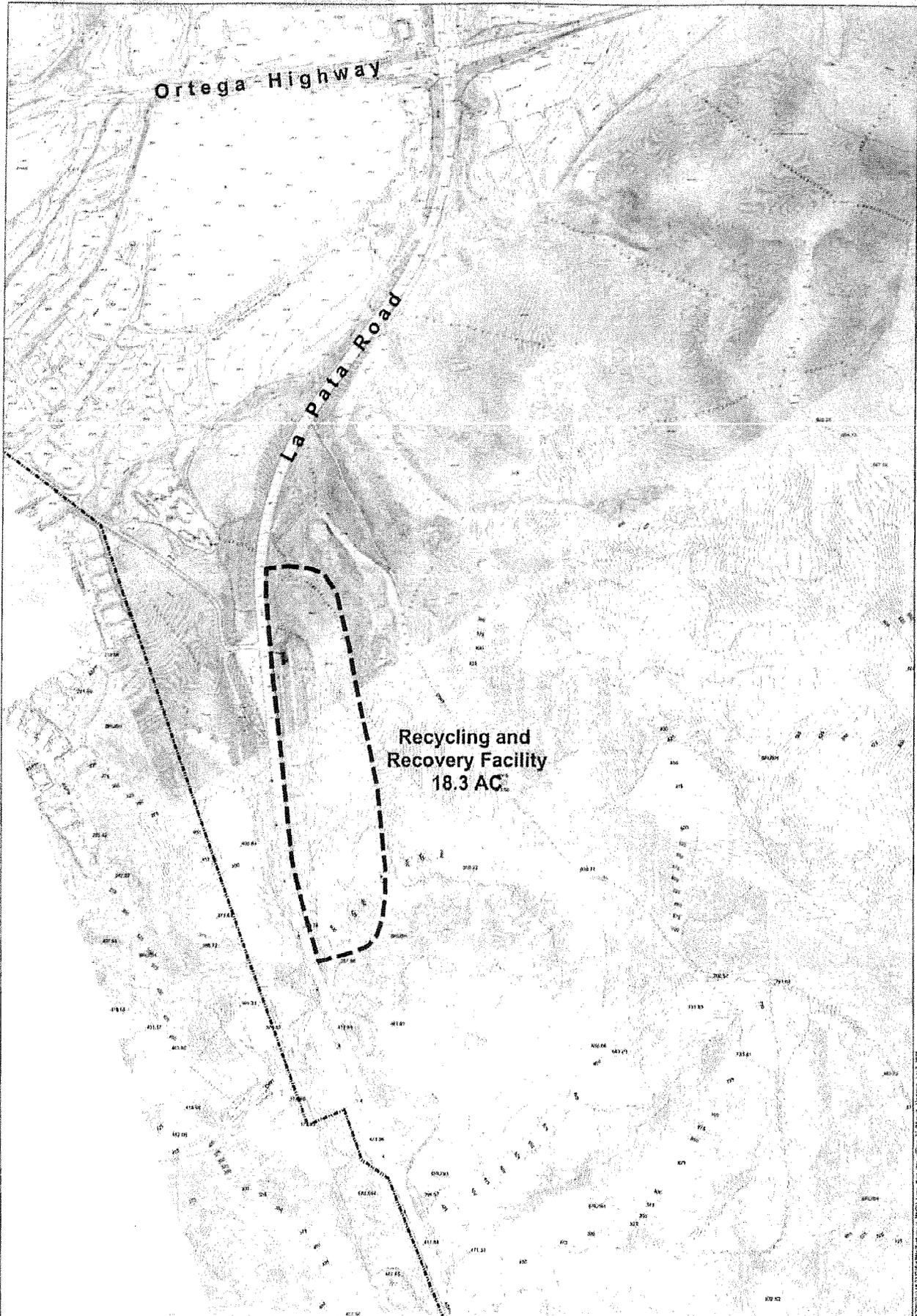
Uses Prohibited in Defined Open Space

Notwithstanding their classification in the Project Approvals as approved open space uses, the following uses and activities shall be prohibited within the Defined Open Space.

1. Nurseries
2. Construction offices
3. Maintenance yards
4. Commercial stables (except the St. Augustine's Training Center and Stables or successors in its current location.)
5. Research and development facilities (except for the uses at the Northrop Grumman-Capistrano Test Site permitted by the lease)
6. Waste disposal operations and associated uses (except the Recycling and Recovery facility as described in Section 3.7 of this Agreement.
7. Storage facilities
8. Mining and quarrying of materials
9. Materials recycling and recovery facilities (except for the Recycling and Recovery Facility described in Section 3.7 of this Agreement)
10. New, expanded and/or relocated citrus or other orchard crops (not including the additional 50 acres of orchards allowed pursuant to Section 4.2(b) of this Agreement)
11. New, expanded and/or relocated dry farming
12. Irrigated crops (except citrus or other orchard crops as provided in Paragraph 10, above)
13. Packing plants (except when located within allowed orchards)
14. Any uses or activities that are not Existing Agricultural/Ranching Practices as defined in section 1.4 of this Agreement, except as expressly authorized by this Agreement.
15. Caretaker or employee housing and related facilities except as authorized by Sections 3.8 and 4.2(a) of this Agreement.
16. Feed lots
17. Active recreation and related facilities except Existing Agricultural/Ranching Practices

18. **Passive public recreation except as may be authorized via an NCCP or equivalent ecologically-based management plan**
19. **Fire station or permanent wildland fire training facility**
20. **Fuel modification zones**

EXHIBIT C



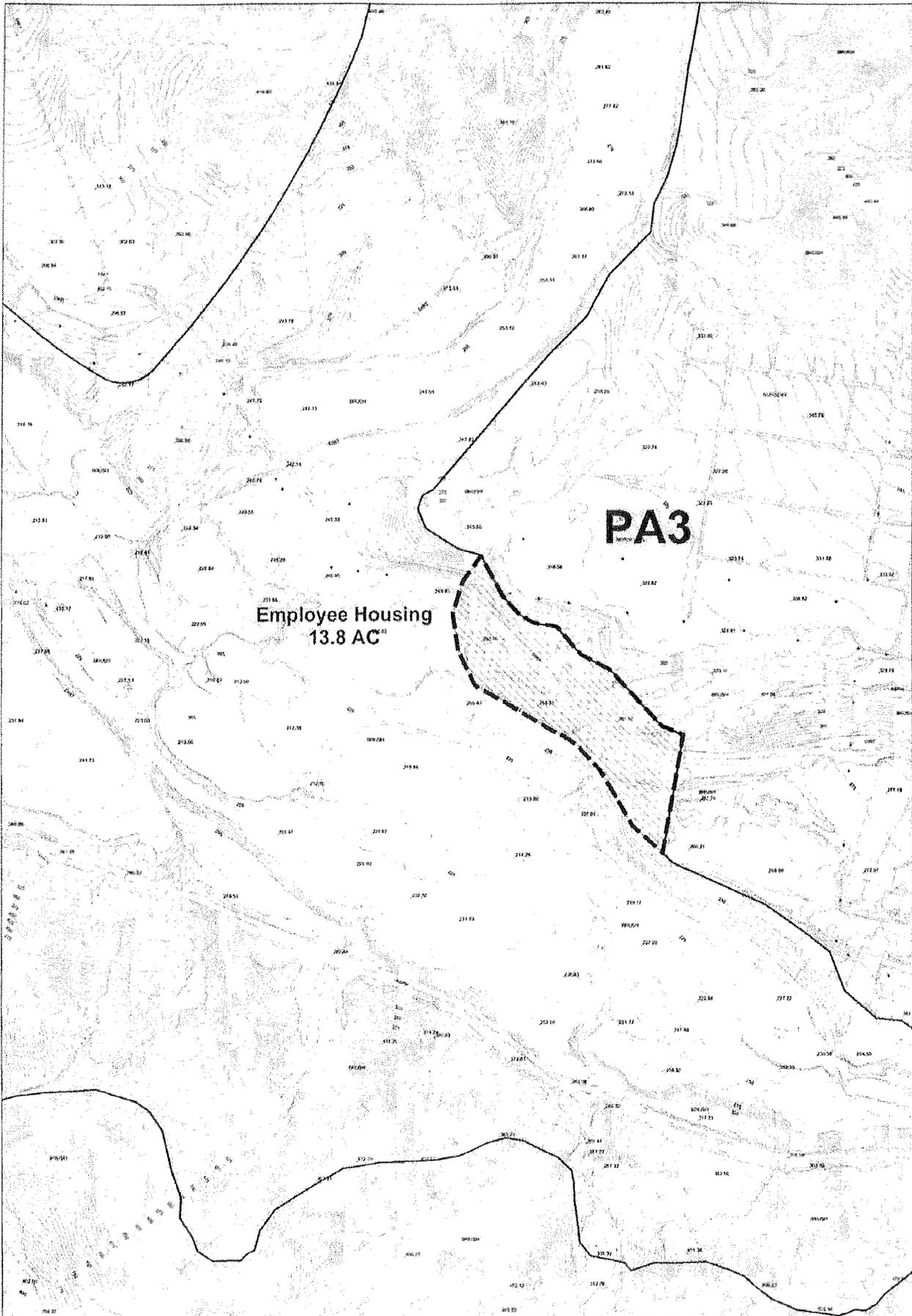
Map Depicting Proximate Boundaries of
Recycling and Recovery Facility

