

3 COMMENTS AND RESPONSES

Chapter 3 contains, in Section 3.1, responses to environmental comments raised in letters received during the public review period for the Draft Additional Environmental Analysis (AEA), followed in Section 3.2 by copies of original comment letters. Each letter has been numbered and each specific comment within a letter has been identified with bracketed text and assigned a comment number. The letter and comment numbers correspond with the organization of responses in Section 3.1. The responses are organized by type of comment source, i.e., an agency, tribal government, organization, or individual (see Table 3-1).

In conformance with Section 15088(a) of the California Environmental Quality Act (CEQA) Guidelines, written responses have been prepared addressing comments raising environmental issues received from reviewers of the Draft AEA. The responses describe the disposition of the environmental issues raised, including when the commenter makes recommendations or expresses objections. Where comments have led to revisions to the AEA text, the revisions have been assembled and presented in Chapter 2. Chapter 2 includes the revised environmental analysis and mitigation measure descriptions in Section 2.1, Global Climate Change/Greenhouse Gas Emissions and 2.2, Unarmored Threespine Stickleback, updated with changes warranted by responses to comments or other clarifications since the public review of the Draft AEA. Where recommendations or objections are not accepted, detailed information is provided to explain why, using good faith reasoned analysis, factual information, and reference to how the Draft AEA’s approach to the issue was valid. The responses are presented in Sections 3.1.1 through 3.1.7.

A number of commenters expressed either opposition to or support only, without environmental commentary, for the proposed Newhall Ranch Resource Management and Development Plan/Spineflower Conservation Plan (RMDP/SCP). A list of those commenters is provided in Section 3.1.8 and copies of the letters are included in the attached CD Appendices (see Final AEA Appendix 25).

3.1 RESPONSES TO COMMENTS ON THE DRAFT AEA

Responses to comments on the Draft AEA raising environmental issues are presented in the following order: 3.1.1 Topical Responses, 3.1.2 Responses to Federal Agencies, 3.1.3 Responses to State Agencies, 3.1.4 Responses to Local Agencies, 3.1.5 Responses to Native American Governments, 3.1.6 Responses to Organizations, and 3.1.7 Responses to Individuals.

Table 3-1 List of Commenters Raising Environmental Issues

Commenter	Date	Comment Number
Federal Agencies		
Federal Emergency Management Agency	December 28, 2016	F1
State Agencies		
State Clearinghouse	February 14, 2017	S1
Los Angeles Regional Water Quality Control Board	February 12, 2017	S2
Local Agencies		
Los Angeles County Clerk	December 13, 2016	L1
Los Angeles County Fire Department	January 3, 2017	L2
Los Angeles County Sheriff’s Department	January 17, 2017	L3
City of Santa Clarita	February 13, 2017	L4

Table 3-1 List of Commenters Raising Environmental Issues

Commenter	Date	Comment Number
Native American Governments		
Fernando Tataviam Band of Mission Indians	February 10, 2017	NA1
Santa Ynez Band of Chumash Indians	February 13, 2017	NA2
Organizations		
Apartment America	February 13, 2017	01
California State Polytechnic University, Pomona	February 13, 2017	02
Building Industry Association of Southern California	February 10, 2017	03
Building Industry Association of California, Los Angeles/Ventura Chapter	February 6, 2017	04
California Chamber of Commerce	February 13, 2017	05
California Native Plant Society	February 6, 2017	06
California Native Plant Society	February 6, 2017	07
California Oaks	January 28, 2017	08
Center for Biological Diversity	February 13, 2017	09
Central City Association	February 10, 2017	010
Climate Action Reserve	February 8, 2017	011
Climate Resolve	February 8, 2017	012
ClimateCo	February 9, 2017	013
College of the Canyons	February 10, 2017	014
CQuest Capital LLC	February 8, 2017	015
Endangered Habitats League	January 31, 2017	016
Finite Carbon	February 8, 2017	017
Habitat for Humanity	February 10, 2017	018
Henry Mayo Newhall Hospital	January 6, 2017	019
Los Angeles Chamber of Commerce	February 13, 2017	020
Los Angeles Business Council	February 13, 2017	021
NAIOP, the Commercial Real Estate Development Association	February 13, 2017	022
Plug in America	February 10, 2017	023
Public Land Alliance Network	February 13, 2017	024
Santa Clarita Organization for Planning and the Environment	February 13, 2017	025
Santa Clarita Valley Auto Dealers Association	January 26, 2017	026
Santa Clarita Valley Chamber of Commerce	February 13, 2017	027
Santa Clarita Valley Economic Development Corporation	February 13, 2017	028
Save Our Community	February 13, 2017	029
Sierra Club	February 13, 2017	030
Spirit Properties	February 3, 2017	031
Spirit Properties	February 3, 2017	032
Valencia Acura	January 26, 2017	033

Table 3-1 List of Commenters Raising Environmental Issues

Commenter	Date	Comment Number
Valley Industry & Commerce Association	January 27, 2017	034
Wishtoyo Foundation & Ventura Coastkeeper	February 13, 2017	035
Wishtoyo Foundation & Ventura Coastkeeper	February 13, 2017	036
Wishtoyo Foundation & Ventura Coastkeeper	February 13, 2017	037
Wishtoyo Foundation & Ventura Coastkeeper	February 13, 2017	038
Western Golf	January 25, 2017	
Individuals		
Barron, Thomas	February 13, 2017	IE1
Boyd, Jerri Ann	February 13, 2017	IE2
Campbell, Bruce	February 13, 2017	IE3
Chouinard, Yvon	February 12, 2017	IE4
Corcoran, Kevin	February 12, 2017	IE5
Criss-Hagerty, Julie	February 13, 2017	IE6
Egian, Rouzanna	February 13, 2017	IE7
Gaffney, Mal	February 12, 2017	IE8
Gilmore, Cher	February 13, 2017	IE9
Hanashiro, Deanna	February 13, 2017	IE10
Hazard, Robert	February 11, 2017	IE11
Harris, Cynthia	February 12, 2017	IE12
Martin, Randy	February 10, 2017	IE13
McAnany, Tracy	February 13, 2017	IE14
McCaffrey, Jason	February 13, 2017	IE15
Mullally, Don	January 18, 2017	IE16
Paladin, John	February 13, 2017	IE17
Paladin, Marilyn	February 13, 2017	IE18
Rizzo, Susann	February 11, 2017	IE19
Rodgers, David	February 13, 2017	IE20
Schelling, Denise	[no date]	IE21
Shields, Heather	February 13, 2017	IE22
Skolnik, Jeffrey	February 13, 2017	IE23
Stein, Joyce	February 2, 2017	IE24
Trautman, Dianne	February 13, 2017	IE25
Ungar, Roselva	February 15, 2017	IE26
Wampole, Barbara	February 11, 2017	IE27
Wampole, Barbara	February 11, 2017	IE28
Wampole, Barbara	February 11, 2017	IE29
Wampole, Barbara	February 13, 2017	IE30
Winne, Lynne	February 12, 2017	IE31

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3.1.1 Topical Responses

Certain issues have been raised in multiple comments. Rather than only responding individually with repeated information, Topical Responses have been developed to address the comments collectively in an integrated, orderly, and comprehensive manner. An index of Topical Response issues with a summary of the key subjects addressed by the response is provided in Table 3-1. A cross-reference to the Topical Response is provided, where relevant, in the responses to individual comments.

Topical Response Number and Title	Key Topics Addressed
1. Scope of the Environmental Analysis	Statutory and case law background, analysis of the appropriate type of environmental document, scope of the additional environmental analysis.
2. The 30-Year Project Life and Corresponding Duration of Mitigation Measure 2-13 GHG Emissions Mitigation Period	Greenhouse gas methodology and technical basis for using a 30-year project life and mitigation period.
3. Zero-Emission Vehicles at Newhall Ranch	Additional information regarding mitigation measures calling for support of zero-emission vehicles, including a supplemental GHG-reducing commitment by the applicant.
4. Traffic Impact Analysis	Adequacy of the analysis traffic-related impacts in the 2010 Final EIR.

Topical Response No. 1: Scope of the Additional Environmental Analysis

1. SCOPE OF THE ADDITIONAL ENVIRONMENTAL ANALYSIS

Comments have requested that the scope of the Draft Additional Environmental Analysis (AEA, SCH No. 2000011025) be expanded to include an array of other CEQA impact categories not evaluated in the Draft AEA (e.g., water supply, air quality, traffic, water quality, cultural resources). This topical response provides the underlying basis supporting the factual determinations as to the proper scope of the AEA. This response also demonstrates that CDFW has determined that the scope of the AEA is consistent with (i) the California Supreme Court's decision in *Center for Biological Diversity v. California Department of Fish and Wildlife* (2015) 62 Cal.4th 204, (ii) the Second Appellate District's opinion on remand (*Center for Biological Diversity v. California Department of Fish and Wildlife*, July 11, 2016, No. B245131, Slip Opn.), and (iii) CEQA and the CEQA Guidelines.

1.1 The Scope of the AEA is Consistent with the Court Decisions and CDFW Determinations that Limit Required Reanalysis to Two Issues Identified by the Courts

CDFW considered three factors in deciding the proper scope of the AEA. First, CDFW considered the scope of the court decisions issued in connection with the project litigation, and decided that those court decisions properly frame the factual and legal basis for the environmental issues addressed in the AEA. These court decisions do not require reanalysis of all environmental impacts evaluated in the previously certified 2010 Final EIR; instead, the decisions limit the reanalysis to two issues – the significance of the project's greenhouse gas (GHG) emissions and the validity of two mitigation measures for the unarmored threespine stickleback. Second, before circulating the Draft AEA for review in November 2016, CDFW determined that: (i) other environmental impacts resulting from approval and implementation of the Newhall Ranch RMDP/SCP Project are adequately addressed in the 2010 EIR,¹ and (ii) the GHG emissions mitigation measures and the modified construction methods for bridges and bank stabilization covered by the Draft AEA, including the attendant project design features and mitigation measures, do not trigger the need for any subsequent or supplemental environmental analysis under CEQA beyond that provided in the AEA (see

¹ For information regarding the project's previously analyzed environmental impacts, please refer to the 2010 Final EIR and related documents, all of which are accessible from CDFW's webpage: www.wildlife.ca.gov/regions/5/newhall.

further discussion in Sections 2 and 3, below). Third, CDFW considered the strong principle in CEQA against requiring additional environmental analysis once an EIR has been prepared for a project.

Accordingly, the notices of availability of the Draft AEA limited requests for comments to the issues related to the GHG emissions and the modified construction methods for bridges and bank stabilization, as addressed in the Draft AEA. This limitation was appropriate because the mechanism under CEQA for correcting the analysis response to a court decision is to revise and recirculate the portions of the EIR that contain the identified deficiencies in accordance with CEQA's "recirculation" provisions under CEQA Guidelines Section 15088.5. (See *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1112.)²

Comments regarding the adequacy of the 2010 Final EIR to include other CEQA impact categories not evaluated in the Draft AEA (e.g., water supply, air quality, traffic, water quality, cultural resources) are beyond the scope of the factual determinations, the court decisions, and the applicable CEQA statute of limitations, which required any such claims to be brought within 30 days after certification the 2010 EIR. (See Pub. Resources Code, Section 21167(c).)

1.2 The Project and Litigation

In 2004, CDFW and the U.S. Army Corps of Engineers (USACE) began preparation of a joint Environmental Impact Statement/EIR (EIS/EIR) for the two natural resource plans that compose the Newhall Ranch RMDP/SCP Project and related federal and state permits. The project would be implemented in conjunction with development of Newhall Ranch, a large-scale residential and commercial development, and two other planned developments on the project Applicant's land holdings situated in the unincorporated area of northwestern Los Angeles County.

On December 3, 2010, CDFW certified the 2010 Final EIR portion of the EIS/EIR and approved the project. After independently reviewing the project (and an array of alternatives thereto), CDFW approved the CEQA-required findings for the project's significant environmental impacts and adopted mitigation measures. CDFW also adopted a statement of overriding considerations for certain unavoidable significant impacts. In addition, CDFW adopted findings required by the California Endangered Species Act (CESA) for two incidental take permits, issued the two permits, and executed a master lake and streambed alteration agreement for the project.

In January 2011, the Center for Biological Diversity and other environmental organizations (petitioners) filed a lawsuit challenging the certification of the 2010 Final EIR and approval of the project under CEQA, CESA and the Fish and Game Code. After a hearing in September 2012, the trial court ruled in favor of petitioners. CDFW and the project applicant appealed from the trial court's judgment. On March 20, 2014, the Second District Court of Appeal reversed the 2012 judgment in its entirety. (*Center for Biological Diversity v. California Department of Fish and Wildlife* (2014) 224 Cal.App.4th 1105, hrg., granted.)

1.3 California Supreme Court Decision

Following the Court of Appeal decision, the California Supreme Court granted review of the case. In addition to an "exhaustion of administrative remedies" issue (which ultimately was resolved on the merits in favor of CDFW), the Supreme Court granted review of the following two specific issues covered by the Court of Appeal's decision:

1. "Does the [EIR] validly determine the development would not significantly impact the environment by its discharge of greenhouse gases?" (*Center for Biological Diversity v. Department of Fish and Wildlife* (2015) 62 Cal.4th 204, 213.)

² CEQA Guidelines Section 15088.5(c) states that when necessary revisions are "limited to a few chapters or portions of the EIR, the lead agency need only recirculate the chapters or portions that have been modified."

2. “Are mitigation measures adopted for protection of a freshwater fish, the unarmored threespine stickleback, improper because they involve taking of the fish prohibited by the Fish and Game Code?” (*Ibid.*)

In response to these questions, the Supreme Court ultimately held:

1. For purposes of CEQA, the 2010 EIR significance determination regarding project GHG emissions was not supported by substantial evidence.
2. The approval of the project’s two biological resource mitigation measures (BIO-44 and BIO-46) calling for collection and relocation of unarmored threespine stickleback in conjunction with construction-related stream diversion activities violated the take and possession prohibitions applicable to fully-protected to fully-protected fish under Fish and Game Code section 5515.

As a result of the Supreme Court’s holding, the case was remanded to the Court of Appeal for further proceedings consistent with the Supreme Court’s decision.

1.4 July 11, 2016 Court of Appeal Opinion

After remand, on July 11, 2016, the Court of Appeal reversed the 2012 trial court judgment in favor of petitioners, except as to the GHG significance finding and the two unarmored threespine stickleback mitigation measures (BIO-44 and BIO-46). (*Center for Biological Diversity v. California Department of Fish and Wildlife*, July 11, 2016, No. B245131, Slip Opn. Pp. 4-9, 44.) For these issues, the Court of Appeal: (i) affirmed the finding that there is no substantial evidence supporting the project’s GHG significance findings; and (ii) affirmed the finding that Mitigation Measures BIO-44 and BIO-46 violated Fish and Game Code section 5515. (Id. p.45.) The Court of Appeal also reexamined the merits of the issues concerning Native American cultural resources and steelhead. The Court of Appeal concluded that “substantial evidence supports the [CDFW’s] conclusions and plaintiffs’ assertions are all premised on a misapplication of the standard of review.” (Court of Appeal slip opn. p. 10.) Wishtoyo Foundation, one of the petitioners, filed a petition for review with the Supreme Court as to the Court of Appeal’s cultural resources holdings. The Supreme Court denied the petition. The Court of Appeal reversed the 2012 trial court and issued a new judgment and writ of mandate consistent with both its opinion and CEQA’s remedy statute (Public Resources Code Section 21168.9).

1.5 The Trial Court Judgment and Writ

Following the July 2016 Court of Appeal opinion, the matter was remanded to the trial court. On December 16, 2016, consistent with the Supreme Court’s decision and the Court of Appeal’s opinion, the trial court entered a judgment and issued a writ of mandate. Petitioners have appealed the trial court’s December 16, 2016 judgment.

2. THE SCOPE OF THE ADDITIONAL ENVIRONMENTAL ANALYSIS IS CONSISTENT WITH FACTUAL DETERMINATIONS AND TAILORED TO THE COURT DECISIONS AND DIRECTIVES

During the Draft AEA’s preparation, CDFW directed the project applicant to submit descriptions of the modified aspects of the project, the GHG emissions modeling, proposed GHG and unarmored threespine stickleback mitigation measures, preliminary environmental analyses, and other project information that would be needed to address the two deficiencies in the 2010 Final EIR, as determined by the Supreme Court. In accordance with CEQA, CDFW then independently reviewed and analyzed the information provided by the project applicant prior to use of relevant parts in the Draft AEA.³ (See Pub. Resources Code, Section 21082.1(c)(1).)

³ In the Draft AEA, CDFW disclosed that the information submitted by the project applicant was independently reviewed and considered when preparing the AEA. (See Draft AEA, page 1-4.) As stated in the Draft AEA, the information is included in CDFW’s administrative record of proceedings.

In developing the scope of the AEA, CDFW also reached a factual determination that the new GHG mitigation measures or modified bridge design measures would not result in substantial changes to the project or its circumstances requiring major revisions in the prior 2010 Final EIR, including that no new significant effects would arise and no substantial increases in previously identified significant effects would occur. Support for this determination is found in the fact that the project boundary and its setting have not changed since 2010 and no changes were proposed to the planned developments in the Newhall Ranch Specific Plan area or the two other development planning areas (Entrada and Valencia Commerce Center) covered by the project. As disclosed in the Draft AEA, page 1-6, the “land use programs of the Newhall Ranch Specific Plan and Entrada and Valencia Commerce Center have not been revised by the project applicant since the 2010 Final EIR certification and project approvals” and [t]hese planned land uses will serve as the source of GHG emission projections for the AEA, just as they did for the 2010 Final EIR.” (See Draft AEA, pp. 1-6.)

The project evaluated in the Draft AEA would not result in any new roads, housing, or any other, additional, or different commercial or other development beyond that already evaluated in the 2010 Final EIR. There are also no changes in the development footprint or disturbance zone, beyond that already analyzed in the 2010 Final EIR. Relevant to GHG emissions, the project simply added mitigation measures to achieve net zero emissions. The Draft AEA’s GHG emissions analysis is based on the same development proposed and approved as part of the 2010 Final EIR. Additionally, the new mitigation measures for GHG emissions are considered environmentally beneficial in that they result in net zero GHG emissions from the project. CDFW staff and consultants independently reviewed the GHG mitigation measures and determined that they would not result in new significant impacts or a substantial increase in the severity of impacts previously evaluated in the 2010 Final EIR (as discussed further below).