Exhibit C

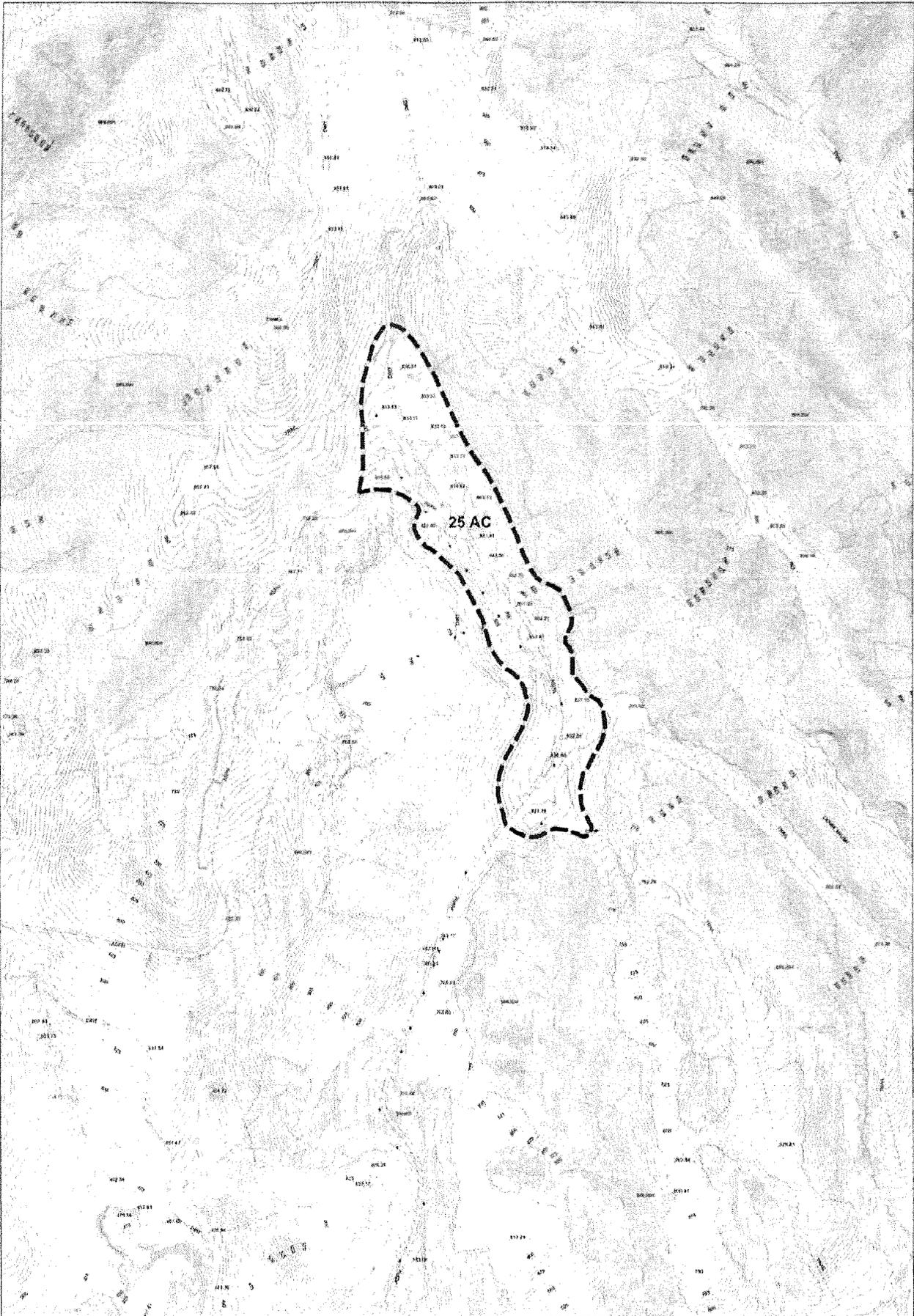


July 25th, 2005



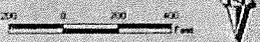


BLUESARDLINE.COM (888) 477-6700

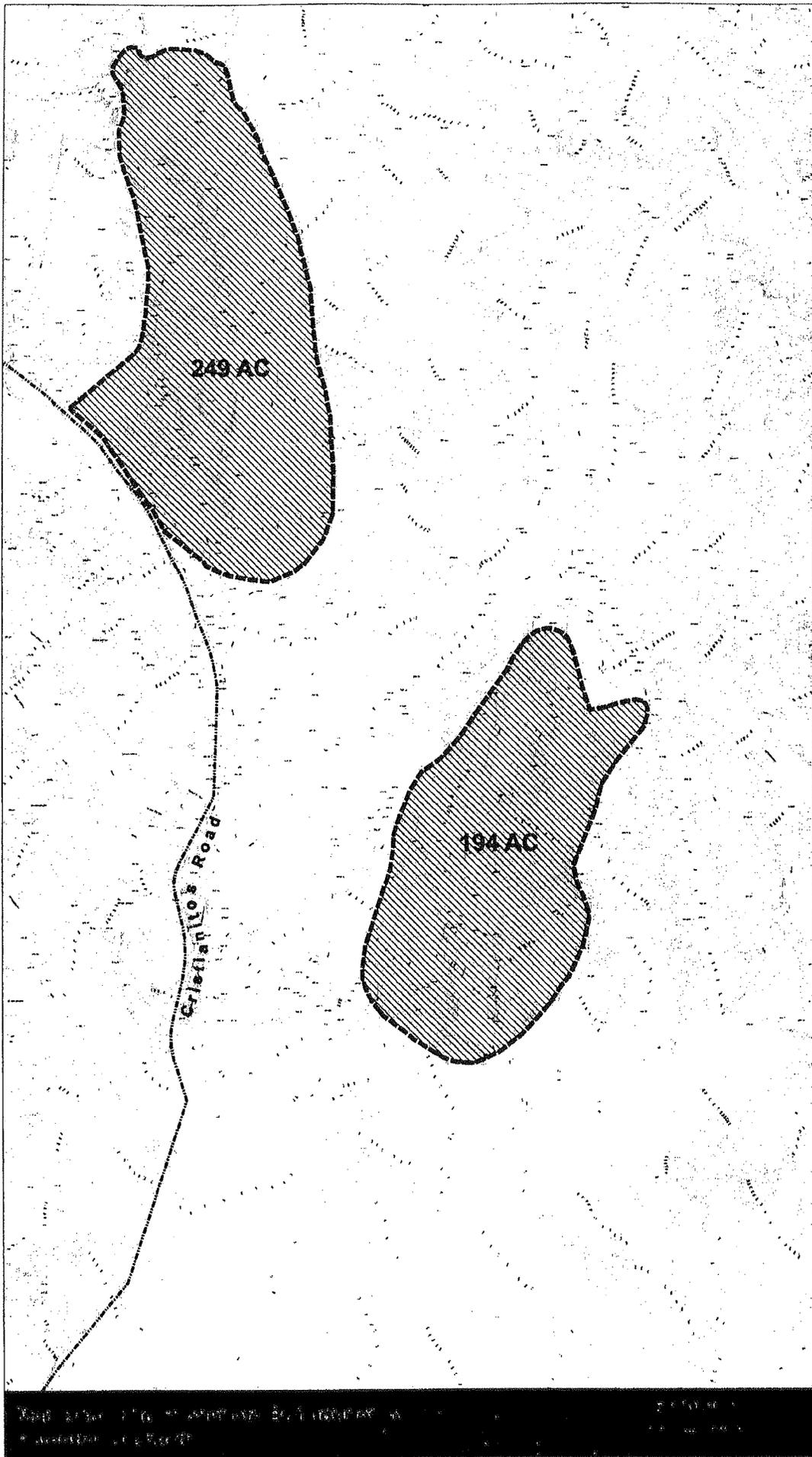


Map Depicting Proximate Boundaries of
Rancho Mission Viejo Headquarters Area

Exhibit E



A scale bar showing 0, 200, and 400 feet. To the right of the scale bar is a north arrow pointing upwards.



Map scale: 1" = 1000 feet
* Contour interval: 10 feet

EXHIBIT G

EXHIBIT G

Planning Area 8 Edge Requirements

Design Requirements:

1. Barriers

Within the Fuel Modification Zone (FMZ), a barrier will be provided to prevent urban encroachment in the natural areas. This barrier will include one of the following depending on the adjacent use and/or topography:

- 6-foot high wire agriculture fence with maximum 4-inch openings
- 6-foot high fence with a woven wire mesh
- 6-foot high chain link fence
- 6-foot high tubular steel fence (with pickets 3-inch on center)
- 6-foot high solid wall
- Dense planting of barrier species such as Prickly Pear, Coastal Cholla and Coastal Yucca in combination with fencing to create a continuous barrier.
- Golf course (with out-of-bounds signage and scorecard notations) with a combination of planting of barrier species such as Prickly Pear, Coastal Cholla and Coastal Yucca in combination with fencing to create a continuous barrier

The barriers will be maintained as appropriate.

2. Trails

Adjacent to any trails within the Fuel Modification Zone, signage will describe the open space limits (similar to the Ladera Ranch). Off-limit areas will include Defined Open Space, Camp Pendleton Marine Base, and Donna O'Neill Land Conservancy, except as permitted by Exhibit B, Paragraph 18.

3. Invasive Species

All plants identified by the California Exotic Pest Plant Council as an invasive risk in southern California shall be prohibited from fuel modification zones adjacent to Defined Open Space. The Conditions, Covenants and Restrictions or equivalent restrictive document applicable to Planning Area 8 Development Area shall contain provisions prohibiting the planting of highly invasive species, including but not limited to arundo, artichoke thistle, and pampas grass.

4. Lighting

Lighting shall be shielded or directed away from Defined Open Space through the use of low-sodium or similar intensity lights, light shields, native shrubs, berms or other shielding methods (Program EIR No. 589 Mitigation Measure 4.9-28)

Management

1. Education

A brochure educating the public on open spaces issues will developed to be distributed to:

- Residents
- Resort guests
- Business owners

Issues addressed will include, but are not limited to, threatened and endangered species, mountain lions, raptors, sensitive habitats, and the prohibited access to Defined Open Space, Camp Pendleton Marine Base, and the Donna O'Neill Land Conservancy. Brochures will be distributed annually to the above groups and an annual, well-advertised community meeting will be held for education purposes.

2. Coordination

A Home Owners Association (HOA) committee will be established to interface with the Rancho Mission Viejo Land Conservancy on monitoring urban encroachment.

3. Security

Roaming patrols will be present during daylight hours or other times as may be necessary to monitor and enforce access restrictions, lighting restrictions, and other edge management measures, and to maintain barriers. Monitoring personnel will be required to undergo training that will include information on threatened and endangered species, mountain lions, raptors, sensitive habitats, and the prohibited access to Defined Open Space, Camp Pendleton Marine Base, and the Donna O'Neill Land Conservancy.

Inspections

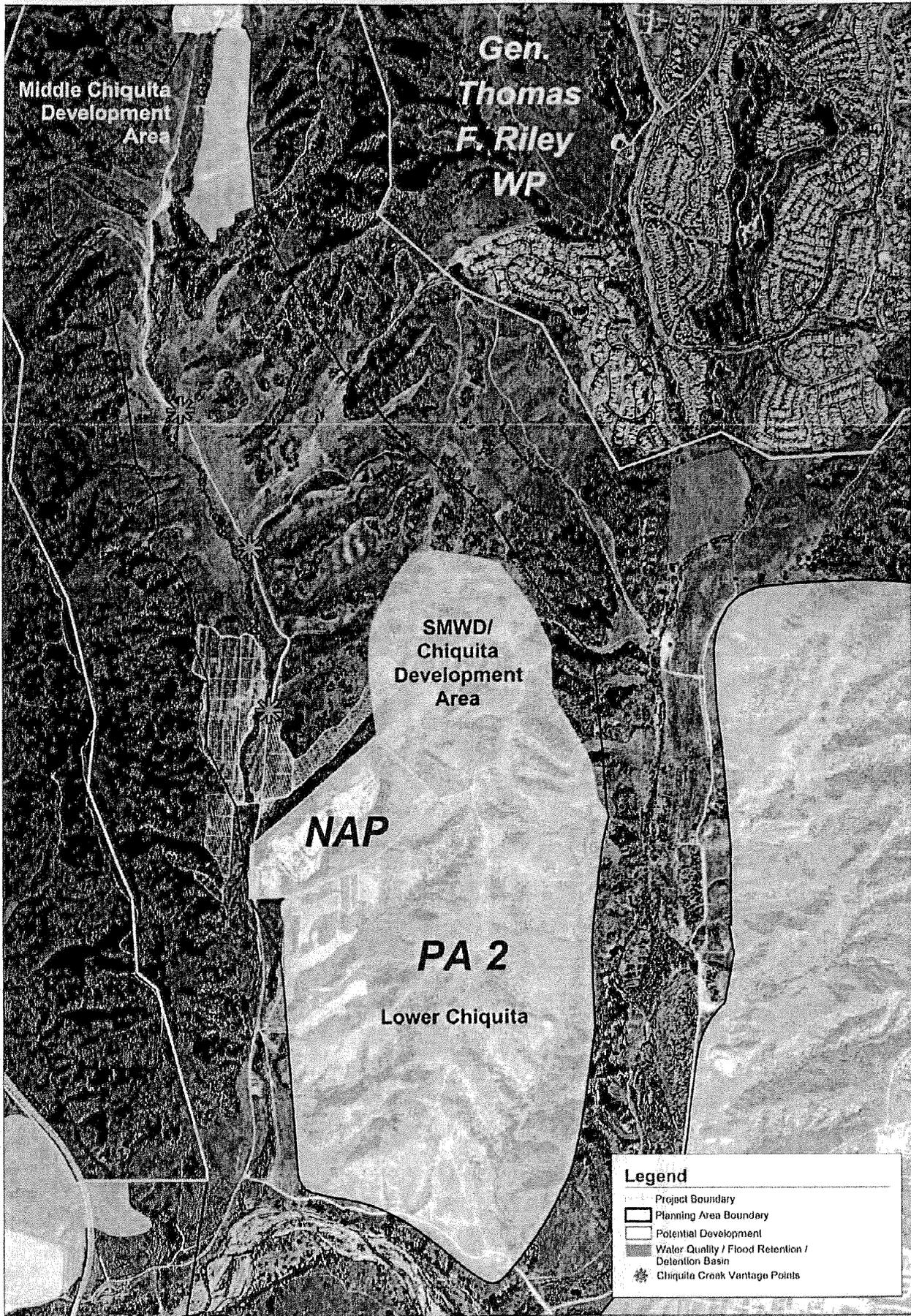
All Edge Requirements shall be available for annual inspections pursuant to Section 8 of this Agreement.

The on-going obligations specified in this Exhibit B shall be memorialized in the Conditions, Covenants and Restrictions or equivalent enforceable restrictive scheme applicable to Planning Area 8 Development Area.

Miscellaneous

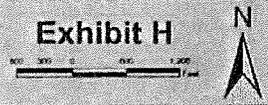
- 1. To the extent practicable and financially feasible, best management and design practices to avoid irrigation, hydrological and structural conditions that attract Argentine Ants shall be used.**

EXHIBIT H



Map Depicting Planning Area 2 / Chiquita Project Area

Exhibit H



SEE BLUEBIRD.COM FOR ARE 477-0700 

EXHIBIT I

RECORDING REQUESTED BY,
AND WHEN RECORDED MAIL TO:

Rancho Mission Viejo, L.L.C.
28811 Ortega Highway
San Juan Capistrano, California 92675
Attn: General Counsel

Space Above for Recorder's Use

NOTICE OF SETTLEMENT AND DECLARATION OF RESTRICTIONS

THIS NOTICE OF SETTLEMENT AND DECLARATION OF RESTRICTIONS ("Declaration") is entered into by and among RANCHO MISSION VIEJO, LLC, a Delaware limited liability company, DMB SAN JUAN INVESTMENT NORTH, LLC, a Delaware limited liability company, RMV MIDDLE CHIQUITA, LLC, a California limited liability company, RMV RANCH HOUSE, LLC, a California limited liability company, RMV HEADQUARTERS, LLC, a California limited liability company, RMV SAN JUAN WATERSHED, LLC, a California limited liability company, RMV SAN MATEO WATERSHED, LLC, a California limited liability company and RMV BLIND CANYON, LLC, a California limited liability company. The individual entities identified above are collectively referred to hereafter as "RMV."

TO ALL INTERESTED PARTIES, PLEASE BE ADVISED AS FOLLOWS:

A. RMV is the owner of the real property located in the unincorporated area of Orange County, California, and more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "RMV Property"). The RMV Property is commonly known as the "Rancho Mission Viejo."