As to impacts to unarmored threespine stickleback, CDFW independently reviewed project modifications to the design and construction methods of the bridges and bank stabilization, and found that such modifications would introduce environmentally protective features and not modify the location or area of construction disturbance or expand the construction footprint, compared to the project evaluated in the 2010 Final EIR. (See Draft AEA, pp. 3-37.) CDFW staff and consultants reviewed the revised design and construction method information and determined that no new significant impacts, nor substantial increases in the severity of previously identified significant impacts would occur related to unarmored threespine stickleback, other fish and wildlife species, or their habitats. (See Draft AEA, pp. 3-37.)

In short, the only substantive changes made between the 2010 Final EIR and the AEA relate to the mitigation measures imposed to: (i) reduce GHG emissions, and (ii) refine the design and construction methods for installation of project bridges and bank stabilization without increasing the construction area, location, size, or purpose of the bridges and bank stabilization relative to what was analyzed in the 2010 Final EIR.

CDFW prepared the Draft AEA in response to the Supreme Court decision and the Court of Appeal opinion, together with the directives contained in each decision. As discussed, the Supreme Court’s 2015 decision found fault with the portion of the 2010 EIR analysis that addressed the significance of the project’s GHG emissions and the validity of two mitigation measures for the unarmored threespine stickleback under Fish and Game Code section 5515. No other aspect of the environmental evaluation was re-opened in either court decision. Therefore, the AEA is appropriately prepared with a limited scope that addresses two issues: (i) GHG emissions, and (ii) unarmored threespine stickleback.

As to GHG emissions, the Draft AEA reevaluates the project’s GHG emissions for consistency with the Supreme Court’s decision and the Court of Appeal’s opinion on remand. As shown in the Draft AEA, Section 2, Global Climate Change and Greenhouse Gas Emissions, the analysis of the recommended mitigation measures provided evidence to support the conclusion that they would adequately reduce, mitigate, and offset 100 percent of the project’s GHG emissions, allowing the project to achieve net zero GHG emissions.

As to the unarmored threespine stickleback, in light of the Supreme Court’s decision, the bridge design and construction methods were refined to eliminate the need for mitigation measures BIO-44 and BIO-46. As shown in the Draft AEA, Section 3, Unarmored Threespine Stickleback, CDFW has independently reviewed

and considered a take avoidance assessment that would avoid stream diversion and other bridge and bank stabilization construction work in the wetted channel of the Santa Clara River. The proposed modified construction methods, in combination with the implementation of other protective mitigation measures (and the other remaining mitigation from the 2010 Final EIR), would result in avoiding contact with the waters of the Santa Clara River and, therefore, eliminating the need for the stream diversion, fish collection, and fish relocation mitigation (BIO-44 and BIO-46) for the project.

3. THE SCOPE OF THE ADDITIONAL ENVIRONMENTAL ANALYSIS IS CONSISTENT WITH CEQA AND THE CEQA GUIDELINES

CDFW also considered the scope of the AEA in the context of whether the AEA is consistent with what is required by CEQA and its Guidelines. After comprehensive court challenges, the 2010 EIR has been upheld, except with respect to the GHG emissions impact finding and the two stickleback-related mitigation measures (BIO-44 and BIO-46). Pursuant to CEQA, only the noncomplying parts of the 2010 Final EIR – GHG emissions findings and threespine stickleback mitigation – are subject to further review. Further consideration of issues that were raised, or that could have been raised, in the above-referenced litigation would undermine the finality of the prior court decisions. (*Town of Atherton v. California High-Speed Rail Auth.* (2014) 228 Cal.App.4th 314, 354; *Citizens for Open Gov't v. City of Lodi* (2012) 205 Cal.App.4th 296, 325; *Ballona Wetlands Land Trust v. City of Los Angeles* (2011) 201 Cal.App.4th 455, 480.) Moreover, while certain comments on the Draft AEA reassert issues that were raised or could have been raised in the prior litigation, no one challenged the adequacy of the 2010 Final EIR's analysis of such issues in the litigation, and thus, the comments have been waived and are beyond the scope of the AEA. Additionally, because the applicable CEQA statute of limitations time period has expired on challenges to that prior analysis, comments that raise those issues for the first time during these post-judgment proceedings are time-barred. (Pub. Resources Code Section 21167, subd. (c).)

In addition, CDFW is not “required to start the EIR process anew” following litigation. (*Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1112.) Instead, the scope of the corrective action is determined “in light of the legal standards governing recirculation of the EIR prior to certification.” (*Ibid.*; citing Pub. Resources Code, Section 21092.1; CEQA Guidelines, Section 15088.5.)

When recirculation of portions of the EIR are required, the lead agency must give notice and the opportunity for public comment pursuant to CEQA Guidelines Section 15087 and must consult with responsible agencies pursuant to Guidelines Section 15086, just as for the draft EIR. (CEQA Guidelines, Section 15088.5 (d).) Following the expiration of the public comment period, the lead agency must respond to comments as required by Guidelines Section 15088, just as for the draft EIR. (*Id.* at Section 15088.5 (f).) When only portions of the EIR are recirculated, the lead agency may request that commenters limit their comments to the revised chapters or portions of the recirculated EIR. (*Id.* at Section 15088.5 (f)(2).) The lead agency need only respond to comments received during the recirculation period that relate to the revised chapters or portions of the EIR circulated for public review. Because CDFW recirculated only the revised portions of the EIR for the project, the notices of availability (NOAs) sought comments only related to those revised portions. CDFW need not respond to comments that go beyond the scope of the AEA.

Further, to the extent comments go beyond the scope of the AEA, CEQA includes a strong principle against further environmental review. (Pub. Resources Code, Section 21166; Guidelines Section 15162; *San Diego Navy Broadway Complex Coalition v. City of San Diego* (2010) 185 Cal. App.4th 924, 928, 934.) Specifically, when an EIR has been prepared, CDFW is prohibited from requiring further environmental review unless stated conditions are met. (*Melom v. City of Madera* (2010) 183 Cal.App.4th 41, 48-49.) Here, the Supreme Court's decision held that only two distinct portions of the 2010 Final EIR did not satisfy CEQA: (i) the determination that the project's GHG emissions would be less than significant was not supported by substantial evidence, and (ii) Mitigation Measures BIO-44 and BIO-46 violated the Fish and Game Code section 5515 prohibition against authorizing the take possession of fully protected species. No other portion of the EIR was found to be deficient.

Commenters expressed that they believed a subsequent EIR was required, instead of the AEA. However, CDFW has determined that none of the conditions in Public Resources Code Section 21166 that require preparation of a subsequent EIR have arisen during the preparation and public review of the AEA.

No “[s]ubstantial changes” have been proposed to the project since the 2010 Final EIR that would require major revisions of the EIR. (Pub. Resources Code, Section 21166(a).) The project continues to cover the same project area and proposes to include the same mix of land uses, including residential, mixed-use/commercial, public facilities, and open space. The only changes made between the 2010 Final EIR and the AEA relate to the mitigation measures imposed to reduce GHG emissions and the design and construction methods and timing for installation of project bridges and bank stabilization that avoid contact with the wetted area of the river channel. Such modifications are design refinements located within the same impact construction footprint previously analyzed in the 2010 Final EIR. These changes do not relate to the nature or scope of the project, but rather to the details of its construction and its mitigation. These are not “substantial” changes.

No substantial changes have occurred with respect to the circumstances under which the project is being undertaken. (Pub. Resources Code, Section 21166(b).) The project is proposed for the same property and is under the jurisdiction of the same regulatory structure as it was when the 2010 Final EIR was approved.

No “new information that was not known and could not have been known at the time the environmental impact report was certified as complete,” has become available that shows (CEQA Guidelines, Section 15126.4(a)(3):

- (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
- (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
- (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

CDFW has determined that the project would not result in any additional significant effects not discussed in the prior 2010 Final EIR. The AEA concludes that impacts related to both GHG emissions and take of unarmored threespine stickleback would be less than significant with the implementation of mitigation.

No significant effects previously examined in the 2010 Final EIR would be substantially more severe than shown in the AEA. The project’s net GHG emissions of zero would be lower than the prior EIR analysis.

The project applicant has not declined to adopt any mitigation measures or alternative that are now determined to be feasible and would reduce one or more significant effects of the project. The Applicant has not declined to adopt any mitigation measures or alternatives considerably different from those analyzed in the previous EIR that would substantially reduce one or more significant effects on the environment. Instead, the Applicant has agreed to adopt all of the mitigation measures relating to GHG emissions and unarmored threespine stickleback that were analyzed in the Draft AEA, which result in the respective impacts being reduced to less-than-significant levels.

Consequently, after careful consideration, including a good faith evaluation of the facts and independent review and analysis of information submitted by the applicant, CDFW has determined it has complied with CEQA in preparing the AEA, and that neither a subsequent nor supplemental EIR is required.

Topical Response No. 2: The 30-Year Project Life and Corresponding Duration of Mitigation Measure 2-13's GHG Emissions Mitigation Period

1. INTRODUCTION

Additional information has been requested regarding the evidentiary underpinnings for the GHG emissions analysis's selection of a 30-year project life and the corresponding duration of Mitigation Measure 2-13's mitigation period.

CEQA Guidelines Section 15064.4(a) requires CDFW to make a "good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project." Section 15064.4(a)(1) further provides that a lead agency, when deciding whether to assess the significance of the project's emissions using a quantitative or qualitative approach, has the "discretion to select the model or methodology it considers most appropriate provided it supports its decision with substantial evidence."

CDFW has determined that a 30-year project life is the appropriate methodology for determining the project's GHG emissions inventory for purposes of Mitigation Measure 2-13's applicable mitigation period. The 30-year project life, as documented below, presents the reasonable limits of scientific and evidentiary data for the project, given current modeling tools, the changing regulatory structure, the level of unknowns beyond 2050 with respect to regulatory programs mandating further reductions in GHG emissions, and other available information.

This topical response demonstrates that the use of 30-year project life is a methodological determination that is strongly supported on at least five grounds, each of which provides an independent basis for utilizing the subject analytic framework:

1. The California Air Resources Board (CARB), the state agency charged with the responsibility for and expertise to administer the state's GHG emissions policies (Health & Saf. Code, Section 38510), has approved this project's use of a 30-year project life. Specifically, CARB has reviewed the emissions inventory for the project and has determined that the AEA "provides an adequate technical basis to determine that the project would not result in any net additional GHG emissions after the mitigation measures are fully implemented." (A copy of CARB's November 3, 2016 letter documenting its technical evaluation of the project's emissions inventory data are located in Final AEA Appendix 1.) CARB also has identified this project as a recent example of a sustainable land use development project that has "demonstrated that it is feasible to design projects that achieve zero net additional GHG emissions" (see page 135 of the Draft 2017 Climate Change Scoping Plan Update).

Relatedly, CARB has approved the use of a 30-year project life when certifying AB 900 "leadership projects" (Public Resources Code Sections 21178 through 21189.3). AB 900 requires leadership projects to mitigate all project-related GHG emissions to net zero.

2. Guidance from the South Coast Air Quality Management District (SCAQMD) supports using a 30-year project life to analyze a project's GHG emissions under CEQA.
3. A 30-year project life also is widely used in CEQA documents by expert consultants and lead agencies—including Los Angeles County, the local land use agency with jurisdiction over the project site—for analyzing a project's GHG emissions under CEQA.
4. Executive Order (EO) S-3-05 established 2050 as the target year for an 80 percent reduction in statewide GHG emissions below 1990 levels. The regulatory framework for achieving this target would require transforming the state's transportation, energy, and industrial sectors. As such, the future GHG emission profiles for these sectors are not generally known. And, modeling emissions

significantly beyond 2050 requires speculation about GHG emissions that are not knowable or known.

In an effort to stretch the project's modeling window, the project's mitigation period extends to 30 years beyond the build-out year of 2030, effectively extending the modeling window and mitigation period 10 years beyond the 2050 horizon set forth in the state's climate policy. Given known and knowable information beyond 2050, a 30-year project life (that extends 10 years beyond the target year established by the referenced EO) has been established as the period of time for which GHG emissions can be reasonably estimated without undue speculation.

5. The modeling analysis likely overestimates the project's GHG emissions because the modeling does not take into account reasonably foreseeable regulatory programs and other governmental strategies and technological factors that likely would result in further reductions in GHG emissions levels throughout California that are needed to achieve the 2030 and 2050 targets.⁴

In using the 30-year project life, CDFW recognizes that the residential and non-residential development facilitated by the project could continue to exist for more than 30 years. During and after the 30-year project life period, the project would be subject to a range of existing and future regulatory standards and policies applicable to the built environment. As discussed in Section 6, below, and in **Response to Comment No. 09-66**, California is expected to implement numerous additional policies, regulations and programs to reduce statewide emissions to achieve the GHG reduction goals of Senate Bill (SB) 32 and EO S-3-05. CDFW has exercised its discretion to determine that a 30-year project life is reasonable and supported by the substantial evidence discussed below.

In summary, and in accordance with the authority established by CEQA Guidelines Section 15064.4(a)(1), the choice of a 30-year project life is consistent with established modeling frameworks use in CEQA analysis and the available scientific and evidentiary information. Each of the five, independent grounds, all of which support use by the Draft AEA of the 30-year project life for estimating the project's GHG emissions and for determining the mitigation period set forth in Mitigation Measure 2-13, are discussed in more detail below.

2. SUMMARY OF RELEVANT MITIGATION MEASURE 2-13 REQUIREMENT

As set forth in the AEA, "the project applicant has committed to achieve zero net GHG emissions to eliminate the project's contribution of GHG emissions to the cumulative impact of climate change." (See Draft AEA, p. 2-1.) The reduction to zero net GHG emissions would be achieved through implementation of mitigation measures that include both on-site and off-site emission reduction actions and offset projects. (*Id.*)

The focus of this topical response is on Mitigation Measure 2-13. However, many other elements of the project's mitigation commitment are a part of the on-site, built environment (Mitigation Measures 2-1 through 2-9) or result in GHG emissions-reducing improvements to the off-site, built environment (Mitigation Measures 2-11 and 2-12), all of which are reasonably anticipated to continue in effectiveness for the foreseeable future as they are maintained and applied in accordance with standard practice. For example, Mitigation Measures 2-1 and 2-2 would support achievement of by the on-site residences and non-residential development areas of the California Energy Commission's (CEC's) Zero Net Energy (ZNE) standard; the emissions reduction benefit of this increased building energy efficiency would be inherent to the developed areas located on the project site. Additionally, Mitigation Measure 2-6 requires the continuous implementation of the Newhall Ranch Transportation Demand Management (TDM) Plan, which would serve to enhance the transportation options available to and reduce the number of vehicle trips made by project

⁴ For informational purposes, Ramboll Environ quantified the level of "overestimation" in the projected GHG emissions by estimating the Project's emissions profile over a 50-year project life, assuming California were to achieve the 2030 and 2050 GHG reduction targets. Such an analysis is necessarily speculative, because the regulations, programs and technological changes have not been developed. Ramboll Environ concluded that the Project's mitigation obligation in Mitigation Measure 2-13 likely exceeds the mitigation obligation that would apply under a hypothetical 50-year period, assuming the 2030 and 2050 GHG reduction targets are achieved. Accordingly, the Project would still achieve net zero GHG emissions, assuming a 50-year project life coupled with the incorporation of changes that may be used to achieve California's 2030 and 2050 reduction targets. Although this analysis involves speculating about various input assumptions, it is provided here for informational purposes to reinforce that the AEA analysis is reasonable and conservative.

residents, employees and visitors. Mitigation Measure 2-10 reduces to zero the one-time emissions associated with construction and vegetation change activities.

Mitigation Measure 2-13 (as revised in the Final AEA) calls for implementation of the Newhall Ranch GHG Reduction Plan (GHG Reduction Plan, see Final AEA Appendix 6), which requires the project applicant to “offset GHG emissions to zero by funding or undertaking Direct Reduction Activities or, if necessary, obtaining Carbon Offsets in accordance with the Newhall Ranch GHG Reduction Plan.” The requirements of Mitigation Measure 2-13 are in addition to the Mitigation Measures 2-1 through 2-9 and Mitigation Measures 2-11 and 2-12.

The GHG Reduction Plan outlined in Mitigation Measure 2-13 achieves GHG reductions or sequestration through direct investment in specific programs or projects that achieve rigorous environmental integrity standards and/or the purchase of carbon offsets from accredited carbon registries. The GHG Reduction Plan contains performance standards, protocols, defined compliance options, and other requirements designed to achieve overall emissions reductions secured from its implementation, together with the implementation of the other mitigation measures, effectively reduce GHG emissions to zero for the analyzed 30-year project life.

Mitigation Measure 2-13 (as revised in the Final AEA) requires that the GHG emission reductions secured under the Newhall Ranch GHG Reduction Plan occur in advance of the actual operation of project-related development, effectively years in advance of occupation:⁵

Prior to issuing building permits for development within the RMDP/SCP project site, Los Angeles County shall confirm that the project applicant or its designee shall fully offset the project’s remaining (i.e., post implementation of Mitigation Measures 2-1 through 2-12) operational GHG emissions over the 30-year project life associated with each such building permit (“the Incremental Operational GHG Emissions”).

As provided for by Mitigation Measure 2-13, each phase of residential and/or commercial building permits issued for project-related development triggers Mitigation Measure 2-13’s 30-year period. And, the reduction or sequestration of the building’s 30 years of projected emissions must occur in advance of the operational emissions actually being generated. For example, a residential building permit issued in 2025 would require the project applicant to offset operational GHG emissions from that residence until approximately 2054, and a residential building permit issued in 2030 would require the project applicant to offset operational GHG emissions from that residence until approximately 2059. As such, no single start-and-end date exists for the project’s mitigation period under Mitigation Measure 2-13; rather, the mitigation period is based on the issuance of a building permit, which may be a year or two (or even longer) before the operational emissions even begin to be generated.