B. Prior to the date hereof, the County of Orange, a political subdivision of the State of California ("County"), approved a comprehensive land development and conservation plan for the RMV Property ("Ranch Plan Approvals").

C. Following issuance of the Ranch Plan Approvals, a Verified Petition for Writ of Mandate was filed in the Superior Court for Orange County (Case No. 04CC01637) challenging the Ranch Plan Approvals (the "Ranch Plan Litigation"). The Petitioners identified in the Ranch Plan Litigation are ENDANGERED HABITATS LEAGUE, a California not-for-profit corporation, NATURAL RESOURCES DEFENSE COUNCIL, INC., a not-for-profit corporation organized under the laws of the State of New York, SEA AND SAGE AUDUBON

SOCIETY, a chapter of The National Audubon Society, LAGUNA GREENBELT, INC., a California not-for-profit corporation, and SIERRA CLUB, a California not-for-profit corporation (collectively the "Resource Organizations"). County is identified as the Respondent in the Ranch Plan Litigation and RMV is identified as the Real Party in Interest.

D. Concurrent herewith, RMV, the Resource Organizations and County have entered into that certain Settlement Agreement dated _____, 2005 ("Settlement Agreement"), incorporated by reference herein as if fully set forth, pursuant to which RMV, the Resource Agencies and County resolved the dispute embodied in the Ranch Plan Litigation. This Declaration has been executed and recorded for the purpose of imparting notice of the Settlement Agreement and the respective rights and obligations of the parties thereto as set forth therein. All of the terms, covenants and conditions set forth in the Settlement Agreement shall be incorporated hereby by reference as though set forth fully herein. In the event of any inconsistency between this Declaration and the Settlement Agreement, the Settlement Agreement shall control. This Declaration, and the Settlement Agreement, shall bind the parties hereto and their respective heirs, successors and assigns, all in accordance with their individual terms.

E. In connection with the negotiation and execution of the Settlement Agreement, RMV has agreed to certain restrictions on, and obligations regarding, the development of certain portions of the RMV Property, which restrictions and obligations shall be enforceable by the Resource Organizations, RMV or County, as more fully set forth in the Settlement Agreement, as part of a common development plan consistent with the protection of the environment, and shall bind all current and subsequent owners of the RMV Property.

F. Each conveyance, transfer or assignment of any part of, or interest in or to, the Property or portion thereof ("Transfer") is made subject to the provisions of this Declaration, and the obligations and restrictions referenced herein are made part of such Transfer. The person to whom such Transfer is made shall be bound by the liabilities created hereunder as such liabilities relate to the Property or portion thereof, or interest therein, acquired by such transferee.

[THIS SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed one or more copies of this Declaration as of the date first set forth above.

"RMV"

DMB SAN JUAN INVESTMENT NORTH, LLC,
a Delaware limited liability company

By: **Rancho Mission Viejo, LLC,**
a Delaware limited liability company,
as authorized agent and manager

By: *Anthony R. Moiso*
Anthony R. Moiso
President and Chief Executive Officer

By: *Donald L. Vodra*
Donald L. Vodra
Chief Operating Officer

RMV MIDDLE CHIQUITA, LLC,
a California limited liability company

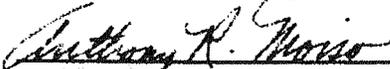
By: **Rancho Mission Viejo, LLC,**
a Delaware limited liability company,
as authorized agent and manager

By: *Anthony R. Moiso*
Anthony R. Moiso
President and Chief Executive Officer

By: *Donald L. Vodra*
Donald L. Vodra
Chief Operating Officer

RMV RANCH HOUSE, LLC,
a California limited liability company

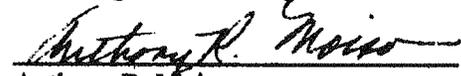
By: **Rancho Mission Viejo, LLC,**
a Delaware limited liability company,
as authorized agent and manager

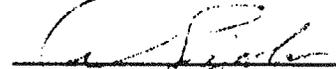
By: 
Anthony R. Moiso
President and Chief Executive Officer

By: 
Donald L. Vodra
Chief Operating Officer

RMV HEADQUARTERS, LLC,
a California limited liability company

By: **Rancho Mission Viejo, LLC,**
a Delaware limited liability company,
as authorized agent and manager

By: 
Anthony R. Moiso
President and Chief Executive Officer

By: 
Donald L. Vodra
Chief Operating Officer

RMV SAN JUAN WATERSHED, LLC,
a California limited liability company

By: **Rancho Mission Viejo, LLC,**
a Delaware limited liability company,
as authorized agent and manager

By: *Anthony R. Moiso*
Anthony R. Moiso
President and Chief Executive Officer

By: *Donald L. Vodra*
Donald L. Vodra
Chief Operating Officer

RMV SAN MATEO WATERSHED, LLC,
a California limited liability company

By: **Rancho Mission Viejo, LLC,**
a Delaware limited liability company,
as authorized agent and manager

By: *Anthony R. Moiso*
Anthony R. Moiso
President and Chief Executive Officer

By: *Donald L. Vodra*
Donald L. Vodra
Chief Operating Officer

RMV BLIND CANYON, LLC,
a California limited liability company

By: **Rancho Mission Viejo, LLC,**
a Delaware limited liability company,
as authorized agent and manager

By: *Anthony R. Moiso*
Anthony R. Moiso
President and Chief Executive Officer

By: *Donald L. Vodra*
Donald L. Vodra
Chief Operating Officer

RANCHO MISSION VIEJO, LLC,
a Delaware limited liability company

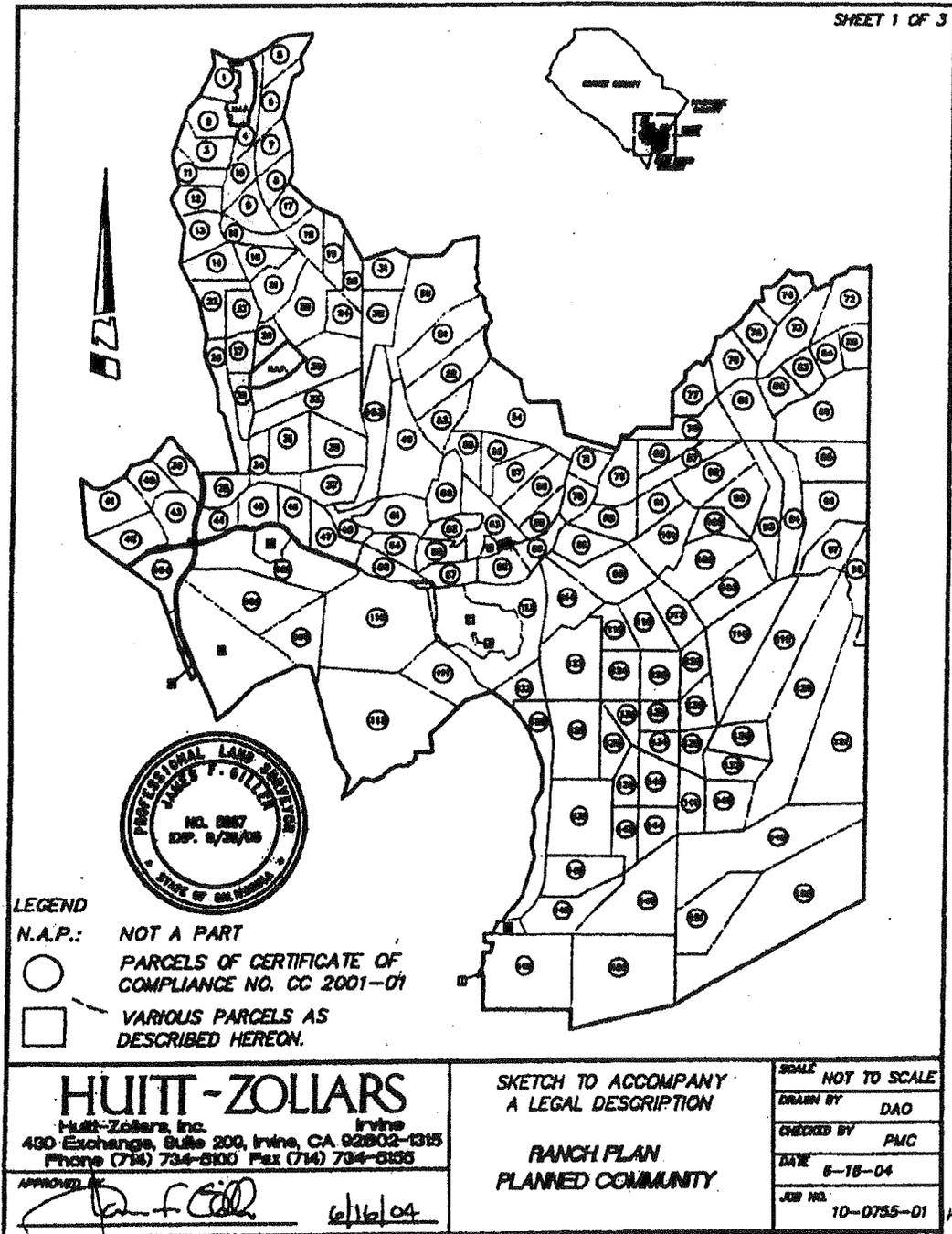
By: *Anthony R. Moiso*
Anthony R. Moiso
President and Chief Executive Officer

By: *Donald L. Vodra*
Donald L. Vodra
Chief Operating Officer

EXHIBIT A

LEGAL DESCRIPTION OF RMV PROPERTY

[TO BE PROVIDED]



SHEET 2 OF 3

NOTE:

PARCEL A IS SHOWN HEREON AS INDIVIDUAL PARCELS AS NUMBERS IN A CIRCLE ○.

PARCELS B THROUGH I ARE SHOWN HEREON AS INDIVIDUAL PARCELS AS LETTERS IN A SQUARE □.

LEGAL DESCRIPTION:

PARCEL A: PARCELS 1 THROUGH 107, INCLUSIVE, 110 THROUGH 126, INCLUSIVE, AND 128 THROUGH 153, INCLUSIVE, OF CERTIFICATE OF COMPLIANCE NO. CC 2001-01 IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN AND DESCRIBED IN THAT CERTAIN DOCUMENT RECORDED JULY 26, 2001 AS INSTRUMENT NO. 20010508835 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM THE LAND AS DESCRIBED IN THE GRANT DEED TO THE FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY RECORDED MAY 30, 1996 AS INSTRUMENT NO. 18980288157, OF SAID OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL B: PARCEL 2, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON THE MAP FILED IN BOOK 80, PAGES 23 THROUGH 27, INCLUSIVE, OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL C: PARCEL 1 OF PARCEL MAP 85-478, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON THE MAP FILED IN BOOK 248, PAGES 7 AND 8 OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER.

EXCEPTING THEREFROM THE LAND AS DESCRIBED IN THE GRANT DEED TO LAST ROUND UP, INC. RECORDED SEPTEMBER 4, 1987 AS INSTRUMENT NO. 87-304837 OF SAID OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL D: PARCEL 1 OF PARCEL MAP 83-159, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON THE MAP FILED IN BOOK 280, PAGES 49 AND 50 OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL E: PARCEL 1 OF PARCEL MAP 94-153, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON THE MAP FILED IN BOOK 287, PAGES 9 AND 10 OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL F: PARCEL 1 OF PARCEL MAP 85-181, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON THE MAP FILED IN BOOK 296, PAGES 11 AND 12 OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL G: PARCEL 2 OF LOT LINE ADJUSTMENT NO. LL 2003-004, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON EXHIBIT B ATTACHED TO THAT CERTAIN DOCUMENT RECORDED MARCH 18, 2003 AS INSTRUMENT NO. 2003000284469 OF SAID OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

G:\CADASTRAL\EXHIBIT\LGLSKCH.DWG

SHEET 3 OF 3

TOGETHER WITH THOSE PORTIONS OF SECTION 24, TOWNSHIP 8 SOUTH, RANGE 7 WEST, OF RANCHO MISSION VIEJO AS SHOWN ON THE MAP SECTIONIZING RANCHO MISSION VIEJO, IN SAID UNINCORPORATED TERRITORY, FILED IN BOOK 9, PAGES 15 THROUGH 22, INCLUSIVE, OF RECORD OF SURVEYS, IN THE OFFICE OF SAID COUNTY RECORDER, DESCRIBED IN PARCELS AS FOLLOWS:

PARCEL H: BOUNDED SOUTHERLY BY THE NORTHERLY LINE OF PARCEL 149 OF SAID CERTIFICATE OF COMPLIANCE NO. CC 2001-01, RECORDED JULY 28, 2001, AS INSTRUMENT NO. 20010508835 OF OFFICIAL RECORDS, BOUNDED NORTHEASTERLY BY THE SOUTHWESTERLY LINE OF PARCEL 146 OF SAID CERTIFICATE OF COMPLIANCE, BOUNDED NORTHERLY BY THE SOUTHERLY LINE OF PARCEL 128 OF SAID CERTIFICATE OF COMPLIANCE AND BOUNDED WESTERLY AND NORTHWESTERLY BY THE SOUTHEASTERLY LINE OF PARCEL 127 OF SAID CERTIFICATE OF COMPLIANCE.

PARCEL I: BOUNDED EASTERLY BY THE WESTERLY LINE OF PARCEL 149 OF THAT CERTIFICATE OF COMPLIANCE NO. CC 2001-01, RECORDED JULY 28, 2001, AS INSTRUMENT NO. 20010508835 OF OFFICIAL RECORDS AND BOUNDED WESTERLY AND SOUTHERLY BY THE GENERAL EASTERLY LINE OF PARCEL 5 AS SHOWN ON CERTIFICATE OF COMPLIANCE NO. CC 87-06 RECORDED AUGUST 7, 1987 AS INSTRUMENT NO. 87-148971, BOTH OF OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL J: THE LAND AS DESCRIBED IN THE GRANT DEED TO LAST ROUND UP, INC. RECORDED SEPTEMBER 4, 1987 AS INSTRUMENT NO. 87-904837 OF SAID OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

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**Joint Public Statement on Ranch Plan Litigation Settlement
By Rancho Mission Viejo, Orange County, the Endangered Habitats League,
Natural Resources Defense Council, Sea and Sage Audubon Society,
Laguna Greenbelt, Inc, and Sierra Club.**

After extensive negotiations over an eighteen month period, Rancho Mission Viejo, The County of Orange, the Endangered Habitats League, Natural Resources Defense Council, Sea and Sage Audubon Society, Laguna Greenbelt, Inc, and Sierra Club announced today that they have reached an agreement to settle the lawsuit challenging the County's approval of The Ranch Plan, the comprehensive open space and land use management plan for the remaining 22,815 acres of Rancho Mission Viejo.

This landmark settlement resolves all outstanding litigation regarding the Ranch Plan and helps insure the protection of open space and species found in the project area.

On November 8, 2004, the Orange County Board of Supervisors certified the environmental impact report for the project and granted a number of approvals that would allow the implementation of the Ranch Plan. On December 8, 2004, the Endangered Habitats League, Natural Resources Defense Council, Sea and Sage Audubon Society, Laguna Greenbelt, Inc, and Sierra Club filed suit challenging the County's approval of the Ranch Plan.

The settlement agreement reached is the product of many months of active discussions regarding the project. The parties to the settlement agreement began discussing concerns about the project many months prior to the County's approval of

the Ranch Plan Project and continued those discussion after the lawsuit had been commenced.

"The settlement we have reached is a formidable achievement for the people of Orange County" said [**Board of Supervisor Spokesperson.**] "The Board of Supervisors is gratified that by working together on this matter all of the organizations involved were able to reach a mutually acceptable agreement."

Supervisor Wilson said that the environmental organizations challenging the Ranch Plan Project played an important leadership role in reaching this settlement that successfully meets both environmental and economic goals.

Among other things, the settlement agreement will result in:

1. Preservation of the last remaining intact coastal watershed in southern California, resulting in the protection of an estimated 12,000 acres of undeveloped open space in the heart of the pristine San Mateo watershed;
2. Preservation of an additional 1800 acres of valuable habitat in the San Juan Creek and San Mateo watersheds specifically targeted under the original Ranch Plan for development. Over a mile length of uninterrupted high quality coastal sage scrub habitat in Chiquita Canyon, a home to the threatened California gnatcatcher, will remain undisturbed.
3. Protection for the integrity of, and connectivity to, the Donna O'Neill Land Conservancy.

4. Preservation and protection of the ranching and agricultural heritage of Orange County.

5. Protection of water quality in the San Mateo Watershed that will maintain water quality at Trestles Beach and San Onofre State Beach.

6. Rancho Mission Viejo's commitment to the development of a long-term funding strategy for the management, oversight and protection of all project open space lands placed into conservation easements.

7. Specific protections for threatened and endangered species like the arroyo toad and California gnatcatcher.

The environmental groups that are party to the settlement applauded the agreement, citing in particular its protection of irreplaceable southern California coastal open space and the threatened and endangered species that inhabit it.

"We commend the leadership of RMV's CEO and President, Tony Moiso. We are very pleased that the Ranch, the County and the various environmental groups have worked together successfully to develop a common vision for open space, wildlife habitat, and historic California ranching. said Dan Silver, Executive Director of Endangered Habitats League. We look forward to working together to ensure that the benefits of the settlement agreement are implemented and achieved."