The continuing and progressive mitigation construct is most plainly illustrated in Table K-5 (Residential Emissions by Year after First Occupancy) and Table K-6 (Non-Residential Emissions by Year After First Occupancy) of Appendix K (Offsets Analysis) within Draft AEA Appendix 1. These tables illustrate the emissions profile of the proposed development as it is phased in accordance with the project’s development schedule. While Appendix K does not illustrate the continuing effectiveness of many of the project’s mitigation elements that would continue beyond the 30-year mitigation period, it demonstrates the residential and non-residential emissions metrics used to implement the Newhall Ranch GHG Reduction Plan (please refer to Final AEA Appendix 6).

3. CARB CONCURS IN THE USE OF A 30-YEAR PROJECT LIFE

As mentioned above, at CDFW’s request, CARB completed an independent review of the emissions inventory data and emissions reduction calculations for the project prior to publication of the Draft AEA. At the

⁵ Mitigation Measure 2-10 similarly requires that all one-time emissions associated with construction (including horizontal (e.g., grading) and vertical (e.g., building construction) activities) and vegetation change be mitigated to zero in advance of receipt of a grading permit and actual construction activities.

conclusion of its review, CARB determined that the AEA “provides an adequate technical basis to determine that the project would not result in any net additional GHG emissions after the mitigation measures are fully implemented.” (A copy of CARB’s November 3, 2016 letter confirming its technical evaluation of the project’s emissions inventory data are located in Final AEA Appendix 1.) In January 2017, CARB subsequently identified this project as a recent example of a sustainable land use development project that has “demonstrated that it is feasible to design projects that achieve zero net additional GHG emissions” (see page 135 of the Draft 2017 Climate Change Scoping Plan Update).

Further, a 30-year project life has been used and approved by CARB to calculate offset requirements for qualified “leadership projects” under Assembly Bill (AB) 900 (Public Resources Code Sections 21178 through 21189.3). Such leadership projects are reviewed by CARB and certified by the Governor that they would not result in net additional GHG emissions, as required by AB 900. CARB is the state agency charged with the responsibility for and expertise to administer the state’s GHG emissions policies (Health & Saf. Code, Section 38510), and CARB accepts the use a 30-year project life in the AB 900 context.

To obtain certification as a “leadership project,” a project must, among other requirements, “not result in any net additional emission of greenhouse gases, including greenhouse gas emissions from employee transportation, as determined by CARB pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code.” (Pub. Resources Code, Section 21183(c).) Currently, seven applications have been submitted to CARB and the Governor for the certification of proposed leadership projects. All seven projects use a project life of 30 or fewer years when calculating GHG emissions reductions.⁶

In summary, CARB accepts the use of a 30-year project life as a method to evaluate emissions inventory data and corresponding mitigation obligations.

4. RELEVANT SCAQMD GUIDANCE SUPPORTS THE USE OF A 30-YEAR PROJECT LIFE

Generally, the SCAQMD authorizes the use of a 30-year project life to calculate GHG emission offsets in the CEQA mitigation context for land use development. SCAQMD is principally responsible for comprehensive air pollution control in the South Coast Air Basin, which includes Los Angeles County where the project is located. SCAQMD’s guidance for use in calculating GHG emissions, as discussed below, is consistent with the methods selected by CDFW for Mitigation Measure 2-13’s 30-year project life.

In conjunction with its development of GHG emissions significance thresholds for application in the CEQA context, SCAQMD has identified a 30-year project life offset criterion after multiple stakeholder working group meetings. SCAQMD recommended this specific project life because:

... the 30-year life of credits is based on a standard 30-year economic life of a project (equipment, etc.) and the SCAQMD is looking at that time period as a default time period. Other shorter options, such as equipment permitted for a shorter time period, would be considered and evaluated on a project-by-project basis.

(SCAQMD, Minutes for the GHG CEQA Significance Threshold Stakeholder Working Group Meeting #6 (October 22, 2008), p. 4; see also ICF International Technical Memorandum, Appendix B, Summaries of Working Group Meetings, Figure B-3, Proposed Tiered Decision Tree Approach, at p. B-10 (Jul. 30, 2008) [“Offsets provided for 30-year project life, unless project life limited by permit, lease, or other legally binding conditions.”].)

SCAQMD folded this 30-year project life into its recommendation for arriving at GHG emissions reduction measures, stating:

the lead agency would quantify GHG emissions from the project and the project proponent would implement offsite mitigation (GHG reduction projects) or purchase offsets to reduce GHG emission

⁶ The cited documentation for the referenced AB 900 projects is located at https://www.opr.ca.gov/s_californiajobs.php.

impacts to less than the proposed screening level. In addition, the project proponent would be required to provide offsets for the life of the project, which is defined as 30 years.

(SCAQMD, Draft Guidance Document – Interim CEQA GHG Significance Threshold, Attachment E, pp. 3-16 (Oct. 2008);⁷ see also *id.*, Figure 3-1, p. 3-11 and Table 3-4, pp. 3-18.) Indeed, SCAQMD recognized that a shorter project life (i.e., less than 30 years) can be appropriate for use in modeling under certain circumstances. (See *id.*, Figure B-3, pp. B-10.)

In December 2008, SCAQMD’s Board adopted the staff-recommended interim GHG significance threshold for stationary source/industrial projects where the air district is the CEQA lead agency; that threshold uses a 30-year project life for modeling purposes and for determining required mitigation. SCAQMD’s Board was not asked to take final action on the significance evaluation framework developed by staff for residential and commercial projects, due to the need for further work efforts related to CARB’s then-pending interim GHG proposal. However, SCAQMD’s documentation does not discriminate between project type (industrial vs. residential/commercial) for purposes of delineating the project life criterion. Instead, like in the industrial/stationary source context, the mitigation offsets criterion for residential/commercial projects also applies to a 30-year project life.

Based on the information from SCAQMD, the 30-year project life is a supported methodological parameter for analyzing GHG emissions and calculating offsets under CEQA.

5. NUMEROUS LEAD AGENCIES AND EXPERT CONSULTANTS USE A 30-YEAR PROJECT LIFE WHEN AMORTIZING CONSTRUCTION EMISSIONS

Additional support for use of the 30-year project life is illustrated in the CEQA analysis completed by CEQA consultants and accepted by lead agencies when evaluating a project’s construction and operation GHG emissions. It is industry practice to amortize construction emissions for residential and commercial projects over a 30-year period, which corresponds to the assumed operational life of such projects.

The County of Los Angeles is the local land use agency with jurisdiction over the project site. The county – when operating in its capacity as a lead agency under CEQA – routinely considers GHG emissions inventory estimates that are presented on an annual basis and quantified after applying a 30-year amortization period to construction emissions.⁸

This standard practice is not limited to the County of Los Angeles, but rather is used by lead agencies and expert consultants across California. Examples include:

1. Certified Final EIR for the Otay Ranch University Villages Project (SCH No. 2013071077; November 2014), Lead Agency: City of Chula Vista, GHG Consultant: Dudek, Global Climate Change Section at pages 5.14-21 and 5.14-24 (available at: <http://www.chulavistaca.gov/home/showdocument?id=8453>);
2. Draft EIR for the Qualcomm Stadium Reconstruction Project (SCH No. 2015061061; August 2015), Lead Agency: City of San Diego, GHG Consultant: AECOM, Greenhouse Gas Emissions Section at pages 4.5-14,

⁷ Attachment E of the Draft Guidance Document, which is available at [http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-\(ghg\)-ceqa-significance-thresholds/ghgattachmente.pdf?sfvrsn=2](http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/ghgattachmente.pdf?sfvrsn=2), is hereby incorporated by reference pursuant to CEQA Guidelines Section 15150.

⁸ See, e.g., Certified Final EIR for the Earvin “Magic” Johnson Recreation Area Master Plan (SCH No. 2014101035; November 2015), GHG Consultant: Michael Baker International, Greenhouse Gas Emissions Section at pages 4.6-21, 4.6-22, 4.6-24, and 4.6-25 (available at: http://file.lacounty.gov/SDSInter/dpr/233248_04.6GreenhouseGasEmissions.pdf); Certified Final EIR for the Enhanced Watershed Management Programs (SCH No. 2014081106; April 2015), GHG Consultant: ESA, Greenhouse Gas Emissions Section at pages 3.6-13 and 3.6-14 (available at: <https://dpw.lacounty.gov/lacfd/ewmppeir/docs/3.6%20GHG.pdf>); Certified Final EIR for the Ford Theatres Project (SCH No. 2014021013; September 2014), GHG Consultant: Matrix Environmental, Greenhouse Gas Emissions Section at pages IV.C-29, IV.C-32 and IV.C-33 (available at: http://file.lacounty.gov/SDSInter/dpr/215037_IV.C.GreenhouseGasEmissions.pdf); and, Certified Final EIR for the Santa Clarita Valley Area Plan, One Valley One Vision (SCH No. 2008071119; January 2012), GHG Consultant: Impact Sciences, Inc., Global Warming and Climate Change Section at pages 3.4-31, 3.4-37 and 3.4-45 (available at: http://planning.lacounty.gov/assets/upl/project/ovov_2010-deir-3-4-global-climate-change.pdf).

4.5-16 and 4.5-19 (available at: <https://www.sandiego.gov/sites/default/files/legacy/cip/pdf/stadiumeir/chap4.pdf>);

3. Certified Final EIR for the 333 La Cienega Boulevard Project (SCH No. 2016011061; September 2016), Lead Agency: City of Los Angeles, GHG Consultant: ESA, Initial Study at pages B-42 to B-43 (available at: <http://planning.lacity.org/eir/333LaCienega/files/Appendix%20A-1%20-%20Part%201%20Initial%20Study.pdf>);
4. Initial Study/Mitigated Negative Declaration for the Oakland Airport Perimeter Dike FEMA and Seismic Improvements Project (SCH No. 2015092045; September 2015), Lead Agency: Port of Oakland, GHG Consultant: URS, page 3-40 (available at: http://www.portofoakland.com/files/PDF/environment/Airport_Public_Draft_IS_MND.pdf); and,
5. Certified Final EIR for The Landing at Walnut Creek Apartments Project (SCH No. 2013092048; May 2014), Lead Agency: City of Walnut Creek, GHG Consultant: The Planning Center I DC&E (PlaceWorks), Greenhouse Gas Emissions Section at pages 4.7-14 and 4.7-15 (available at: <http://www.walnut-creek.org/home/showdocument?id=2870>).

This common practice in Los Angeles County and other jurisdictions demonstrates that the approach used in the Draft AEA is a widely recognized and widely applied approach to evaluating the significance of a project's GHG emissions for purposes of CEQA.

6. A 30-YEAR PROJECT LIFE PERIOD IS CONSISTENT WITH EXECUTIVE ORDER S-3-05

The 30-year project life generally aligns with the 2050 horizon year established in EO S-3-05. Based on CARB's planning framework, by 2050, California would reasonably be expected to enact additional policies, regulations and programs to reduce statewide emissions to 80 percent below 1990 levels.⁹ Those future policies, regulations and programs are not yet adopted and their precise parameters are unknown at this time.¹⁰ Because of these uncertainties, predicting, with quantified precision, key variables and inputs affecting long-range GHG emissions forecasts beyond the 30-year period requires speculation, contrary to CEQA Guidelines Section 15145. The inherent uncertainties are reflected in available GHG emissions modeling tools, which are limited to the integration of existing regulatory and technological standards.

Nonetheless, in an effort to extend the modeling timeframe, the GHG emission reductions required by Mitigation Measure 2-13 continue for 30 years beyond project's 2030 build-out year, effectively lengthening the modeling timeframe 10 years beyond the 2050 horizon established by Governor's EO S-3-05.

⁹ See also South Coast Air Quality Management District, Final 2016 AQMP, p. 10-30 (adopted March 2017; available at: <http://www.aqmd.gov/home/library/clean-air-plans/air-quality-mgt-plan/final-2016-aqmp>); Bay Area Air Quality Management District, 2017 Clean Air Plan: Spare the Air, Cool the Climate, p. 1-5 (adopted April 2017; available at: http://www.baaqmd.gov/~/media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_proposed-final-cap-vol-1-pdf.pdf?la=en).

¹⁰ In The 2017 Climate Change Scoping Plan Update: The Proposed Strategy for Achieving California's 2030 Greenhouse Gas Target (January 2017 draft), ARB identified its "Proposed Scoping Plan Scenario" for achievement of SB 32's 2030 mandate. As part of that scenario, ARB identified the following emissions-reducing strategies: amendment of the Low Carbon Fuel Standard to secure an 18 percent reduction in the carbon intensity of transportation fuels (the existing standard requires a 10 percent reduction); implementation of the Cleaner Technology and Fuels Scenario in its Mobile Source Strategy to increase the penetration of near-zero and zero emissions technology and to reduce vehicle miles traveled; implementation of its Short-Lived Climate Plan in order to reduce methane and other GHGs; adoption of regulations to attain a 20 percent reduction in GHG emissions from refineries; and, continuation of the cap-and-trade program, with a post-2020 decline in the emissions cap. (2017 Scoping Plan Update, Table II-1, pages 34-37.)

Relatedly, the "Cleaner Technologies and Fuels Scenario" of ARB's Mobile Source Strategy (May 2016) is based on the assumption that the combined car and light trucks sales of zero emission vehicles and plug-in hybrid electric vehicles will reach 100 percent by 2050. (Mobile Source Strategy, page 36.) On page 65 of the Mobile Source Strategy, ARB similarly observes that: "The updated Vision analysis shows the vast majority of the on-road fleet must be ZEVs and PHEVs by 2050 in order to meet GHG targets, requiring sales to achieve nearly 100 percent ZEVs (BEVs, FVCs, and PHEVs combined) by that point." Therefore, ARB, with the contemplated amendment of its Advanced Clean Cars regulation described in the Mobile Source Strategy, is striving to ensure that 5.3 million combined ZEVs and PHEVs statewide are on California's roadways in 2050. (Mobile Source Strategy, page 65.)

The referenced "Vision analysis" is based on a multi-pollutant scenario planning tool that quantifies changes in criteria air pollutants (and their precursors), GHG emissions, toxic air contaminants and petroleum usage as various technologies become widespread in vehicle and equipment fleets. (Mobile Source Strategy, page 6.)

7. THE AEA LIKELY OVER-ESTIMATES PROJECT EMISSIONS

As discussed in the Draft AEA, the project’s “estimate of offsets is conservative in that it likely overstates the amount of GHG emissions that would need to be offset because additional regulatory programs and technology would likely be developed in the future under new state mandates, which would reduce the actual GHG emissions associated with the project at buildout.” (See Draft AEA, p. 2-35.) These additional programs and technology would serve to reduce the actual GHG emissions associated with the project and the amount of emission reductions that would need to be secured from the GHG Reduction Plan.

Appendix K of the Draft AEA Appendix 1 presents the methods used to calculate the numeric parameters of the project’s offsets requirement for purposes of Mitigation Measure 2-13. The calculations presented in Appendix K are conservatively limited to accounting for the phased achievement of the 50 percent Renewable Portfolio Standard by 2030, and accounting for existing regulations and fleet turnover rates reflected in CARB’s Emission FACTor (EMFAC2014) model for mobile sources. As discussed therein, the methodology does not account for other anticipated improvements in the emissions intensity factors for natural gas and electricity, or the emissions factors associated with vehicle fuel and engine efficiencies. Such improvements are expected to be made in order for the state to realize full attainment of its 2030 and 2050 statewide emission reduction targets. The omission of these reasonably anticipated improvements serves to result in the calculation of a conservative emissions forecast – one that serves to over-estimate the project’s emissions.

For informational purposes, Ramboll Environ conducted further analysis of the project’s potential emissions, assuming California achieves its statewide GHG emissions reduction targets for 2030 and 2050. Based on Ramboll Environ’s evaluation of potential pathways to achievement of the statewide targets, the three following additional GHG emissions-reducing strategies for 2050 were incorporated into the emissions estimates: (1) achievement of an 80 percent Renewable Portfolio Standard (RPS);¹¹ (2) achievement of net zero GHG emissions from solid waste;¹² and, (3) achievement of increased zero emissions vehicles penetration.¹³ The emissions reduction benefits of these three strategies were incorporated into the GHG emissions modeling, assuming a 50-year (not 30-year) project life.¹⁴ The project’s mitigated emissions in 2050, pre-application of Mitigation Measure 2-13 but with the incorporation of the three identified strategies, would total 58,751 MT CO₂e per year, as shown in Table 3.1.1-1 below, as compared to the 237,059 MT CO₂e per year identified in Draft AEA Table 2-1 for 2030.

Table 3.1.1-1 Estimate of 2050 Project Emissions, with Incorporation of Potential GHG Emissions-Reducing Strategies

Category	2050 Mitigated (MT CO ₂ e/yr)
Area	367
Energy Use	2,055
Water Use	4,565

¹¹ To develop this input assumption, Ramboll Environ relied on Appendix D of ARB’s The 2017 Climate Change Scoping Plan Update, page 12 therein, which states that the “Proposed Scoping Plan Scenario” includes increasing the Renewable Portfolio Standard to 80 percent by 2050. (Available at: https://www.arb.ca.gov/cc/scopingplan/app_d_pathways.pdf.)

¹² To develop this input assumption, Ramboll Environ relied on CalRecycle’s draft Overview of the Waste Management Sector Plan, page 4 therein, which identifies the achievement of net zero GHG emissions from the entire solid waste sector by 2035. (Available at: <http://www.calrecycle.ca.gov/Actions/Documents/5C77%5C20132013%5C900%5CRevised%20Overview%20of%20the%20Waste%20Management%20Sector.pdf>; see also <http://www.calrecycle.ca.gov/Actions/Documents/5c77%5c20132013%5c900%5cWaste%20Management%20Sector%20Presentation.pdf>.)

¹³ To develop this input assumption, Ramboll Environ relied on ARB’s Mobile Source Strategy, page 65 therein, which states that the vast majority of the on-road vehicle fleet must be zero emission vehicles and plug-in hybrid electric vehicles by 2050, requiring new car sales to achieve nearly 100 percent zero emission vehicles (battery electric vehicles, fuel cell vehicles, and plug-in hybrid electric vehicles) by that time. (Available at: <https://www.arb.ca.gov/planning/sip/2016sip/2016mobsrsrc.pdf>.) Similar statements are made by ARB in The 2017 Climate Change Scoping Plan Update.

¹⁴ To incorporate these strategies into the modeling, adjustments were made to the utility intensity factor and vehicle emissions factor, with the latter assuming an 80 percent reduction from the 2020 factor. The Project’s 2030 mitigated emissions, pre-application of Mitigation Measure 2-13, were then scaled – utilizing the revised intensity and emissions factors – to estimate the Project’s 2050 emissions. The solid waste emissions were assumed to equal zero.)

Table 3.1.1-1 Estimate of 2050 Project Emissions, with Incorporation of Potential GHG Emissions-Reducing Strategies

Category	2050 Mitigated (MT CO ₂ e/yr)
Waste Disposed	0
Traffic	51,764
Total	58,751

Using the project's 2050 emissions estimate (as shown in Table 3.1.1-1 above) and the same general methods set forth in Appendix K of the Draft AEA Appendix 1, the total mitigation obligation under Mitigation Measure 2-13 required over a 50-year project life would be approximately 5,609,300 MT CO₂e. This is less than the 7,026,845 MT CO₂e required of the project by the Draft AEA when utilizing the CARB-approved existing emissions inventory data and applying the 30-year project life. As such, this analysis completed by Ramboll Environ further substantiates the Draft AEA's over-estimation of project emissions, and corresponding conservatism built into the level of mitigation reductions assigned to Mitigation Measure 2-13.

8. CONCLUSION

Substantial evidence supports the Draft AEA's use of a 30-year project life as a methodological basis to determine the emissions inventory and corresponding mitigation requirements of Mitigation Measure 2-13. First, CARB, the state agency charged with the responsibility for and expertise to administer the state's GHG emissions policies, has concurred with a 30-year project life for purposes of this analysis, a determination that is consistent with the methods it applies to AB 900 environmental leadership projects. Second, SCAQMD identified the use of a 30-year project life, for purposes of delineating the GHG emission offset obligations of residential/commercial projects, nearly a decade ago. Third, the 30-year project life has become accepted industry standard by multiple lead agencies and expert consultants for analyzing GHG emissions in CEQA documents. Fourth, it would be speculative to impose a mitigation burden that extends beyond a 30-year project life in light of the evolving policies, regulations, and standards that would be needed to achieve the 2050 horizon-year goal of EO S-3-05. Fifth, the mitigation reduction assigned to Mitigation Measure 2-13 likely has been over-estimated and this conservatism warrants against extending the 30-year period.

Each of these five grounds independently substantiates the analysis presented in the Draft AEA, including the 30-year period set forth in Mitigation Measure 2-13. They provide the substantial evidence needed for CDFW to develop project-specific methods in accordance with CEQA Guidelines Section 15064.4(a)(1). Given the use and endorsement of a 30-year project life method by multiple experts in the field (i.e., CARB, SCAQMD, the County of Los Angeles, and other lead agencies and GHG consultants), as well as the speculation required to estimate post-2050 GHG emissions and the embedded conservatism of the project's GHG emissions inventory data, the 30-year mitigation period is appropriate, reasonable, and supported by substantial evidence.

Topical Response No. 3: Zero-Emission Vehicles at Newhall Ranch

Commenters requested additional information about the reliability and effectiveness of the project's zero-emission vehicle (ZEV) mitigation measures (i.e., Mitigation Measures 2-4, 2-5 and 2-12), and the corresponding GHG emissions reduction calculations. This topical response demonstrates that the estimated reductions calculated for Mitigation Measures 2-4, 2-5 and 2-12 in the project's 2030 GHG emissions inventory are supported by substantial evidence and are a reliable, effective element of the project's overall mitigation framework for the achievement of net zero GHG emissions.

As initial background, California is leading national trends relative to ZEV ownership and Los Angeles County has been a leader within California on ZEV-adoption rates.¹⁵ Based on extensive published literature, as well as agency forecasts and modeling scenarios, the ZEV trends are anticipated to continue and intensify as California begins to identify and implement the emissions reduction strategies needed to transform the state's transportation sector in furtherance of the statewide emissions reduction targets for 2030 and 2050. Therefore, California's regulators are taking steps to transform the state's vehicle fleet in the coming years, as more and more drivers elect to drive ZEVs on California's roadways in lieu of conventional, internal combustion engine vehicles (ICEVs).

The project's ZEV-oriented mitigation commitments are designed with the intent that Newhall Ranch becomes a "beachhead" community for ZEV use, i.e., a community where the use of zero emissions technology is normal, rather than the exception. Accordingly, as illustrated below, the mitigation commitments use well-recognized strategies that incentivize the uptake of ZEVs, and complement the state's own efforts to facilitate vehicle fleet turnover in furtherance of California's climate policy and role as an international leader.

CEQA Guidelines Section 15064.4(a) requires CDFW to make a "good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project." Section 15064.4(a)(1) further provides that CDFW, when deciding whether to assess the significance of the project's emissions using a quantitative or qualitative approach, has the "discretion to select the model or methodology it considers most appropriate provided it supports its decision with substantial evidence."

Given the discretionary authority established by Section 15064.4(a)(1), CDFW and its expert consultant (Ascent Environmental, Inc.), in concert with CARB, conducted an independent evaluation of the GHG emissions reduction calculations prepared by the project applicant's consultant (Ramboll Environ). At the conclusion of that coordinated review effort, CDFW determined that the methods used in the emissions reduction calculations are supported by substantial evidence that includes, but is not limited to, reasonable forecasts of ZEV usage in 2030 and the unique synergy of the project's mitigation commitments. Similarly, in a letter dated November 3, 2016, Richard Corey, the Executive Officer of CARB, reported his agency's determination that the project's environmental documentation "provides an adequate technical basis to determine that the project would not result in any net additional GHG emissions after the mitigation measures are fully implemented." (A copy of this letter is included in Final AEA Appendix 1.)

This topical response provides further information regarding the facets of the Draft AEA analysis described above. Additional supporting information can be found in Appendix 1 of the Draft AEA, the responses to individual comments (see Section 3.1.7, "Responses to Individuals," of this document), as well as supporting technical appendices to this document.

1. CALIFORNIA'S ZEV OBJECTIVES

As discussed in Section 2.1, Global Climate Change/Greenhouse Gas Emissions, of the Draft AEA (see Draft AEA, p. 2-10), CARB and other cooperating agencies responsible for administering the state's GHG policies recognize that transforming the vehicle fleet is a critical step towards achieving and maintaining the state's GHG reduction targets, particularly the goal to reduce statewide GHG emissions to 80 percent below the 1990 level by 2050.¹⁶ Accordingly, the State of California has prepared and is implementing regulatory policies and programs to facilitate the penetration of ZEVs into the fleet of vehicles operated by California's drivers. Some of these policies and programs are summarized briefly below.

¹⁵ Page 5 of the 2016 ZEV Action Plan (October 2016), authored by the Governor's Interagency Working Group on Zero-Emission Vehicles, reported that "[a]s of summer 2016, Californians drive 47 percent of all ZEVs on the road in the U.S., while the U.S. comprises about one-third of the world ZEV market." This same report found that "ZEV adoption has been greatest in Los Angeles County and Santa Clara County." (Ibid.)

¹⁶ For example, on page 48 of the First Update to the Climate Change Scoping Plan: Building on the Framework, CARB recognized that the light-duty vehicle fleet "will need to become largely electrified by 2050 in order to meet California's emission reduction goals." Available at: https://www.arb.ca.gov/cc/scopingplan/2013_update/first_update_climate_change_scoping_plan.pdf. Accessed: February 17, 2017.

Executive Order B-16-2012. In 2012, Governor Brown issued EO B-16-2012, in which he called upon and ordered all state entities under his direction and control to “support and facilitate the rapid commercialization of zero-emission vehicles.” The EO established benchmarks for various milestone years (i.e., 2015, 2020, 2025 and 2050) that correspond to the deployment of ZEV-supporting infrastructure,¹⁷ integration of infrastructure into the electricity grid, the displacement of petroleum fuels due to ZEV usage, fleet penetration numerics, and reductions in GHG emissions from the transportation sector (i.e., by 2050, an 80 percent reduction in GHG emissions from the transportation sector in comparison to 1990 levels). For example, the Executive Order directed CARB and other cooperating agencies to develop plans to place over 1.5 million ZEVs on California roads by 2025.¹⁸

In furtherance of this order, the Governor's Interagency Working Group on Zero-Emission Vehicles issued the 2016 ZEV Action Plan in October 2016, which outlines progress to date and identifies new actions that state agencies would take in the continued pursuit of the increasing ZEV fleet penetration. The Action Plan highlights the following priorities:

- ▲ raise consumer awareness and education about ZEVs;
- ▲ ensure ZEVs are accessible to a broad range of Californians;
- ▲ make ZEV technologies commercially viable in targeted applications in the medium-duty, heavy-duty, and freight sectors; and
- ▲ aid ZEV market growth beyond Californian.¹⁹

Advanced Clean Cars Program. In 2012, CARB adopted the Advanced Clean Cars (ACC) program, which combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025. CARB's program requires that about 15 percent of new cars sold in California in 2025 to be a plug-in hybrid, battery electric or fuel cell vehicle. Future amendments to this program are anticipated for post-2025 vehicle model years.

Senate Bill 350. In 2015, the Clean Energy and Pollution Reduction Act of 2015 (SB 350) was enacted into law. The act establishes a statewide policy for widespread electrification of the transportation sector, recognizing that widespread electrification is required for achievement of the state's 2030 and 2050 reduction targets.

When enacting SB 350, the following legislative findings were codified in Public Utilities Code Section 740.12(a)(1)(A), (D), (H) and (I), respectively:

Advanced clean vehicles and fuels are needed to reduce petroleum use, to meet air quality standards, to improve public health, and to achieve greenhouse gas emissions reduction goals.

Reducing emissions of greenhouse gases to 40 percent below 1990 levels by 2030 and to 80 percent below 1990 levels by 2050 would require widespread transportation electrification.

Deploying electric vehicle charging infrastructure should facilitate increased sales of electric vehicles by making charging easily accessible and should provide the opportunity to access

¹⁷ The National Renewable Energy Laboratory prepared the California Statewide Plug-In Electric Vehicle Infrastructure Assessment (May 2014) at the request of the California Energy Commission. In addition, the Luskin Center for Innovation at the UCLA Luskin School of Public Affairs prepared the Southern California Plug-In Electric Vehicle Readiness Plan (December 2012) at the request of the Southern California Association of Governments. Both reports acknowledge the importance of a comprehensive charging network to support the operation of ZEVs, and place particularly high import on in-home and workplace charging opportunities.

¹⁸ In furtherance of Executive Order B-16-2012, Governor Brown convened his Interagency Working Group on Zero-Emission Vehicles. That Interagency Working Group has published two ZEV Action Plans (the first in 2013, and the second in 2016) that establish roadmaps for achievement of the goal to put 1.5 million ZEVs on California's roads by 2025.

¹⁹ Office of Governor Edmund G. Brown Jr., 2016 ZEV Action Plan: A roadmap toward 1.5 million zero-emission vehicles on California roadways by 2025 (October 2016).

electricity as a fuel that is cleaner and less costly than gasoline or other fossil fuels in public and private locations.

According to the State Alternative Fuels Plan analysis by the Energy Commission and the State Air Resources Board, light-, medium-, and heavy-duty vehicle electrification results in approximately 70 percent fewer greenhouse gases emitted, over 85 percent fewer ozone-forming air pollutants emitted, and 100 percent fewer petroleum used. These reductions would become larger as renewable generation increases.

As such, Public Utilities Code Section 740.12(a)(2) declared “the policy of the state and the intent of the Legislature to encourage transportation electrification as a means to achieve ambient air quality standards and the state’s climate goals.”

Assembly Bill 1236. In 2015, AB 1236 was enacted into law. This bill recognizes that the implementation of consistent statewide standards to achieve the timely and cost-effective installation of electric vehicle (EV) charging stations is a matter of statewide concern. Among other provisions, AB 1236 requires cities and counties to approve applications for the installation of EV charging stations, as defined, through the issuance of specified permits unless specified written findings are made that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. Additionally, AB 1236 required cities and counties with populations of 200,000 or more residents to adopt ordinances, by September 30, 2016, that create an expedited and streamlined permitting process for EV charging stations. In response to this mandate, the County of Los Angeles adopted Article 85 (Electric Vehicle Charging Stations) within Title 27 (Electrical Code) of the Los Angeles County Municipal Code.

2030 Target Scoping Plan Update. In 2017, CARB released the draft of the 2017 Climate Change Scoping Plan Update: The Proposed Strategy for Achieving California’s 2030 Greenhouse Gas Target.²⁰ As part of the draft 2017 Update, CARB identified the need for 4.2 million ZEVs in California by 2030 as one of the “major elements” required to achieve the 2030 statewide emissions reduction target codified by SB 32 (Pavley, 2016).²¹

Other Supporting Programs and Policies. The penetration of ZEVs in California also is being spurred in multiple other ways, including, but not limited to, the following:

- ▲ California is incentivizing the purchase of ZEVs through implementation of the Clean Vehicle Rebate Project (CVRP), which is administered by a non-profit organization (The Center for Sustainable Energy) for CARB and currently subsidizes the purchase of passenger near-zero and zero emission vehicles, as well as through the provision of access to high-occupancy vehicle (HOV) lanes to ZEV drivers.
- ▲ The Volkswagen settlement would result in \$800 million in ZEV projects in California over the next ten years, with a focus on increasing public awareness and infrastructure in the first funding cycle.²²
- ▲ The California Green Building Standards Code (Part 11 of Title 24, California Code of Regulations) (CALGreen) requires new residential and non-residential construction to be pre-wired to facilitate the future installation and use of electric vehicle chargers (see Section 4.106.4 and Section 5.106.5.3 of 2016 CALGreen Standards for the residential and non-residential pre-wiring requirements, respectively).

²⁰ CARB, 2017 Climate Change Scoping Plan Update: The Proposed Strategy for Achieving California’s 2030 Greenhouse Gas Target (January 20, 2017 Draft). Available at: https://www.arb.ca.gov/cc/scopingplan/2030sp_pp_final.pdf. Accessed: February 17, 2017.

²¹ CARB’s Mobile Source Strategy (May 2016) also identified the deployment of 4.2 million ZEVs in 2030 as critical to the State’s overarching visioning and planning efforts for the on-road vehicle fleet. Available at: <https://www.arb.ca.gov/planning/sip/2016sip/2016mobsrc.pdf>. Accessed: February 17, 2017.

²² ARB, Volkswagen Settlement – California ZEV Investments webpage, available at: https://www.arb.ca.gov/msprog/vw_info/vsi/vw-zevinvest/vw-zevinvest.htm. Accessed: February 17, 2017.

- ▲ In January 2017, three of California’s largest utilities submitted proposals to the California Public Utilities Commission (CPUC) to electrify the state’s transportation sector through more than \$1 billion in investments.
- ▲ Southern California Edison (SCE) filed an application to expand electric transportation in its service area, which includes the project site. Some of SCE’s proposals include monetary rewards to rideshare drivers who use an electric vehicle, additional fast charge infrastructure at targeted locations within the region, and rates that are designed to incentivize electric vehicle adoption.²³
- ▲ Pacific Gas and Electric (PG&E) submitted an application that aims to expand the electrification of medium- and heavy-duty vehicle fleets, expand fast-charging stations that can refuel EVs in 20-30 minutes, and explore new uses for vehicle electrification.²⁴
- ▲ San Diego Gas & Electric (SDG&E) submitted an application to install tens of thousands of charging stations in its service area to boost the transition to zero-emission vehicles, trucks, shuttles and delivery fleets.²⁵
- ▲ In its Final 2016 Air Quality Management Plan (AQMP), SCAQMD identified multiple measures to help accelerate ZEV penetration for passenger and light-heavy and medium-heavy duty vehicles.²⁶
- ▲ As part of the 2016 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS), the Southern California Association of Governments (SCAG) focused on identifying location-based strategies to increase the efficiency of plug-in hybrid electric vehicle (PHEV) usage in the region. The 2016 RTP/SCS proposes to create a regional charging network that would increase the number of PHEV miles driven on electric power, in addition to supporting the growth of the EV market generally. In many instances, the additional chargers would create the opportunity to increase the electric range of PHEVs, reducing vehicle miles traveled (VMT) that produce tail-pipe emissions.²⁷
- ▲ As part of a grant-funded pilot program, the County of Los Angeles would be installing about 80 EV charging stations at various County locations as an incentive and to support its employees with EVs.²⁸

In summary, the state is using a broad array of regulatory standards and incentive-based programs to facilitate the turnover of California’s vehicle fleet. It is reasonable to expect the continued implementation of existing programs and the proliferation of new programs as CARB’s strategies for attainment of the 2030 and 2050 statewide reduction targets come into focus.

2. UNMITIGATED MOBILE SOURCE EMISSION ESTIMATES

Section 2.3.5, Mobile Sources, of Draft AEA Appendix 1 presents the methods used to estimate GHG emissions from project vehicles prior to the implementation of any mitigation measures. As explained therein, the GHG emissions associated with on-road mobile sources are generated by residents, workers, customers, and delivery vehicles visiting the project site. The fundamental approach to calculating mobile source emissions involves multiplying the total VMT by an emission factor that represents the amount of emissions associated with each mile of travel.

²³ SCE, Application of Southern California Edison Company (U 338-E) for Approval of Its 2017 Transportation Electrification Proposals (January 20, 2017).

²⁴ PG&E, In the Matter of the Application of Pacific Gas and Electric Company for Approval of its Senate Bill 350 Transportation Electrification Program (January 20, 2017).

²⁵ SDG&E, Application of San Diego Gas & Electric Company (U902E) for Approval of SB 350 Transportation Electrification Proposals (January 20, 2017).

²⁶ SCAQMD, Draft Final 2016 Air Quality Management Plan (December 2016). Available at: <http://www.aqmd.gov/home/library/clean-air-plans/air-quality-mgt-plan/final-draft-2016-aqmp>. Accessed: February 17, 2017.

²⁷ SCAG, The 2016 – 2040 Regional Transportation Plan/Sustainable Communities Strategy (April 2016). Available at: <http://scagtrpocs.net/Pages/FINAL2016RTPSCS.aspx>. Accessed: February 17, 2017.