ENDANGERED HABITATS LEAGUE

DEDICATED TO ECOSYSTEM PROTECTION AND SUSTAINABLE LAND USE

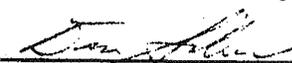


To Whom It May Concern:

This letter is intended to be incorporated into the official record of proceedings relative to the Agency's consideration of species and habitat activities and decisions as they pertain to (or otherwise affect) the design, implementation and development of the Ranch Plan Project (the "Project").

In light of the protections set forth in the Settlement Agreement between the Endangered Habitats League (as a member of the defined Resource Organizations group identified in the Settlement Agreement) ["EHL"], the County of Orange and Rancho Mission Viejo, EHL has agreed that species listing or critical habitat designation is not a basis for modification of the Project. EHL has also agreed that the species listing and/or the designation of critical habitat does not create the need for any additional species protection associated with the Project.

ENDANGERED HABITATS LEAGUE,
a California not-for-profit corporation

By: 
Name: Dan Silver
Title: President

By: 
Name: JESS MARTON
Title: TREASURER



NATURAL RESOURCES DEFENSE COUNCIL

EXHIBIT K-1

To Whom It May Concern:

This letter is intended to be incorporated into the official record of proceedings relative to the Agency's consideration of species and habitat activities and decisions as they pertain to (or otherwise affect) the design, implementation and development of the Ranch Plan Project (the "Project").

In light of the protections set forth in the Settlement Agreement between Natural Resources Defense Council (as a member of the defined Resource Organizations group identified in the Settlement Agreement) ["NRDC"], the County of Orange and Rancho Mission Viejo, NRDC has agreed that species listing or critical habitat designation is not a basis for modification of the Project. NRDC has also agreed that the species listing and/or the designation of critical habitat does not create the need for any additional species protection associated with the Project.

NATURAL RESOURCES DEFENSE COUNCIL,
INC., a not-for-profit corporation organized under
the laws of the State of New York

By: [Signature]
Name: James J. [unclear]
Title: Staff Attorney

By: [Signature]
Name: CARA HORWITZ
Title: Project Attorney



Sea & Sage Audubon

P.O. BOX 5447, IRVINE, CA 92616-5447

(949) 261-7963

To Whom It May Concern:

This letter is intended to be incorporated into the official record of proceedings relative to the Agency's consideration of species and habitat activities and decisions as they pertain to (or otherwise affect) the design, implementation and development of the Ranch Plan Project (the "Project").

In light of the protections set forth in the Settlement Agreement between Sea and Sage Audubon Society (as a member of the defined Resource Organizations group identified in the Settlement Agreement) ["Sea and Sage"], the County of Orange and Rancho Mission Viejo, Sea and Sage has agreed that species listing or critical habitat designation is not a basis for modification of the Project. Sea and Sage has also agreed that the species listing and/or the designation of critical habitat does not create the need for any additional species protection associated with the Project.

SEA AND SAGE AUDUBON SOCIETY,
a California not-for-profit corporation and a
chapter of The National Audubon Society

By: Thomas C. Cream
Name: THOMAS C. CREAM
Title: PRESIDENT

By: Scott E. Thomas
Name: SCOTT E. THOMAS
Title: CONSERVATION CHAIR



Laguna Greenbelt, Inc.

a non-profit corporation

EXHIBIT K-4

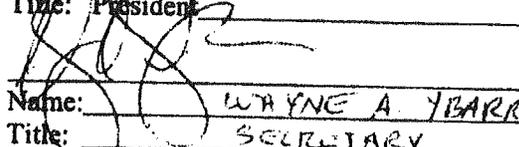
To Whom It May Concern:

This letter is intended to be incorporated into the official record of proceedings relative to the Agency's consideration of species and habitat activities and decisions as they pertain to (or otherwise affect) the design, implementation and development of the Ranch Plan Project (the "Project").

In light of the protections set forth in the Settlement Agreement between Laguna Greenbelt, Inc. (as a member of the defined Resource Organizations group identified in the Settlement Agreement) ["Laguna Greenbelt"], the County of Orange and Rancho Mission Viejo, Laguna Greenbelt has agreed that species listing or critical habitat designation is not a basis for modification of the Project. Laguna Greenbelt has also agreed that the species listing and/or the designation of critical habitat does not create the need for any additional species protection associated with the Project.

LAGUNA GREENBELT, INC.,
a California not-for-profit corporation

By: 
Name: Elisabeth M. Brown.
Title: President

By: 
Name: WAYNE A. YBARRA
Title: SECRETARY

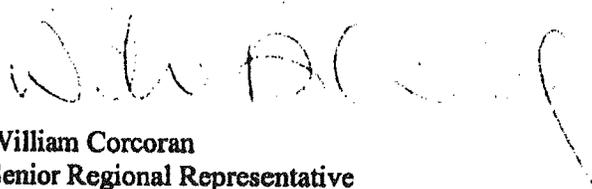


August 15, 2005

To Whom It May Concern:

This letter is intended to be incorporated into the official record of proceedings relative to the Agency's consideration of species and habitat activities and decisions as they pertain to (or otherwise affect) the design, implementation and development of the Ranch Plan Project (the "Project").

In light of the protections set forth in the Settlement Agreement between the Resource Organizations listed below, the County of Orange and Rancho Mission Viejo, the Resource Organizations have agreed that species listing or critical habitat designation is not a basis for modification of the Project. The Resource Organizations have also agreed that the species listing and/or the designation of critical habitat does not create the need for any additional species protection associated with the Project.



William Corcoran
Senior Regional Representative
Sierra Club

EXHIBIT L

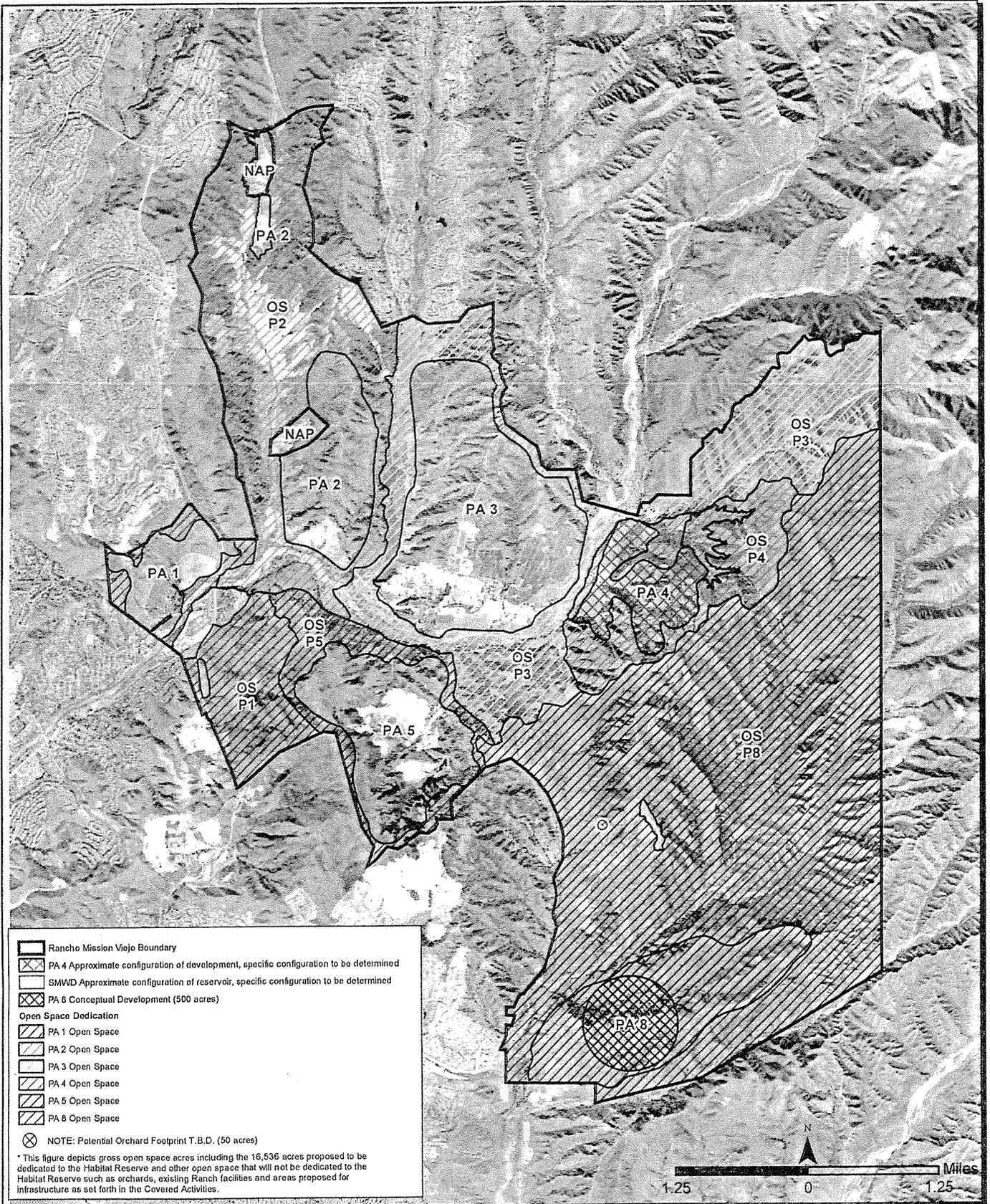
EXHIBIT L
(Verification Certification)

To Whom It May Concern:

[Certifying Party] is a Party to that Settlement Agreement dated _____, 2005, as more particularly described in the Notice of Settlement Agreement and Declaration of Conditions recorded in the Office of the Orange County Recorder on _____, 2005, and identified as Document No. _____.