²⁸ Rideshare L.A. County website, available at <http://rideshare.lacounty.gov/county-employees/electric-vehicles-evs/>. Accessed: February 17, 2017.

Here, the unmitigated emissions inventory for mobile sources is based on calculation methodologies and tools commonly used by state and local agencies for GHG emissions evaluations completed for CEQA analyses. As such, the project's VMT estimate is based on trip rate and trip length data derived from the regional traffic model, known as the Santa Clarita Valley Consolidated Traffic Model. Additionally, the emission factors used in the analysis are derived from CARB's latest emissions model for mobile sources, known as the EMFAC2014 model.

As illustrated in Draft AEA Table 2-1, the project's unmitigated mobile source emissions total 403,814 metric tons of carbon dioxide equivalent (MT CO_{2e}) per year.

3. MITIGATION MEASURE 2-4 (RESIDENTIAL EV CHARGERS AND SUBSIDY) EMISSION REDUCTIONS

The project proposes to implement Mitigation Measure 2-4 to accelerate the pace at which people would use a ZEV instead of an ICEV. Mitigation Measure 2-4 requires the project to: (a) install a charging station that achieves similar or better functionality than a Level 2 charging station in every project residence, and (b) fund a \$1,000 incentive towards ZEV purchases for 65 percent of the total residences within each village-level project.

As background, the original version of Mitigation Measure 2-4 included in the Draft AEA required the project to provide the purchase subsidy to 50 percent of the residences ($21,242 \times 0.5 = 10,621$ residences). In response to comments received on the analysis, Mitigation Measure 2-4 has been revised to conservatively increase the provision of purchase subsidies to 65 percent of the residences ($21,242 \times 0.65 = 13,807$). This revision results in the provision of an additional 3,186 ZEV purchase subsidies under the revised version of Mitigation Measure 2-4.

As illustrated in Draft AEA Table 2.3-4, Mitigation Measure 2-4 would reduce the project's unmitigated mobile source emissions total by 53,724 MT CO_{2e} per year. (The emissions reduction illustrated in Table 2.3-4 is based on the original version of Mitigation Measure 2-4. The additional subsidies provided by the revised version of Mitigation Measure 2-4 are calculated to lead to a 10.5 percent buffer for the GHG emissions reduction for Mitigation Measure 2-4 that is equal to 5,641 MT CO_{2e}. Please see Final AEA Appendix 3 for additional technical information regarding the parameters of this calculation.) The following discussion sets forth the evidentiary basis for the emissions reduction assigned to Mitigation Measure 2-4.

3.1 Understanding Vehicle Purchasing Behavior

Existing research has identified a number of key characteristics and factors that influence if and when people purchase an EV. Appendix H (Ramboll Environ, *Forecasting Electric Vehicle Purchases in the Newhall Ranch Community* (September 2016)) to Draft AEA Appendix 1 includes an extensive discussion of research regarding EV adoption. As discussed in Appendix H, and as illustrated in Figure 3.1.1-1 below, the decision to purchase an EV is based on many factors; four key factors include:

- ▲ Cost: The cost of purchasing and operating an EV compared to an ICEV;
- ▲ Charging Access: The accessibility and ease of recharging the EV, including at-home charging availability and the charging infrastructure away from home (i.e., public stations);
- ▲ Driving Range: The distance that the EV can travel before requiring additional charge; and
- ▲ Social Factors: Such as whether or not the buyer knows other people who own EVs (i.e., the so-called "neighbors and friends effect") and how concerned the driver is about emission reductions and environmental issues (i.e., social and environmental consciousness).

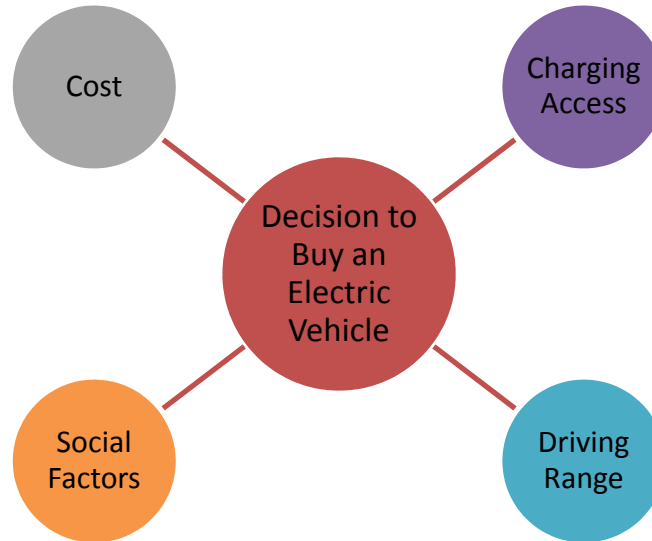


Figure 3.1.1-1 Factors Influencing Vehicle Purchase Decisions

Environmental economists at Ramboll Environ developed a forecast model to determine whether Mitigation Measure 2-4's ZEV purchase subsidies would be used by project residents. The model, which is described in further detail below, specifically accounts for the factors described above and evaluates the change in purchasing behavior as a result of the project's mitigation commitments. The model and results were independently reviewed and analyzed by CDFW and its consultants.

3.2 How Project Commitments Affect the Forecast Model

The combined effect of the project's ZEV-related mitigation commitments (notably, Mitigation Measures 2-4, 2-5 and 2-12) influence the primary factors discussed above that affect purchasing behavior.

- ▲ **Cost:** Mitigation Measure 2-4 provides a \$1,000 purchase subsidy²⁹ and installs an in-home ZEV charging station to help make the cost of the ZEV more competitive relative to conventional ICEVs (Section 2.3 of Appendix H of the Draft AEA Appendix 1 discusses the positive correlation between incentives and EV conversion that is documented in the published literature cited therein);
- ▲ **Charging Access:** Mitigation Measure 2-4 provides in-home charging infrastructure, and Mitigation Measures 2-5 and 2-12 provide charging infrastructure in publicly-accessible, non-residential areas both on the project site and within the County of Los Angeles;
- ▲ **Driving Range:** While driving range is primarily addressed through technology innovation by car manufacturers, implementation of Mitigation Measures 2-5 and 2-12, in combination with current efforts of the state, regional agencies (such as the Southern California Association of Governments and South Coast Air Quality Management District) and Southern California Edison to expand EV charging infrastructure also help address EV-related range anxiety;

²⁹ While not specifically accounted for in the forecast model, it should be noted that the Project's \$1,000 ZEV purchase subsidy is in addition to other currently available incentive programming, such as the state's CVRP, which provides purchase rebates ranging from \$1,500 to \$2,500 (see <https://cleanvehiclerebate.org/eng/eligible-vehicles>) and federal tax credits of up to \$7,500 (see <https://www.fueleconomy.gov/feg/taxevb.shtml>).

- 4 Social Factors: Mitigation Measures 2-4, 2-5, and 2-12 create a large-scale presence for ZEVs, contributing to a community where owning a ZEV would be the “norm” rather than the exception. Indeed, the overall focus and branding of the project is intended to enhance the environmental consciousness of the community. Geographies that would have such early adoption of EVs may be described as a “beachhead” community.³⁰

(The characterization of Newhall Ranch as a “beachhead” community is not solely attributable to the ZEV-oriented mitigation framework. Rather, the community’s other mitigation commitments – including, but not limited to, the achievement of the California Energy Commission’s Zero Net Energy building standards (Mitigation Measures 2-1 and 2-2), implementation of the Newhall Ranch Transportation Demand Management Plan (Mitigation Measure 2-6) to enhance the multi-modal transportation options available to project residents, employees and visitors, and other zero emissions technology drivers for electric school buses and transit buses (Mitigation Measures 2-8 and 2-9) – serve to create a “beachhead” for progressive, sustainable living.)

3.3 Assumptions of the Forecast Model

The basic development of the forecast model includes the five components, each of which are briefly summarized below. Additional information regarding the forecast model’s inputs and methodological parameters is available in Appendix H of Draft AEA Appendix 1.

Calculate the number of total resident drivers in the project’s build-out year.

Calculate the number of vehicles purchased by project residents (households) each year and, therefore, the number of purchases that could be a ZEV.

Calculate the number of EVs that would be owned by residents (households) each year absent any mitigation measures.

This involves first an estimate of EVs that are already owned by residents prior to moving to the community. Next the number of cars purchased by project residents is multiplied by the expected percent of all car purchases that are expected to be EVs based on current forecasts. Based on forecasts and historical data on EV purchases in California, the percentage of all car purchases that are EVs starts at seven percent in 2020, and increase over time at a constant increase of 2.5 percent annually.

Estimate the additional ZEVs that would be purchased annually with the incentives in place, taking into account three adjustments to the unmitigated conditions identified in Step #3 above.

- a. First, the effect of the \$1,000 ZEV purchase subsidy and the installation of an in-home charging station (estimated at a value of \$800) is considered.³¹ Using a 10 percent increase per thousand dollars of stimulus, based on results from Adepetu and Keshav (2015), a 19 percent increase in the rate of ZEV adoption is attributable to these incentives. This result is also supported by research from Clinton et al. (2015).
- b. Second, the effect of the additional installation of EV charging stations in the non-residential areas on the project site is considered. Using results adapted from Sierzchula et al. (2014), the model assigns a 7.2 percent increase in the rate of ZEV adoption from the charging stations on the project site.³²

³⁰ National Research Council, Board on Energy and Environmental Systems, Division on Engineering and Physical Sciences, and Transportation Research Board, *Overcoming Barriers to Deployment of Plug-in Electric Vehicles* (2015), pg. 42. Available at: <https://www.nap.edu/download/21725#>. Accessed: February 17, 2017.

³¹ Estimate developed from available documentation stating that the station itself runs on average about \$600-\$700; and that professional installation could be as low as \$200. Therefore, a value of \$800 approximates a mid-point value estimate. See: <http://www.plugincars.com/quick-guide-buying-your-first-home-ev-charger-126875.html>. Accessed: February 17, 2017.

³² Sierzchula et al. found that an increase of one charging station per 100,000 people increases new EV sales by 0.12 percent. Given the Project’s resident population (around 60,000), and given the 2,000 new charging stations anticipated to serve approximately 4,000 non-residential parking

(While conservatively not considered in this analysis, the project's off-site installation of EV charging stations in the Los Angeles County area also is anticipated to beneficially improve EV adoption rates in that larger geographic area.)

- c. Third, the effect of an accelerated technology diffusion path is considered, following the supportive scientific literature and modeling efforts by Coffmann (2015), National Research Council (2015), and Adepetu and Keshav (2015). Due to the project's multiple mitigation commitments, the pace of adoption is expected to be faster in the early years of the study (from 2020 to 2023) and then slow down. This would reflect the pace of adoption expected as the use of ZEVs moves from the "Early Adopters" phase into the "Early Majority" phase.
- d. Estimate the additional ZEVs that would be purchased by project residents as a result of the mitigation measures by subtracting the EV cars purchased without the mitigation measures from the total ZEV purchases made with the mitigation over the period of time that the project is anticipated to be built out.

3.4 Results of Forecast

The forecast model summarized above, and described further in Sections 3 and 4 of Appendix H to Draft AEA Appendix 1, shows that the project's mitigation commitments are expected to lead to the use of the subsidies provided in Mitigation Measure 2-4.

Specifically, using the mid-range scenario identified in Appendix H of the Draft AEA Appendix 1, which was characterized as the "best estimate" of ZEV adoption on the project site, 11,963 ZEVs would be purchased due to the incentives offered by the original version of Mitigation Measure 2-4 (i.e., in-home EV charging station and \$1,000 purchase subsidy to 50 percent (10,621) of the residences). This result shows that the number of ZEVs purchased would not be constrained by the number of purchase subsidies required by the original version of Mitigation Measure 2-4 (i.e., 11,963 is greater than 10,621) because of the "beachhead" community effect and technology diffusion.

In light of the conservative limitations built into the economic modeling, it is reasonable to conclude that ZEV adoption on the project site may be greater than that forecasted by Appendix H's mid-range scenario. Because it is reasonable to expect CARB to adopt and implement additional policies and programs to support deployment of ZEVs to attain the statewide GHG emissions reduction targets for 2030 and 2050, it is also reasonable to expect that actual ZEV adoption rates would reach the highest alternative forecast in Appendix H. This highest forecast identifies the potential for up to 14,793 ZEVs being purchased as a result of Mitigation Measure 2-4. Because of this potential for increased ZEV penetration, and for reasons discussed in Response to Comment No. 09-26, Mitigation Measure 2-4 has been revised in the Final AEA to provide ZEV purchase subsidies to 65 percent of the project's residences, for a total of 13,807 residences that are eligible to receive purchase subsidies. The Appendix H model's highest alternative forecast supports the uptake of these subsidies, because the total number of ZEV purchase subsidies provided by the revised version of Mitigation Measure 2-4 is less than the total number of additional ZEVs anticipated to result from the incentive program (i.e., 13,807 is less than 14,793).

3.5 Estimating GHG Reductions

The GHG emissions reduction from Mitigation Measure 2-4 is estimated based on the reduction in emissions due to moving from a conventional ICEV to a ZEV (see Section 4.2.4 and Table 4-3 of Draft AEA Appendix 1, as well as Final AEA Appendix 3). Based on various studies cited in Section 4.2.4 of Draft AEA Appendix 1 and Section 2.1.2 within Appendix H of Draft AEA Appendix 1, ZEVs are preferentially used in multi-car households with both ZEVs and ICEVs. The project's GHG emissions analysis concluded that 50 percent of the anticipated VMT would be driven by a ZEV rather than an ICEV. Additional information regarding the

spots, this would produce a 108 percent increase in sales of EVs. However, as the Sierczula et al. research analyzed countries with fewer than 100 charging stations per 100,000 in population, this effect was limited to the result that could be brought about by the presence of 100 public charging stations.

calculation parameters of this conclusion is presented in Final AEA Appendix 3; this same technical appendix illustrates that it is reasonably plausible that more than 50 percent of the residential VMT would be converted to ZEV-driven miles.

3.6 Tracking and Monitoring

Implementation of Mitigation Measure 2-4 would be enforced by the County of Los Angeles. Prior to the issuance of residential building permits, the project applicant or its designee (hereinafter referred to simply as, the applicant) must submit building design plans confirming residential EV charging stations to the County, for review and approval. Additionally, prior to the issuance of the first building permit on the project site, the applicant must establish and incrementally fund a dedicated account for the ZEV purchase subsidies. The dedicated account and distribution of ZEV purchase subsidy funding would be administered by the project's Transportation Management Organization or equivalent management entity. In the event that the purchase subsidies are not fully used as expected, the applicant must secure an equivalent amount of GHG emission reductions in accordance with the procedures and requirements established in the Newhall Ranch GHG Reduction Plan. (Please see the project's Mitigation Monitoring and Reporting Plan (MMRP), included as Final AEA Appendix 2, for related information.)

4. MITIGATION MEASURES 2-5 AND 2-12 (NON-RESIDENTIAL EV CHARGERS) EMISSION REDUCTIONS

Mitigation Measures 2-5 and 2-12 seek to accelerate the pace at which people would drive ZEVs by providing charging opportunities in publicly accessible, non-residential areas. As required by Mitigation Measure 2-5, the project would provide charging opportunities for up to 2,000 parking spaces in on-site commercial development areas. (It is expected that drivers who are attracted to the project site from off-site locations would recharge at the EV charging stations in the on-site, non-residential areas.) As required by Mitigation Measure 2-12, the project would provide charging opportunities for up to 2,036 parking spaces in off-site, publicly accessible, non-residential areas in Los Angeles County. All of the EV charging stations in non-residential development areas need to achieve similar or better functionality than a Level 2 charging station.

The method used to calculate the GHG emission reductions associated with Mitigation Measures 2-5 and 2-12 is based on the SCAQMD's Rule 22 Emission Reduction Quantification Protocol for Electric Vehicle Charging Station Projects.³³ In accordance with that quantification protocol, the GHG emissions reduction calculation is based on the number of electrically-driven miles that would be facilitated due to charging activity at the stations. Although the charging stations at the non-residential locations would be available 24 hours per day, the calculation assumes that each charger would be used for the equivalent of ten hours per day of Level 2 charging in 2030, at a rate of 25 miles of driving range per hour.^{34,35} The calculated reductions rely on conservative inputs that do not account for anticipated improvements in the energy consumption rate, and corresponding fuel economy, of ZEVs in 2030.

As illustrated in Draft AEA Table 2.3-4, Mitigation Measures 2-5 and 2-12 would reduce the project's unmitigated mobile source emissions total by 39,109 MT CO_{2e} per year and 39,813 MT CO_{2e} per year, respectively. By equipping up to 4,036 parking spaces with access to EV charging stations sited at non-residential locations within and outside the project site, at full build-out, over 368 million miles travelled by conventional ICEVs would be converted to EV miles travelled (see Draft AEA Appendix 1, Table 4-4 [each parking space equipped with an EV charging station would convert 91,250 miles per year from ICEV to EV miles travelled]).

³³ SCAQMD, Rule 2202 Emission Reduction Quantification Protocol for Electric Vehicle Charging Station Projects (May 1, 2015). Available at: <http://www.aqmd.gov/docs/default-source/rule-book/support-documents/rule-2202/approved-rule-2202-ev-protocol-adopted-050115.pdf?sfvrsn=2>. Accessed: February 17, 2017.

³⁴ Luskin Center for Innovation at the UCLA Luskin School of Public Affairs and UCLA Anderson School of Management, Financial Viability of Non-Residential Electric Vehicle Charging Stations (August 2012). Available at: <http://luskin.ucla.edu/sites/default/files/Non-Residential%20Charging%20Stations.pdf>. Accessed: February 17, 2017.

³⁵ Idaho National Laboratory, Plugged In: How Americans Charge Their Electric Vehicles (2016). Available at: <https://avt.inl.gov/sites/default/files/pdf/arra/SummaryReport.pdf>. Accessed: February 17, 2017.

Implementation of Mitigation Measures 2-5 and 2-12 would be overseen by the County of Los Angeles, as detailed in the MMRP. For Mitigation Measure 2-5, the applicant must demonstrate, before obtaining a commercial building permit, that non-residential EV charging stations would be installed at 7.5 percent of the total number of required parking spaces for commercial buildings located on the project site. For Mitigation Measure 2-12, the applicant must provide the County with proof of installation of electric vehicle charging stations capable of servicing off-site parking spaces prior to the issuance of the building permits at the following ratios: one parking space shall be equipped with an EV charging station per 30 project dwelling units and one parking space shall be equipped with an EV charging station per 7,000 square feet of project commercial development.

5. CONCLUSION

To achieve its 2030 and 2050 statewide emission reduction targets, the State of California needs to implement strategies that provide for the continued transformation of its vehicle fleet – a transformation of the fleet from conventional ICEVs to ZEVs. The project’s mitigation measures rely on strategies with demonstrated effectiveness in influencing the habits of California’s drivers. Specifically, by offering financial subsidies for the purchase of ZEVs and installing an array of EV-support charging infrastructure, the mitigation measures would require incentivizing the use of ZEVs.

The emission reduction calculations for Mitigation Measures 2-4, 2-5 and 2-12 are informed by substantial evidence, developed with independent review and analysis by CDFW in coordination with its expert consultant and coordination with the project applicant’s expert consultant, in accordance with CEQA Guidelines Section 15064.4(a)(1). Using a predictive forecast for the community’s vehicle fleet, a quantification protocol issued by a regional air district, published literature regarding EV trends, and other inputs concerning usage rates, emission factors and related factors, the emissions reduction calculations accurately estimate the GHG emission reductions attributable to the subject mitigation measures. This body of substantial evidence, which was also independently reviewed and verified for accuracy by CARB, the state agency responsible for administering California’s global climate change policy, supports the conclusion that the project’s mitigation measures would achieve the required deployment of ZEVs in the Newhall Ranch community and the necessary contribution to the project’s commitment to reach zero net GHG emissions.

Although the substantial evidence summarized above and elsewhere in the Draft AEA supports the emissions reduction calculations for Mitigation Measures 2-4, 2-5 and 2-12 and the conclusion that the mitigation measures are adequate to achieve the project’s zero net emissions commitment, in furtherance of the state’s climate policies, the project applicant has voluntarily supplemented its commitment, providing an additional 1,010 publicly-accessible parking spaces that are located within the jurisdictional area of the Southern California Association of Governments (which includes the project site) with access to EV charging stations. Through the addition of this new Supplemental GHG-Reducing Commitment, Additional Electric Vehicle Chargers, it would further important priorities of the state relating to the electrification of the transportation sector and would result in 19,750 MT CO_{2e} of additional GHG emission reductions. Please see **Response to Comment No. 09-27**, and Final AEA Appendix 4 for additional information regarding this supplemental commitment.

Topical Response 4: Traffic Impact Analysis

Commenters have generally asked that the 2010 Final EIR traffic analysis be revised or updated due to “changed circumstances” or “new information” or similar claims. Please refer to **Topical Response No. 1: Scope of the Additional Environmental Analysis** regarding a general discussion of the type and degree of changed conditions that would warrant revising analysis of environmental issues beyond the two identified in directions by the courts. Additional information is provided below in specific response to requests for updated traffic analysis.

As explained in the Draft AEA, pages 1-1 through 1-5, the scope of the court decisions issued in connection with the Newhall Ranch RMDP/SCP (project) and related litigation provides the basis for the environmental issues addressed in the Draft AEA. These court decisions sought analysis to two issues – the portion of the environmental analysis that addresses the significance of the project’s GHG emissions and the validity of two mitigation measures for the unarmored threespine stickleback. No other aspect of the prior 2010 Final EIR was re-opened by the court decisions.

The project’s GHG mitigation measures and the modified design and construction approach to the bridges and bank stabilization, which are in response to the corrective action required by the Supreme Court’s decision, would not worsen projected traffic conditions, as compared to the analysis in the 2010 Final EIR. The project’s modified approaches evaluated in the Draft AEA with regard to the bridges, bank stabilization, and GHG analysis and mitigation do not generate new significant trips, traffic volumes, or congestion impacts, or make already identified significant traffic impacts more severe than previously analyzed in the 2010 Final EIR. The land uses for the underlying Newhall Ranch Specific Plan and Entrada and Valencia Commerce Center (VCC) area have not been changed or altered since CDFW completed the Final EIR in 2010. These same planned land uses serve as the source of GHG emissions projections for the Draft AEA, just as they did for the 2010 Final EIR. Similarly, the project’s proposed modifications in bridge construction do not change the location, size, or use of the bridges or approach roadways as part of the existing or planned traffic network; the operational impacts of the bridges would be the same as those analyzed in the 2010 Final EIR.

The project and the GHG mitigation measures include features that would reduce trip generation and support shifts to transit and/or ride-sharing. As discussed in **Response to Comment No. 09-66**, the project would be consistent with SB 375 and regional plans to reduce vehicle trips and VMT, including the 2016-2040 RTP/SCS adopted by the SCAG. Further, certain GHG mitigation measures provide the added benefit of reducing VMT, traffic volumes, and congestion. For example, Mitigation Measure 2-6 calls for implementation of the Newhall Ranch TDM Plan, which serves to reduce the VMT by project residents, employees and visitors by approximately 15 percent and, therefore, contributes to reduced congestion. Also, Mitigation Measure 2-8 requires funding for the purchase, operation, and maintenance of an electric school bus program, which is to be implemented pursuant to Mitigation Measure 2-6 and which would further reduce VMT.

Consequently, comments concerning the 2010 Final EIR’s traffic analysis are beyond the scope of the AEA and related court decisions. However, for information purposes, the following additional discussion and analysis are provided.

The traffic-related comments are general in nature and do not provide any evidentiary support for the claim that the 2010 Final EIR’s traffic analysis must be revised due to significant changed circumstances or similar claims. Given that the comments have been general, a general response is all that is required. (*Paulek v. California Dept. Water Resources* (2014) 231 Cal.App.4th 35, 47.)

In any instance, based on the information below, CDFW has determined that the 2010 Final EIR’s traffic analysis accounts for projected future increases in traffic volumes on study area roadways; and that since completion of the Final EIR in 2010, there have been no substantial changes requiring major revisions in the previously completed traffic analysis and, thus, no update is required with regard to the 2010 Final EIR’s traffic analysis or mitigation.

Commenters questioned the traffic modeling used in the 2010 Final EIR traffic analysis, suggesting that the modeling data are inaccurate or outdated. The 2010 EIR’s traffic analysis included a long-term, 2030 cumulative scenario that accounted for future increases in traffic volumes on study area roadways (see 2010 Final EIR, p. 4.8-7–4.8-12); and, thus, the date when the EIR or its traffic analysis was prepared would not be germane. The traffic analysis for the County’s unincorporated area used the Santa Clarita Valley Consolidated Traffic Model (SCVCTM), which is a long-range traffic planning model that includes the cumulative land uses that make up the future land use of Los Angeles County Santa Clarita Valley Areawide Plan and General Plan. (*Id.*) That is, background traffic volumes included within the analysis were based on

the cumulative land uses included within these long-range plans. The traffic modeling data used in the 2010 Final EIR accounts for changes in planned growth, as did the 2010 EIR's traffic analysis. As a result, the traffic modeling data remains valid and consistent with the project's prior traffic analysis.

The 2010 EIR also included analysis of potential impacts associated with buildout of the project within Ventura County, including areas of Santa Paula, the City of Ventura, City of Moorpark, the community of Piru, and the City of Fillmore. (*Id.*) For this analysis, the EIR's traffic consultant used the Ventura County Traffic Model (VCTM), which is maintained by the Ventura County Transportation Commission (VCTC). The Ventura County traffic modeling assumed build-out of the Ventura County General Plan, as well as the general plan for the nearby cities of Fillmore, Ventura, and Moorpark. (*Id.*) As was the case within Los Angeles County, the background traffic volumes accounted for future traffic increases through buildout of these general plans.

Additionally, in consultation with the 2010 EIR's traffic consultant, traffic volumes within the study area were evaluated with regard to: (i) State Route (SR) 126 in Los Angeles County, (ii) I-5, I-405, and SR-14, (iii) arterial roadways in the City of Santa Clarita and unincorporated county areas, and (iv) arterial roadways in Ventura County. Since preparation of the project's traffic analysis, traffic volumes on these highways and roadways were found to be comparable to or below the growth already accounted for in the 2010 Final EIR traffic analysis.

After review of the modeling and current conditions, evidence indicates there are no substantial changes relating to the 2010 EIR's traffic impact analysis with regard to the circumstances under which the project would be undertaken that require major revisions of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. In this instance, substantial evidence supports the determination that no such substantial changes requiring major revisions of the 2010 Final EIR have occurred. Traffic growth since completion of the 2010 Final EIR has been both limited and accounted for in the 2010 Final EIR analysis. Additionally, there have been no significant developments in the traffic model used to conduct the 2010 Final EIR analysis that would alter the results of the prior traffic analysis.

For additional supporting information, please refer to Stantec's technical memorandum, which can be found in Final AEA Appendix 5.

3.1.2 Federal Agencies

F1. Letter from Federal Emergency Management Agency, dated December 28, 2016

Comment No. F1-1:

This is in response to your request for comments regarding the Extension Public Review Period Draft Additional Environmental Analysis for Newhall Ranch Resource Management and Development Plan and Spineflower Conservation Plan EIR (SCH No. 2000011025).

Response No. F1-1:

The comment indicates that the comments that follow are in response to CDFW's request for comments regarding the Draft AEA. Please refer to the specific comments and their corresponding responses below. No further response is required.

Comment No. F1-2:

Please review the current effective countywide Flood Insurance Rate Maps (FIRMs) for the County of Los Angeles (Community Number 065043), Maps revised January 6, 2016. Please note that the County of Los Angeles, California is a participant in the National Flood Insurance Program (NFIP). The minimum, basic NFIP floodplain management building requirements are described in Vol. 44 Code of Federal Regulations (44 CFR), Sections 59 through 65.

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

- ▲ All buildings constructed within a riverine floodplain, (i.e., Flood Zones A, AO, AH, AE, and AI through A30 as delineated on the FIRM), must be elevated so that the lowest floor is at or above the Base Flood Elevation level in accordance with the effective Flood Insurance Rate Map.
- ▲ If the area of construction is located within a Regulatory floodway as delineated on the PIRM, any *development* must not increase base flood elevation levels. The term *development* means any man-made change to improved or unimproved real estate, including but not limited to buildings, other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of equipment or materials. A hydrologic and hydraulic analysis must be performed *prior* to the start of development, and must demonstrate that the development would not cause any rise in base flood levels. No rise is permitted within regulatory floodways.
- ▲ All buildings constructed within a coastal high hazard area, (any of the "V" Flood Zones as delineated on the FIRM), must be elevated on pilings and columns, so that the lowest horizontal structural member, (excluding the pilings and columns), is elevated to or above the base flood elevation level. In addition, the posts and pilings foundation and the structure attached thereto, is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components.
- ▲ Upon completion of any development that changes existing Special Flood Hazard Areas, the NFIP directs all participating communities to submit the appropriate hydrologic and hydraulic data to FEMA for a FIRM revision. In accordance with 44 CFR, Section 65.3, as soon as practicable, but not later than six months after such data becomes available, a community shall notify FEMA of the changes by submitting technical data for a flood map revision. To obtain copies of FEMA's Flood Map Revision Application Packages, please refer to the FEMA website at <http://www.fema.gov/business/nfip/forms.shtm>.

Please Note:

Many NFIP participating communities have adopted floodplain management building requirements which are more restrictive than the minimum federal standards described in 44 CFR. Please contact the local community's floodplain manager for more information on local floodplain management building requirements. The Los Angeles County floodplain manager can be reached by calling George De La O, Senior Civil Engineer at (626) 458-7155.

Response No. F1-2:

The comment provides information regarding the Flood Insurance Rate Maps (FIRMs) for the County of Los Angeles as well as general information related to the National Flood Insurance Program (NFIP). The issues raised by the comment relate to the analysis of the NFIP floodplain management building requirements, which are issues outside the scope of the AEA (please see **Topical Response 1: Scope of Additional Environmental Analysis**). As such, no further response is required. In any event, for information purposes, the 2010 Final EIR previously addressed the Federal Emergency Management Agency's (FEMA's) NFIP floodplain management building requirements in a written response to FEMA's prior letter submitted in connection with that environmental document. Please refer to Response F01 to letter from FEMA, dated June 22, 2010, which is part of the 2010 Final EIR. Further, the project applicant is aware of the current effective county-wide FIRMs, and FEMA's NFIP floodplain management building requirements, and already has begun to coordinate with both the Los Angeles County Department of Public Works and FEMA in this regard – all of which is summarized in Response F01 in the 2010 Final EIR. Moreover, development associated with the project would be reviewed by the County of Los Angeles Department of Public Works to assure compliance with all applicable requirements set forth by the NFIP as well as all County requirements related to floodplain management building requirements.

Comment No. F1-3:

If you have any questions or concerns, please do not hesitate to call Michael Hornick of the Mitigation staff at (510) 627-7260.

Response No. F1-3:

This comment provides a contact for questions. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

3.1.3 State Agencies

S1. Letter from State Clearinghouse, dated February 14, 2017

Comment No. S1-1:

The State Clearinghouse submitted the above named Other Document to selected state agencies for review. The review period closed on February 13, 2017, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Response No. S1-1:

This comment references the letter submitted by CDFW to the State Clearinghouse that extended the review period for the Draft AEA of the EIR for the Newhall Ranch RMDP/SCP project to February 13, 2017. The comment further states that no state agencies submitted comments by February 13, 2017, and that CDFW complied with the State Clearinghouse review requirements for draft environmental documents pursuant to CEQA. The letter referenced in this comment is provided below as **Comment No. S1-3**. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. S1-2:

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

Response No. S1-2:

This comment provides a State Clearinghouse contact for questions. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. S1-3:

SCH# 2000011025

Project Title Additional Environmental Analysis for the Newhall Ranch 2010 RMDP/SCP EIR

Lead Agency Fish & Game #5

Type Oth Other Document

Description Note: Extended Per Lead

Five Point LLC, the project applicant, responded to the Supreme Court decision with a proposal to CDFW to modify the previously approved project in two aspects. As to the GHG issue addressed by the court, the project applicant has committed to achieve zero net GHG emissions for the project with implementation of 13 mitigation measures, mitigation measure 2-1 through 2-13) described in the draft AEA, that will reduce, mitigate, and offset 100 percent of the project's GHG emissions. With respect to unarmored threespine stickback [sic], the project applicant has proposed modified design and construction methods for bridges and bank stabilization in or near the Santa Clara River to obviate the need for the two prior mitigation measures of focus for the Supreme Court, consistent with Fish and Game Code section 5515.

Lead Agency Contact

Name Agency Phone email

Betty Courtney

Department of Fish and Game, Region 5

661-263-8306 Fax

Address 3883 Ruffin Road

City San Diego State CA .Zip 91350

Project Location
County
City Region Lat / Long
Cross Streets Parcel No. Township
Los Angeles Santa Clarita
1-5 and SR 126
Range Section Base

Proximity to:
Highways Airports Railways Waterways Schools Land Use
Project Issues Biological Resources; Other Issues

Reviewing Agencies
Resources Agency: Cal Fire; Department of Parks and Recreation: Department of Water Resources; California Highway Patrol; Caltrans. District 7; Regional Water Quality Control Board, Region; Native American Heritage Commission; State Lands Commission

Date Received 11/03/2016 Start of Review 11/03/2016 End of Review 02/13/2017

Response No. S1-3:

This comment is the Notice of Completion (NOC) & Environmental Document Transmittal that was provided to the State Clearinghouse notifying them of the extension of the public review period deadline for the Draft AEA to February 13, 2017. The comment also identifies the State Agencies that the State Clearinghouse notified of the extension of the public comment period. All comments received from public agencies regarding the Draft AEA are included in this Final AEA. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

S2. Letter from California Regional Water Quality Control Board, Los Angeles Region, dated February 13, 2017

Comment No. S2-1:

Please find attached comments on the Newhall Ranch draft additional Environmental Analysis from the Los Angeles Regional Water Quality Control Board.

Response No. S2-1:

This comment references the attached letter submitted by the LARWQCB. The comments set forth in the attached memo are addressed below (see **Comment Nos. S2-2** through **S2-5** and their corresponding responses). This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. S2-2:

Please contact me if you have any questions.

Response No. S2-2:

This comment indicates that LARWQCB can be contacted for questions. CDFW does not have any questions with regard to the LARWQCB's comments on the Draft AEA. No further response is required. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. S2-3:

Los Angeles Regional Water Quality Control Board staff has reviewed the Draft Additional Environmental Analysis for the Newhall Ranch Resource Management and Development Plan and Spineflower Conservation Plan Environmental Impact Report (Draft Additional EA) with attention to the revisions to the project's bridge and bank stabilization designs and the revised mitigation measures for unarmored threespine stickleback.

Response No. S2-3:

This comment briefly identifies the document reviewed and summarizes the project's primary elements which would reduce and avoid impacts to the unarmored threespine stickleback. No further response is required. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. S2-4:

Staff has found the analysis to be sufficient and believe the "no water contact" construction methods will provide additional protection of water quality.

Response No. S2-4:

This comment states the LARWQCB staff has found that the analysis presented in the Draft AEA, specifically the construction methods to provide additional protection of water, to be sufficient. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. S2-5:

We look forward to continuing to work with you as the Newhall Ranch Resource and Development Plan and Spineflower Conservation Plan are implemented.

Response No. S2-5:

This comment expresses the availability of LARWQCB to work with CDFW on the implementation of the project. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

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3.1.4 Local Agencies

L1. Letter from Los Angeles County Clerk, dated December 13, 2016

Comment No. L1-1:

Extension of Public Review Period for the Draft Additional Environmental Analysis for the Newhall Ranch Resource Management and Development Plan and Spineflower Conservation Plan Environmental Impact Report (SCH No. 2000011025)

The California Department of Fish and Wildlife (CDFW) (formerly California Department of Fish and Game) announces the extension of the public comment and review period for the previously released Draft Additional Environmental Analysis (AEA) for the Newhall Ranch Resource Management and Development Plan and Spineflower Conservation Plan (RMDP/SCP) Final Environmental Impact Report (EIR) (SCH No. 2000011025). CDFW previously released the Draft AEA for public circulation, review, and comment between November 3, 2016 and January 6, 2017. The review period has been extended to February 13, 2017.