Consistent with the provisions of the Settlement Agreement, [Certifying Party] hereby certifies that, to the best of its knowledge, [Certifying Party] has not served or otherwise delivered to [Requesting Party] [a notice alleging breach of the Settlement Agreement -- or -- a notice of breach that has not been heretofore resolved to the satisfaction of Certifying Party].

[Certifying Party]

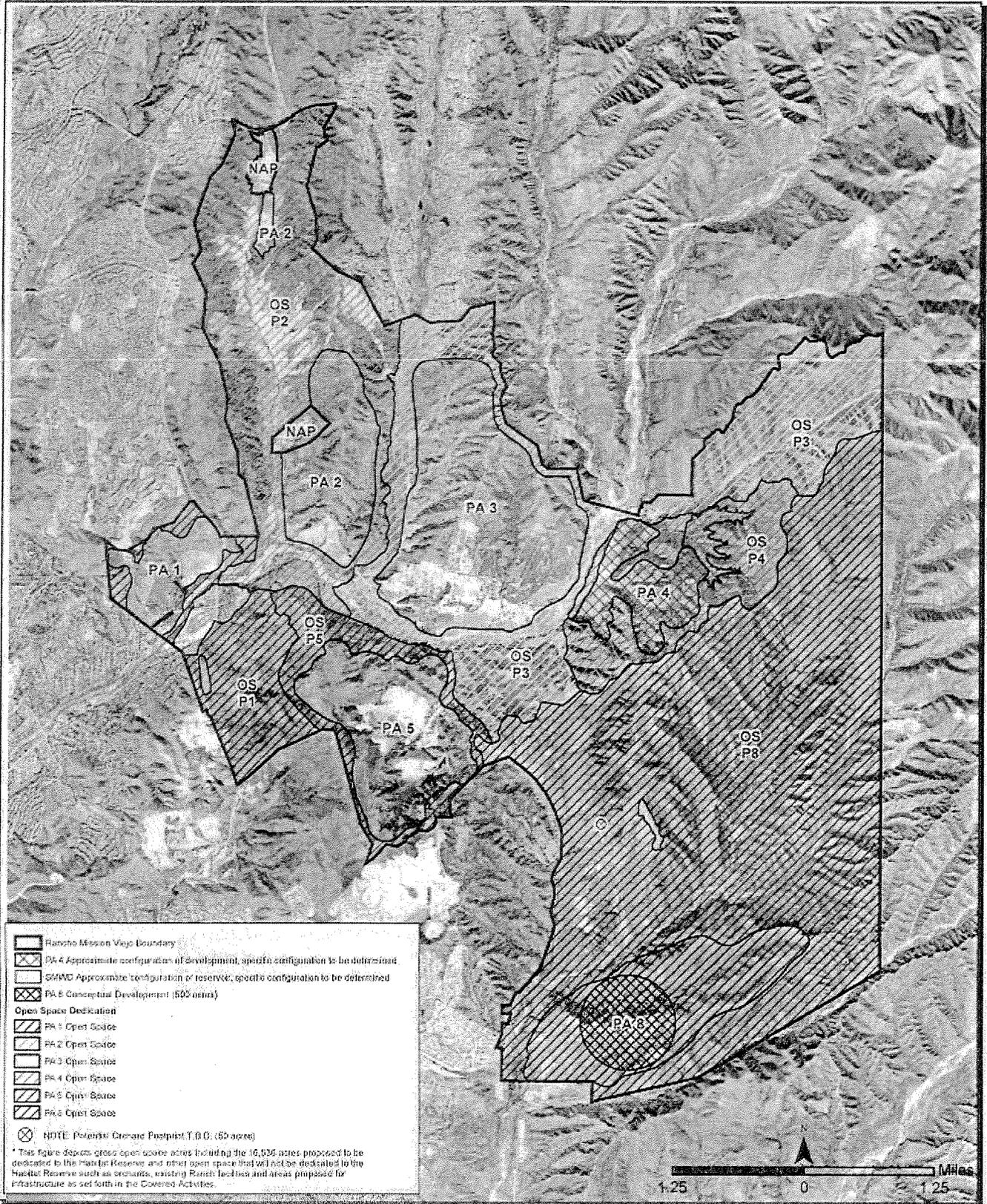


	Rancho Mission Viejo Boundary
	PA 4 Approximate configuration of development, specific configuration to be determined
	SMVWD Approximate configuration of reservoir, specific configuration to be determined
	PA 8 Conceptual Development (500 acres)
Open Space Dedication	
	PA 1 Open Space
	PA 2 Open Space
	PA 3 Open Space
	PA 4 Open Space
	PA 5 Open Space
	PA 8 Open Space
	NOTE: Potential Orchard Footprint T.B.D. (50 acres)

* This figure depicts gross open space acres including the 16,536 acres proposed to be dedicated to the Habitat Reserve and other open space that will not be dedicated to the Habitat Reserve such as orchards, existing Ranch facilities and areas proposed for infrastructure as set forth in the Covered Activities.

RMV Open Space & Phasing Plan

EXHIBIT
A



RMV Open Space & Phasing Plan

EXHIBIT
 A

Attachment D



BIRTH OF A CITY

[Orange County Register](#)

2013-02-17 00:00:00

Orange County's next city just might be taking shape east of Ladera Ranch and San Juan Capistrano. Construction is under way on the first village in Rancho Mission Viejo's planned 14,000-home community, and industry experts say the timing is right.

After years of stalled construction, Orange County buyers are hungry for new homes. Rancho Mission Viejo is in position to capitalize on that demand, having spent the past six years adjusting plans for the village of Sendero to reflect more diverse buyers. Their success will be put to the test in early summer, when the first Sendero homes hit that changed market.

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Rancho Mission Viejo's first village

The paths, amenities and neighborhoods of Sendero were designed to help residents connect and quickly establish roots. Local leaders are discussing the possibility of Rancho Mission Viejo also joining with surrounding communities to form Orange County's 35th city.

SENDERO

- **Land:** 690 acres
- **Housing:** 940 attached and detached homes, 290 apartments
- **55+ housing:** Gavilan includes 285 single-level residences for active adults

Open space:

About 75 percent, 17,000 acres, of Rancho Mission Viejo is set aside as open space, with an expectation that it will combine with county-owned lands to form a 33,000-acre Southern Subregion Habitat Reserve.

Area designated for seniors

Trails:

Hiking and biking trails will access Reserve trails and regional hiking and biking trails.

El Prado:

A recreation and social hub for residents that includes pools, activity rooms and outdoor dining space.

Outpost:

A 0.77-acre community area with a barbecue station, two fire pits, a bocce court, space for outdoor dining and a hammock garden.



Molly Zisk / The Register

Rancho Mission Viejo takes shape

[Orange County Register](#)

2013-02-17 00:00:00

Timeline: Rancho Mission Viejo

1992: The O'Neill-Avery-Moiso family, owners of the 23,000-acre ranch, enroll the property in a scientific study involving local, state and federal agencies.

2000: After years of public discussion, a team of science advisers publishes design principles for a reserve on the ranch.

2001: Family submits formal application for The Ranch Plan, with 14,000 acres

(60 percent) protected as a habitat reserve and 9,000 acres allocated for phased development to include up to 14,000 homes.

2002-03: Outreach group is formed to get public input on planning process. Public session conducted for plan's environmental impact report.

2004: Orange County Planning Commission conducts hearings on plan; open space upped to 66 percent. Board of Supervisors approves final version. Environmental groups file lawsuit over environmental report.

2005: Lawsuit settled, with Rancho Mission Viejo agreeing to leave 75 percent of the property as open space. Research on the first phase of development begins.

2006-07: Comprehensive plan for The Reserve is created; county adds nearly 12,000 county-owned acres to it, creating a nearly 33,000-acre habitat. Design, engineering and initial phase begins for South County road improvement plan. Initial plans unveiled for first village.