CDFW certified the RMDP/SCP EIR in December 2010 in connection with various approvals under the Fish and Game Code for the Newhall Ranch project located in northern Los Angeles County. A detailed description of the project as a whole is provided in the previously certified December 2010 RMDP/SCP EIR and CDFW's related approval documents from that time, including findings adopted by CDFW. A description of the project as modified is included in the Draft AEA specifically.

As stated in CDFW's related notice on November 3, 2016, CDFW prepared the Draft AEA in response to two important issues recently addressed by the California Supreme Court in *Center for Biological Diversity v. California Dept. of Fish and Wildlife* (2015) 62 Cal.4th 204. The Supreme Court decision addresses the project and the RMDP/SCP EIR specifically and, in issuing its decision, the court held: (1) for purposes of the California Environmental Quality Act (CEQA) that CDFW's 2010 significance determination regarding project greenhouse gas (GHG) emissions was not supported by substantial evidence and (2) CDFW's approval of the project in 2010 with two biological resource mitigation measures calling, if necessary, for collection and relocation of unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*), violated Fish and Game Code section 5515. Unarmored threespine stickleback is a freshwater fish native to California designated as endangered by federal and state law, and as fully protected under the Fish and Game Code. The Draft AEA is specifically responsive to these two issues.

Five Point LLC (formerly, The Newhall Land and Fanning Company), the project applicant, responded to the Supreme Court decision with a proposal to CDFW to modify the previously approved project in two respects. As to the GHG issue addressed by the court, the project applicant has committed to achieve zero net GHG emissions for the project with implementation of 13 mitigation measures, Mitigation Measures through 2-13 described in the Draft AEA, that will reduce, mitigate, and offset 100 percent of the project's GHG emissions. With respect to unarmored threespine stickleback, the project applicant has proposed modified design and construction methods for bridges and bank stabilization in or near the Santa Clara River to obviate the need for the two prior mitigation measures of focus for the Supreme Court, consistent with Fish and Game Code section 5515.

Public Review Period

The public review period for the Draft AEA began on November 3, 2016, and has been extended to February 13, 2017. Written comments limited to issues addressed in the Draft AEA must be postmarked or received by e-mail by CDFW no later than February 13, 2017. Written comments sent to CDFW by regular mail should be sent to the following address:

California Department of Fish and Wildlife Comments on Newhall Ranch Draft AEA
c/o Betty Courtney
3883 Ruffin Road
San Diego, CA 92123

Written comments transmitted to CDFW by E-mail should be sent to the following address: newhallranch@wildlife.ca.gov. Please put "Comments on Newhall Ranch Draft AEA" in the subject line. If you would like a CD containing the Draft AEA, please send an E-mail request to this address.

The Draft AEA is available electronically to review and download at CDFW's web page: www.wildlife.ca.gov/regions/5/newhall/Draft:AEA

Copies of the Draft AEA are available for public review at CDFW's South Coast Regional Office at the address shown above and several other public locations:

- Old Town Newhall Library, 24500 Main Street, Santa Clarita, CA 91321
- Stevenson Ranch Library, 25950 The Old Road, Stevenson Ranch, CA 91381\
- Valencia Library, 23743 West Valencia Boulevard, Santa Clarita, CA 91355
- Sylmar Library, 14561 Polk Street, Sylmar, CA 91342
- E.P. Foster Library, 651 East Main Street, Ventura, 93001
- Castaic Library, 27971 Sloan Canyon Road, Castaic, CA 91384
- Department of fish and Wildlife, Los Alamitos Office, 4665 Lampson Avenue, Los Alamitos, CA 90702
- Department of Fish and Wildlife Habitat Conservation Planning Branch, 1700 Ninth Street, 2nd Flo r, Sacramento, CA 95811.

Information regarding CDFW's environmental review and permitting effort for the project, various other project documents, contact/ mailing information, and a list of repository sites where documents are available for public review is also available at the CDFW web site:

www.wildlife.ca.gov /regions/5/newhall/DraftAEA

Response No. L1-1:

This comment indicates that the letter released by CDFW which notified all public agencies and interested parties that the comment period for the Draft AEA was extended to February 13, 2017 was filed with the Los Angeles County Clerk on December 13, 2016 and posted on December 13, 2016 until January 12, 2017. No further response is required. The letter identifies the Notice of Time Extension for Public Comment on the Draft AEA. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

L2. Letter from Los Angeles County Fire Department, dated January 3, 2017

Comment No. L2-1:

EXTENSION OF PUBLIC REVIEW PERIOD FOR THE DRAFT ADDITIONAL ENVIRONMENTAL ANALYSIS, "NEWHALL RANCH RESOURCE MANAGEMENT/DEVELOPMENT PLAN," SCH NO. 2000011025, PROJECT GREENHOUSE GAS EMISSIONS WAS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE FOR COLLECTION AND RELOCATION OF UNARMORED THREESPIN STICKLEBACK, VIOLATED FISH AND GAME CODE SECTION 5515, LOCATED IN NORTHERN LOS ANGELES COUNTY, FFER 201600202

The Extension of Public Review has been reviewed by the Planning Division, Land Development Unit, Forestry Division, and Health Hazardous Materials Division of the County of Los Angeles Fire Department.

The following are their comments:

Response No. L2-1:

This comment briefly identifies the document reviewed, the subject of the document, and introduces the comments submitted to CDFW. The issues raised by the comment relate to the provision of fire protection services by the Los Angeles County Fire Department (County Fire Department), which are issues outside the scope of the AEA (please see **Topical Response 1: Scope of Additional Environmental Analysis**). As such, no further response is required. In any event, responses are provided below with regard to the comments provided in the balance of this letter (Letter No. L2). This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. L2-2:

PLANNING DIVISION:

We no further comments.

Response No. L2-2:

This comment states the Planning Division has no comments with regard to the Draft AEA. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. L2-3:

LAND DEVELOPMENT UNIT:

The Fire Prevention Division Land Development Unit has no comments regarding this project. The Newhall Ranch Resource Management/Development Plan has no impact to our Fire Prevention requirements.

Should any questions arise regarding the above comment please contact Juan Padilla of the Fire Prevention Division Land Development Unit at (323) 890-4243 or at Juan.Padilla@fire.lacounty.gov.

Response No. L2-3:

This comment states the County Fire Department's Land Development Unit has no comments with regard to the Draft AEA. The comment further states that implementation of the project would not impact Fire Prevention requirements administered by the County Fire Department. The comment also provides contact information. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. L2-4:

FORESTRY DIVISION - OTHER ENVIRONMENTAL CONCERNS:

The statutory responsibilities of the County of Los Angeles Fire Department's Forestry Division include erosion control, watershed management, rare and endangered species, vegetation, fuel modification for Very High Fire Hazard Severity Zones or Fire Zone 4, archeological and cultural resources, and the County Oak Tree Ordinance.

Response No. L2-4:

This comment indicates the statutory responsibilities of the County Fire Department's Forestry Division. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. L2-5:

HEALTH HAZARDOUS MATERIALS DIVISION:

The Health Hazardous Materials Division of the Los Angeles County Fire Department has no comments regarding the draft additional environmental analysis for the Newhall Ranch Resource Management/Development Plan pertaining to the project site.

Response No. L2-5:

This comment states the County Fire Department's Health Hazardous Materials Division has no comments with regard to the Draft AEA. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. L2-6:

If you have any additional questions, please contact this office at (323) 890-4330.

Response No. L2-6:

The comment provides contact information. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

L3. Letter from Los Angeles County Sheriff, dated January 17, 2017

Comment No. L3-1:

The Los Angeles County Sheriff's Department (Department) is in receipt of the Draft Additional Environmental Assessment (AEA), dated November 3, 2016, for the Newhall Ranch Resource Management and Development Plan and Spineflower Conservation Plan (RMDP/SCP) Environmental Impact Report (EIR).

Response No. L3-1:

This comment indicates that the Department received the Draft AEA. The issues raised by the comment relate to the provision of sheriff services by the County of Los Angeles, Office of the Sheriff (County Sheriff), which are issues outside the scope of the AEA (please see **Topical Response 1: Scope of Additional Environmental Analysis**). As such, no further response is required. In any event, responses are provided below with regard to the comments provided in the balance of this letter (**Letter No. L3**). This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. L3-2:

The EIR for the RMDP/SCP was certified by the California Department of Fish and Wildlife (CDFW) in 2010. However, subsequent court decisions compelled CDFW to re-evaluate certain analyses contained therein. Accordingly, the Draft AEA contains follow-up analyses and revisions pertaining to greenhouse gas (GHG) emissions and the unarmored threespine stickleback (Stickleback).

Response No. L3-2:

The comment accurately states that CDFW certified the Draft EIR in 2010 and the Draft AEA contains follow-up analyses and revisions pertaining to GHG emissions and unarmored Threespine stickleback mitigation measures. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. L3-3:

Environmental information pertaining to GHG and the Stickleback are not germane to the Department's statutory responsibilities to the proposed project. Accordingly, the Department has no comment on the Draft AEA.

Response No. L3-3:

This comment states the County Sheriff has no comments with regard to the Draft AEA as the environmental issues covered by the Draft AEA are not germane to the County Sheriff's statutory responsibilities. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. L3-4:

However, when circulating environmental documents for review and comment, the Department respectfully requests that Facilities Planning Bureau (FPB) be included on the direct distribution list. FPB will coordinate the submittal of the requested review comments on behalf of the Department. FPB contact information is as follows:

Tracey Jue, Director
Los Angeles County Sheriff's Department
Facilities Planning Bureau
4700 Ramona Boulevard, Fourth Floor Monterey Park, California 91754
Attention: Lester Miyoshi, LHMIyosh@lasd.org

Response No. L3-4:

The comment requests that the County Sheriff's Facilities Planning Bureau (FPB) be included on the direct distribution list when circulating environmental documents for review and comment. As requested by the County Sheriff, all documents would be sent to the contact person identified in this comment. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. L3-5:

Should you have any questions regarding this matter, please contact me at (323) 526-5657, or Mr. Miyoshi, of my staff, at (323) 526-5664.

Response No. L3-5:

This comment provides a contact for questions. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

L4. Letter from City of Santa Clarita, dated February 13, 2017

Comment No. L4-1:

In response to the request for comments on the Draft Additional Environmental Analysis for the Newhall Ranch Resource Management and Development Plan and Spineflower Conservation Plan, please find the attached comments from the City of Santa Clarita. The City appreciates the opportunity to provide comments. A hardcopy of the attached letter is forthcoming via US Mail. Please let me know if you should have any Questions.

Response No. L4-1:

This comment is an introduction to comments that follow and expresses appreciation for the opportunity to provide comments. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. L4-2:

The Newhall Ranch Resource Management and Development Plan and Spineflower Conservation Plan (RMDP/SCP) area consists of 2,570 net developable acres within a 13,650 acre project area. The proposed project is comprised of 19,517 residential units, approximately 5.45 million square feet (msf) of commercial uses, and supporting public facilities, including schools, fire station, library, recreational amenities, and 8,500 acres of open space. The proposed project is to be implemented with the development of Entrada and Valencia Commerce Center (VCC). VCC consists of 3.4 msf of mixed use, commercial, and business park uses, in conjunction with the build-out of the VCC planning area. Finally, the Entrada planning area would include 1,725 residential units and additional mixed use and commercial uses with various public facilities and open space areas.

Response No. L4-2:

This comment accurately summarizes the elements of the proposed development that would be facilitated within the project area upon approval of the project. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. L4-3:

The City of Santa Clarita (City) appreciates the opportunity to comment on the above-reference J Draft Additional Environmental Analysis. The City submits the following additional comments addressing greenhouse gas emissions and biology in response to the Draft Additional Environmental Analysis for the RMDP/SCP area.

Response No. L4-3:

This comment expresses appreciation for the opportunity to provide comments on the Draft AEA and serves as an introduction to comments that follow. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. L4-4:**Greenhouse Gas Emissions**

The project is located outside of the jurisdiction of the City and is therefore not subject to the City's Climate Action Plan. However, the City is interested in ensuring that the project commitment to reduce, mitigate, or offset 100 percent of the greenhouse emissions from the project and if its construction effectively meets or exceeds the requirements of the Community Climate Action Plan, as adopted by the County of Los Angeles (County), requiring reduction of greenhouse emissions by at least 11 percent below 2010 levels by the year 2020. Please confirm that the project's net-zero program will meet the goal established by the Community Climate Action Plan.

Response No. L4-4:

This comment notes, correctly, that the project is located outside the boundaries of the City of Santa Clarita and; therefore, is not subject to the City of Santa Clarita's Climate Action Plan (CAP). The comment also seeks confirmation that the project is consistent with the County of Los Angeles Community Climate Action Plan (CCAP).

For background, as part of the County General Plan's Air Quality Element, the County adopted a CCAP to reduce GHG emissions associated with community (not municipal) activities in unincorporated Los Angeles County by at least 11 percent below 2010 levels by 2020. The County plans to adopt a substantial update to the CCAP that will take effect in 2022, and may provide a reduction target for years beyond 2020. As discussed in the Draft AEA, after implementation of Mitigation Measures 2-1 through 2-13, the project would result in net zero GHG emissions, as confirmed by the technical analysis of CARB (Draft AEA, p. 1-18). Therefore, the project would not conflict with the County's GHG emissions reduction policies embodied in the CCAP.

Please see **Response to Comment No. 09-66** for a detailed discussion of the project's consistency with applicable GHG plans, policies, laws, and regulations, including California's long-term GHG reduction goals.

Comment No. L4-5:

The City urges the County to take appropriate steps to ensure that the project meets its stated goal of reducing, mitigating, or offsetting 100 percent of the net greenhouse gas emissions from the project and its construction. The project applicant has stated that this goal shall be achieved through upholding green building and design standards, encouraging sustainable commuting, preserving natural resources, promoting electric vehicle use, expanding access to environmentally sustainable transit alternatives, and investing in offsite greenhouse gas reduction programs. The City encourages the County to ensure that specific measures are taken so that each of these initiatives are implemented in order to achieve stated project goals.

Response No. L4-5:

This comment summarizes the elements of Mitigation Measures 2-1 through 2-13, including the GHG Reduction Plan, through which the project would achieve net zero GHG emissions. The comment also urges the County of Los Angeles to ensure that all elements of Mitigation Measures 2-1 through 2-13 are implemented so that the project achieves its stated GHG reduction goals.

The Draft AEA analysis was subject to independent review and evaluation by two technical experts: CARB and Ascent Environmental, Inc. (CDFW's consultant). As documented in a letter from CARB to CDFW, dated November 3, 2016 (a copy of which is included in Final AEA Appendix 1):

CARB staff consulted with Department of Fish and Wildlife staff and technical experts at Ascent Environmental, the principal consultant assisting the Department. In doing so, CARB staff reviewed the technical documentation provided for the evaluation of the project's total estimated GHG emissions and the reductions in emissions to be achieved through the mitigation measures. Based on staff's review, CARB finds the documentation provides an adequate technical basis to determine that the project would not result in any net additional GHG emissions after the mitigation measures are fully implemented.

CARB's finding that the project's GHG emission reduction calculations are documented by "an adequate technical basis" is part of the body of substantial evidence that supports the Draft AEA's GHG emissions analysis, particularly as CARB is the state agency designated with the responsibility for and expertise to implement statewide policy on global climate change and the reduction of GHG emissions.

The GHG mitigation measures would be incorporated into a Mitigation Monitoring and Reporting Program (MMRP) as required by CEQA. The County of Los Angeles would enforce the implementation of all GHG

mitigation measures in accordance with the MMRP. Mitigation Measures 2-1 through 2-13, which comprise the project's GHG emissions reduction obligations, would be incorporated into the project's MMRP and would be fully enforceable. As such, all elements of the mitigation measures shall be fully enforceable under the MMRP and the Draft AEA's conclusion that the project would result in net zero GHG emissions is supported by substantial evidence.

Comment No. L4-6:**Biology**

The City supports the adopted "no water contact" construction methods for the Long Canyon Road bridge and two temporary haul-route bridges for the Landmark Village project, and the construction of the Commerce Center Drive bridge and bank stabilization. It is the City's belief that eliminating construction activity within the wetted channel of the Santa Clara River will eliminate the need for stream diversion and other activities that may have led to significant impacts upon unarmored threespine stickleback populations.

Response No. L4-6:

This comment expresses support for the "no water contact" construction methods adopted in the AEA for the Long Canyon Road bridge and two temporary haul-route bridges for the Landmark Village project, and the construction of the Commerce Center Drive bridge and bank stabilization. The comment also expresses support for Project Design Features 3-1 through 3-12 and Mitigation Measures 3-1, 3-2, and 3-3, which set forth the bridge construction, maintenance, and operation and bank stabilization construction obligations of the Applicant. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. L4-7:

The City strongly encourages the County to ensure that the project applicant adheres to applicable regulations of all affected agencies including, but not limited to, Fish & Game Code Section §§ 5515(a), prohibiting the take of fully protected species.

Response No. L4-7:

This comment encourages the County to ensure that the project applicant adheres to regulations of all affected agencies, including Fish & Game Code section 5515(a). As discussed in Section 3 of the Draft AEA, with implementation of Mitigation Measures 3-1, 3-2, and 3-3, the project would be fully compliant with Fish & Game Code section 5515(a) and all other laws and regulations governing biological resources, including endangered and threatened species.

Comment No. L4-8:

Thank you for the opportunity to submit these comments. If you have any questions, please contact Mike Marshall, Associate Planner, at (661) 255-4045.

Response No. L4-8:

This comment concludes the letter and provides contact information if any questions arise. CDFW has reviewed the letter and based on its content does not have any questions regarding the information provided in the letter. No further response is required.

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3.1.5 Native American Tribal Organizations

NA1. Letter from Fernando Tataviam Band and Mission Indians, dated February 10, 2017

Comment No. NA1-1:

Please view the attached letter by the Fernandeno Tataviam Band of Mission Indians (Tribe) with comments on Newhall Ranch RMDP Draft Additional Environmental Analysis.