2008-10: Road projects continue; developers wait out market conditions.

2011: First village named is Sendero; plan for community is revised based on market research. Homebuilders submit design proposals.

2012: Grading starts on Sendero. Eight homebuilders chosen. Construction starts on clubhouses and recreational amenities.

Spring 2013: Yearlong construction to start on Sendero Field.

Summer: Grand opening of first homes and early home sales to begin; streets and landscaping to be completed. (First residents slated to move in during the fall.)

2014: Construction on apartments and work on Ranch Marketplace to begin. Planning of next village to kick off.

2015-16: Anticipated sell-out of Sendero.

Source: Rancho Mission Viejo

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Rancho Mission Viejo aims to be O.C.'s 35th city

[By Brooke Edwards Staggs Orange County Register](#)

2013-02-17 00:00:00

The first phase of the largest housing development ever planned for South County is on track to open this summer.

It's an opening 22 years in the making, as the developers who built Mission Viejo, Rancho Santa Margarita and Ladera Ranch waded through a particularly complex approval process and waited out the worst recession since the Great Depression.

Now the heavy hitters at Rancho Mission Viejo LLC are betting on recovery, choosing 2013 as the year to launch what eventually will be a 14,000-home community complete with its own ZIP code – and primed to become Orange County's 35th city.

EYE ON INCORPORATION

"There's a strong revenue base for the development of an incorporated city," Orange County Supervisor Pat Bates said.

Bates, in her role as a member of the Orange County Local Agency Formation Commission, has been meeting with area leaders to discuss governance options for Rancho Mission Viejo. Choices could include forming a community service area or district, Bates said. Or the development east of San Juan Capistrano could be joined with nearby unincorporated communities to create a new city – so long as that city would have a tax base large enough to support services such as public safety and road improvements.

There's been talk of a potential city that includes unincorporated Ladera Ranch, Las Flores, Wagon Wheel Canyon and Coto de Caza, according to Bates. However, that likely would form a city with too many geographic barriers and not enough commercial tax revenue, she added.

"I think Ladera (Ranch) and Rancho Mission Viejo probably do make sense in terms of combining into a city down there," Bates said.

Ladera Ranch is interested in the increased local control cityhood would offer but hasn't had the commercial tax base to support the move, according to Jett McCormick, president of the Ladera Ranch Civic Council.

McCormick said his community's chamber was named Ladera Rancho Chamber of Commerce in anticipation of a joint business support and development effort one day. Rancho Mission Viejo is slated to include 5 million square feet of commercial space, according to ranch officials.

"We know that they're going to be shopping in our stores and, as their retail comes on, we'll be able to shop in theirs," McCormick said.

That's why McCormick said his community is largely supportive of its incoming neighbor, despite traffic concerns and the fact that Rancho Mission Viejo's first village, Sendero, is being built in view of custom Ladera Ranch homes.

MARKET FORCES

Sendero would've been a different place had it broken ground half a dozen years ago as planned.

Developers spent roughly 12 years getting the project cleared for construction, with county approval in 2004 and lawsuits over its traffic and environmental impacts settled the following year.

The company was ready to start construction in 2007. Then the market tanked, and Chief Operating Officer Don Vodra said the company was forced to scrap “tens of millions of dollars” in work and development. There were no bonuses and employees took salary cuts, he recalled, as they “hunkered down” and worked to reposition the project for a changed market.

Sendero was originally slated to feature more homes and at a significantly higher range of pricing and square footage, according to Vodra. Per the 2007 plan, Sendero was to include 1,170 homes, some with price tags that would reach above \$1 million. It was also expected to offer 552 homes for those 55 years and older.

Following a post-market-collapse study on demographics, Sendero will include 940 attached and detached homes, plus 290 apartments. Of the homes, 285 homes will be in the gated senior neighborhood of Gavilan. And homes are now expected to cost between \$400,000 and \$900,000 – though that marks an increase from 2012 estimates.

“We think the market is now poised for a five- to seven-year run,” Vodra said. “That doesn't mean there won't be a hiccup along the way. ... But we're pretty optimistic.”

INNOVATION

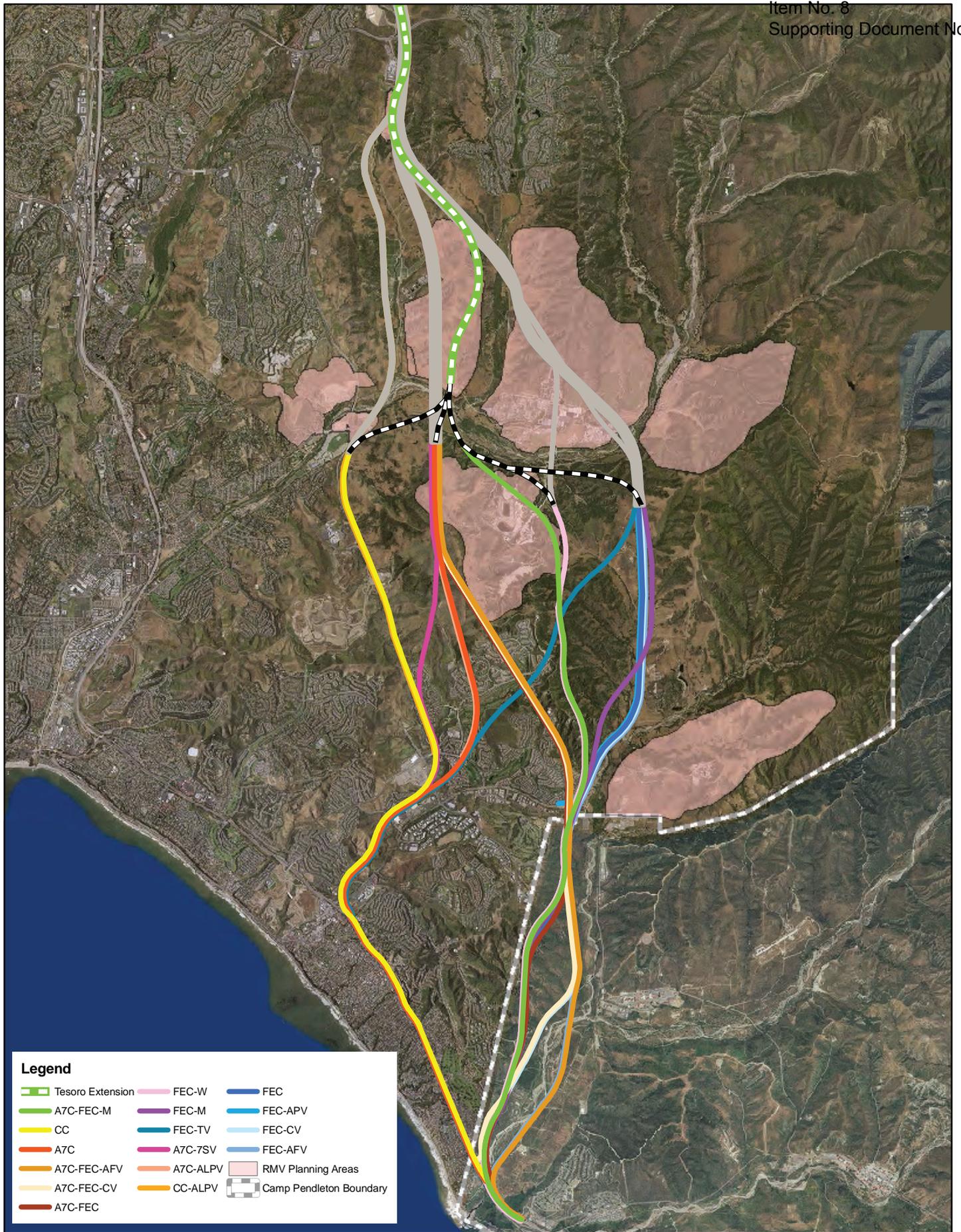
Technology also has evolved over the past six years, allowing builders to take advantage of such advances as GPS-driven grading equipment.

The developments have come in handy. Rancho Mission Viejo is the most complex project Vodra's company has tackled, he said, with a county highway, a state highway and a creek cutting through the property.

The project is drawing attention from the development world, as industry insiders have been waiting to see who would venture back into residential development first and how Rancho Mission Viejo would advance concepts it used in building its previous communities. Sendero features “evolutionary innovations in nearly every sector of our industry,” including habitat conservation, social programming and more, said Mike Balsamo, chief executive officer of the Building Industry Association's Orange County chapter.

A tour of Rancho Mission Viejo's new site is a scheduled stop during the annual Pacific Coast Builder's Conference, which will take place in San Diego in June – three weeks before Sendero's grand opening.

Attachment E



TESORO EXTENSION PROJECT
Future Alignment Alternatives
 CEQA ADDENDUM