Response No. NA1-1:

The comments set forth in the attached letter are addressed below (see Comment Nos. NA1-2 through NA1-9 and their corresponding responses). This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. NA1-2:

We, the Fernandeno Tataviam Band of Mission Indians ("Tataviam" or "Band"), appreciate the opportunity to provide comments on the Draft Additional Environmental Analysis ("AEA") for the Newhall Ranch Resource Management and Development Plan/Spineflower Conservation Plan Environmental Impact Report, State Clearinghouse Number 20000011025.

Response No. NA1-2:

This comment is an introduction to comments that follow. No further response is required.

Comment No. NA1-3:

Since the mid-1990s when the Newhall Land and Farming Company ("Newhall") began processing the Newhall Ranch Specific Plan, Tataviam has worked closely with Newhall and the regulatory agencies to ensure that the all components of the Newhall project were properly analyzed for potential impacts on tribal cultural resources, and that such impacts, if identified, were mitigated to the fullest extent feasible. We are proud of the service we have provided in this regard.

Response No. NA1-3:

CDFW acknowledges the Fernandeno Tataviam Band of Mission Indians' involvement and close working relationship with the project applicant and regulatory agencies to ensure that all components of the project were properly analyzed for potential impacts to tribal cultural resources and that such impacts were mitigated.

Comment No. NA1-4:

In 2007, the Band entered into an agreement with Newhall, which mandates that Newhall implement substantial measures to protect significant cultural resources on the project site. The agreement also requires that Newhall retain Tataviam tribal monitors to oversee construction of the project as well as mitigation for project -related impacts to cultural resources. Under the agreement, the Band will act as tribal consultant for this project and provide special expertise regarding Native American heritage and interests. The Band will also act as the primary liaison between the project applicant and the wider Native American community.

Response No. NA1-4:

CDFW acknowledges the Fernandeno Tataviam Band of Mission Indians' agreement with regard to the protection of significant cultural resources on site, including monitoring responsibilities, specialized expertise, and primary liaison between the project applicant and the wider Native American community.

Comment No. NA1-5:

In its role as tribal consultant, Tataviam has participated in the preparation of the Programmatic Agreement and Historic Properties Treatment Plan ("HPTP") for cultural sites CA-LAN-2233 and CA-LAN-2133, which was adopted in 2011 by the Army Corps of Engineers pursuant to the National Historic Preservation Act. We are confident that the project can be implemented while preserving in place sites 2233 and 2133; but if one or both sites cannot be feasibly preserved in place, we are equally confident that the adopted HPTP provides the appropriate means of recovering the cultural data currently contained within these two sites. We are glad to see that nothing in the Draft AEA disturbs or undermines the agreements in place.

Response No. NA1-5:

CDFW acknowledges the Fernandño Tataviam Band of Mission Indians' participation with regard to the Programmatic Agreement and the Historic Properties Treatment Plan for the designated significant cultural sites within the project – both of which were adopted in 2011 by USACE pursuant to the National Historic Preservation Act (NHPA). CDFW also concurs that nothing in the Draft AEA “disturbs or undermines” the referenced agreements.

Comment No. NA1-6:

We have closely reviewed the Draft AEA and find it to be thorough with respect to the two issues it addresses: (i) greenhouse gas (GHG) emissions and (ii) "take" avoidance of unarmored threespine stickleback. We are satisfied that the project will implement the proposed reductions in GHG emissions will benefit everyone who lives in the Santa Clarita Valley, including the Band, its citizens, and the wider Native American community.

Response No. NA1-6:

The comment is acknowledged and appreciated. This comment is noted for the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. NA1-7:

Likewise, we support the construction modifications for the two bridges, temporary haul crossings, and bank stabilization, as these eliminate contact with the wetted channel of the Santa Clara River and avoid impacts on the unarmored threespine stickleback. This "no water contact" approach benefits all resources that use or depend upon the river, which is consistent with the lifeways of the Tataviam and the wider Native American community.

Response No. NA1-7:

The comment expresses support for the proposed construction modifications with regard to the bridges and bank stabilization. The comment also supports the “no water contact” construction approach because it benefits the resources that use and depend upon the Santa Clarita Valley. CDFW further acknowledges the Fernandño Tataviam Band of Mission Indians' statement that the proposed construction approach is “consistent with the lifeways of the Tataviam and the wider Native American community.”

Comment No. NA1-8:

Finally, we have concluded that the proposed modifications to the bridge construction methods will have no new or additional impacts on cultural sites or tribal resources. To the contrary, the changes reduce the project's impacts across all environmental categories to levels below those initially studied and disclosed in the 2010 EIS/EIR. We consider the project substantially improved - not just from a tribal resource perspective, but from an overall ecological perspective.

Response No. NA1-8:

The comment expresses support for the project and provides the reasons for such support. CDFW appreciates the comment, and it will be included as part of the record and is included in the Final AEA for review and consideration by the decision-makers.

Comment No. NA1-9:

Thank you for your time and consideration of our comments.

Response No. NA1-9:

This comment provides a conclusion to comments raised above. No further response is required.

NA2. Letter from Santa Ynez Band of Chumash Indians, dated February 13, 2017

Comment No. NA2-1:

Please accept the attached comments.

Response No. NA2-1:

CDFW accepts the comments from The Santa Ynez Band of Chumash Indians, a federally-recognized tribe. No further response is required.

Comment No. NA2-2:

Dear Ms. Courtney and to whom it may concern within the California Department of Fish and Wildlife ("DFW" or "CDFW") and Other Local, State and Federal Lead Agencies with project jurisdiction:

The Santa Ynez Band of Chumash Indians ("Tribe"), a federally-recognized tribe, provides the following comments on the Newhall Ranch Draft AEA regarding consultation (including AB 52), cultural resource identification, impact assessment and mitigation adequacy, and expressly requesting consultation.

Response No. NA2-2:

The CDFW acknowledges receipt of the comments from the Santa Ynez Band of Chumash Indians, a federally recognized tribe listed in 82 Federal Register 4918 (Jan. 17, 2017). As detailed in Response to Comment CHUMASH-5, below, CDFW has accepted and responded to the Santa Ynez Band of Chumash Indians' request for a consultation pursuant to its "Tribal Communication and Consultation Policy" issued October 2, 2014 (Tribal Policy).

Comment No. NA2-3:

I. AB 52 APPLICABILITY

The Tribe received a Notification of Newhall Ranch Resource Development and Conservation Plan/Spineflower Conservation Plan Draft Additional Analysis dated November 3, 2016 (the day of release of the AEA) ("Notification"). That form letter stated that CDFW's goal was to understand tribal interests related to the Draft AEA, and to work collaboratively to resolve any concerns and requested "preliminary input" by January 6, 2017, or during the public comment period for the project which began November 2, 2016 (and was originally set to conclude January 6, 2017, and then extended to February 13, 2017). Thus, the Tribe's request for consultation in response to the CDFW letter has been timely submitted.

The Tribe, however, notes that consultation should have been initiated by the Agency prior to the draft AEA being scoped, developed and released for public review. Had timely consultation occurred, the Tribe and other Chumash entities could have provided information and made requests to influence how the AEA was scoped and what subjects it should cover to address tribal concerns. Such subjects may have included items additional to those developed in response to the two important issues addressed by the California Supreme Court in *Center for Biological Diversity v. California Department of Fish and Wildlife* (2015) 62 Cal.4th 2014. The way that consultation is being handled to date, however, has forced the Tribe into commenting on the inadequacies of a document that has already been drafted and circulated for public (and tribal comment) versus the Tribe playing an earlier and constructive role in the development of the AEA.

Moreover, the Tribe asks, why was the AEA not conducted according to AB 52 (tribal cultural resources and CEQA)? AB 52 became operative prior to the AEA being released. Why was no Notice of Preparation (NOP) circulated? There is no bar to such a notice being circulated for additional environmental review and some jurisdictions are proactively implementing AB 52 to include further environmental documentation, even when those actions that may not technically require a NOP. Here, if the agency issued a NOP, there would be no debate that AB 52 and its provisions requiring tribal consultation regarding the type of environmental document to be produced would apply, that cultural landscapes must be considered and that tribes may have expertise regarding environmental resources of cultural value to them. Please explain how the agency

considered or satisfied AB 52 with respect to this AEA, particularly noting the high level of interest by local tribes and the great public controversy regarding the project?

Response No. NA2-3:

The Santa Ynez Band of Chumash Indians raises several comments about the scope of the analysis. The California Supreme Court in *Center for Biological Diversity v. California Department of Fish and Wildlife* (2015) 62 Cal.4th 2014, established the scope of the issues that needed to be analyzed in the AEA. CDFW also independently reviewed and considered the proper scope of the Draft AEA. **See Topical Response 1: Scope of the Additional Environmental Analysis** for a discussion of the scope of the recirculated analysis.

The Santa Ynez Band of Chumash Indians raises Assembly Bill 52 (AB 52) issues, and acknowledges receipt of CDFW's letter notifying the Tribe of the Draft AEA.

AB 52 was adopted on September 25, 2014, and applies to projects whose notice of preparation or notice of negative declaration or mitigated negative declaration was filed on or after July 1, 2015. As the Santa Ynez Band of Chumash Indians points out, CDFW did not issue a new notice of preparation for the Draft AEA. CDFW is not required to file a notice of preparation for the Draft AEA. CDFW prepared the Draft AEA in response to the Supreme Court's decision and the Court of Appeal's opinion on remand, and CEQA requires the lead agency (here, CDFW) to correct the earlier analysis by revising and recirculating the deficient portions of the EIR pursuant to the "recirculation" provisions under CEQA Guidelines section 15088.5 (See *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1112.) The CEQA recirculation provisions in section 15088.5 do not require issuance of a new notice of preparation. As a result, the only operative notice of preparation is the one that CDFW issued for the project in February 2004, well before the January 1, 2015, effective date of AB 52.

The Supreme Court's decision, along with the Court of Appeal opinion on remand, set the parameters for the scope of the Draft AEA. The Draft AEA addresses the two issues requiring further analysis from that provided in the 2010 Final EIR: (1) the EIR's GHG emissions significance findings, and (2) construction modifications to bridges and bank stabilization in a manner that avoids all contact with the wetted channel of the Santa Clara River (i.e., the "No Water Contact" construction approach). See **Topical Response 1: Scope of the Additional Environmental Analysis** for a discussion of the scope of the recirculated analysis.

The Santa Ynez Band of Chumash Indians also points out that "some jurisdictions are proactively implementing AB 52 to include further environmental documentation, even though when (sic) those actions that may not technically require a NOP [notice of preparation]." CDFW did not issue a new notice of preparation when none was required by law. As discussed herein, CDFW notified the Santa Ynez Band of Chumash Indians about the Draft AEA and has engaged in consultation consistent with its Tribal Policy.

Comment No. NA2-4:

II. SB 18 CONSULTATION APPLICABILITY

SB 18 requires that local agencies that adopt or amend General and Specific Plans must consult with affiliated tribes concerning open space plans and other aspects of land use planning. The Tribe notes that the Landmark Village Project part of the Newhall Development requires both a General Plan Amendment No. 00-196 and a Specific Plan Amendment No. 00-196. Please explain whether the project has complied with the requirements of SB 18 for both actions, and if not, why not. Even if an earlier action on a plan amendment might have been grandfathered, new actions to approve such amendments should be subject to current legal requirements.

Response No. NA2-4:

The comment does not identify any specific concerns related to the proposed modifications analyzed in the Draft AEA. The scope of the Draft AEA is limited to two issues needed to address the decisions by the Supreme Court and Court of Appeal on remand (see **Topical Response 1: Scope of the Additional**

Environmental Analysis). Although no additional response is needed, the following discussion is provided for informational purposes.

The comment makes inquiries regarding the applicability of SB 18 to the project and Draft AEA. SB 18 (Burton, Chap.905, Statutes of 2004; SB 18) was enacted as part the California Planning and Zoning Law, and is found in Government Code section 65352.3. Section 65352.3 applies to cities and counties that are adopting or amending a general plan. Specifically, section 65352.3 provides that “[p]rior to the adoption or any amendment of a city or county’s general plan, proposed on or after March 1, 2005, the city or county shall conduct consultations with California Native American tribes that are on the contact list maintained by the Native American Heritage Commission for the purpose of preserving or mitigating impacts to places, features, and objects . . . that are located within the city or county’s jurisdiction.”

SB 18 and its tribal consultation requirements are not applicable to the project or the Draft AEA because CDFW is not a city or county and the project does not seek approval of the adoption or amendment of a general plan. Consequently, CDFW has no obligation to comply with SB 18 requirements for the Draft AEA.

In addition, the Santa Ynez Band of Chumash Indians states the Landmark Village project, which is part of the Newhall Ranch Specific Plan approved by the County of Los Angeles (County) in 1999 and, again, in 2003 (after litigation), requires a general plan amendment and a specific plan amendment, and suggests that SB 18 should apply to that project. The Landmark Village project is not before CDFW; the County, not CDFW, is the lead agency on that project. In short, the Landmark Village project has no application to the RMDP/SCP project or the Draft AEA, which are currently before CDFW for consideration and possible approval. CDFW has no obligation to comply with SB 18 or to respond to such comments (see **Topical Response 1: Scope of the Additional Environmental Analysis**).

Comment No. NA2-5:

III. OTHER CALIFORNIA STATE AND CDFW CONSULTATION OBLIGATIONS

Independent of any AB 52 requirement to consult, the Tribe notes the obligation of all state agencies, including CDFW to consult with the Tribe generally and specifically on actions such as those proposed at Newhall:

Executive Order B-10-11:

IT IS FURTHER ORDERED that it is the policy of this Administration that every state agency and department subject to my executive control shall encourage communication and consultation with California Indian Tribes. Agencies and departments shall permit elected officials and other representatives of tribal governments to provide meaningful input into the development of legislation, regulations, rules, and policies on matters that may affect tribal communities.

We also note DFW Tribal Communication and Consultation Policy No. 2014-07 dated Oct. 2, 2014, that DFW seeks to establish and maintain a respectful and effective means of communicating and consulting with Tribes and will seek in good faith to:

1. Communicate and consult with Tribes about fish, wildlife, and plant issues and seek tribal input regarding the identification of potential issues, possible means of addressing those issues, and appropriate actions, if any, to be taken by the Department;
2. Assess the potential impact of Proposed Activities on Tribal Interests and ensure to the maximum extent feasible that tribal concerns are considered before such activities are undertaken and that such impacts are avoided or minimized whenever practicable;
3. Provide timely and useful information relating to Proposed Activities that may affect Tribal Interests;

4. Communicate with and engage with Tribes at the earliest possible stage in the decision- making process;
5. Communicate with Tribes in a manner that is considerate and respectful;
6. Provide Tribes with meaningful opportunities to respond and participate in decision-making processes that affect Tribal Interests;
7. Acknowledge and respect California Native American cultural resources regardless of whether those resources are located on or off Tribal Lands;
8. Acknowledge and respect both the confidential nature of information concerning cultural practices, traditions, beliefs, tribal histories, and Tribal Lands and that state law protects the confidentiality of certain tribal cultural information (Gov. Code, § 6254(r)). The Department will take all lawful and necessary steps to ensure confidential information provided by a Tribe is not disclosed without the prior written permission of the Tribe;
9. Encourage collaborative and cooperative relationships with Tribes in matters affecting fish, wildlife, and plants;
10. Assist the efforts of Tribes to develop sustainable programs, policies, and practices with regard to fish, wildlife, and plants;
11. Acknowledge and seek ways to accommodate the limited financial and staffing resources of Tribes and the Department to ensure effective communication and consultation; and
12. Identify and recommend means to remove procedural impediments to working directly and effectively with Tribes.

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=122905&inline>

This policy is the foundation of CDFW's efforts to work cooperatively, communicate effectively, and consult with tribes. It establishes a formal process for engaging in government-to-government consultations. The policy implements and builds on Executive Order B-10-11 and the California Natural Resources Agency Tribal Consultation Policy. However, the previous "consultation" efforts in Newhall, the current AEA and the process used to develop it, do not appear to satisfy either consultation policy. Therefore, the consultation processes must be reinitiated and the AEA revised to consider and address ongoing tribal concerns.

In addition, we request consultation with the CDFW Tribal Liaison to actively coordinate the communication and consultation efforts of CDFW as to Newhall.

Response No. NA2-5:

The comment states that, independent of AB 52 consultation requirements, CDFW has an obligation to engage in consultation with the Santa Ynez Band of Chumash Indians, citing the 2011 Executive Order B-10-11 and the Tribal Policy. The Santa Ynez Band of Chumash Indians' comment states that CDFW's previous tribal consultation efforts were insufficient and that the consultation process must be reinitiated.

As noted above, AB 52 was not adopted until September 2014 and only applies to a project that has a notice of preparation or notice of negative declaration or mitigated negative declaration filed after July 1, 2015. While AB 52 tribal notification requirements are not applicable to the Draft AEA as explained in Responses to Comments CHUMASH-1 and CHUMASH-3, the CDFW did notify tribes of the Draft AEA and has engaged in consultation with the Santa Ynez Band of Chumash Indians consistent with its Tribal Policy. CDFW developed its Tribal Policy as the primary means of implementing Executive Order B-10-11 and the Natural Resources Agency Tribal Consultation Policy. Under its Tribal Policy, the CDFW seeks to assess the potential impact of a project on tribal interests, including fish, wildlife, plant, and tribal cultural resources, to

identify means of addressing those issues, and to determine appropriate actions when undertaking a project. Under the Tribal Policy, a consultation may be initiated by either a tribe or CDFW.

CDFW sent a letter to the Native American Heritage Commission on October 25, 2016, requesting a list of tribes that are culturally or traditionally affiliated with the project area. The Native American Heritage Commission responded on October 26, 2016, with a list of such tribes, which included the Santa Ynez Band of Chumash Indians. In contrast to AB 52, which requires a tribe to request the CDFW to inform it of proposed projects, the Tribal Policy does not require a tribe to request notification. On November 2, 2016, the CDFW mailed a letter to Chairman Kenneth Kahn of the Santa Ynez Band of Chumash Indians notifying the Santa Ynez Band of Chumash Indians that it had prepared the Draft AEA in response to the California Supreme Court's decision in *Center for Biological Diversity v. California Department of Fish and Wildlife* (2015) 62 Cal.4th 2014. The letter invited the Santa Ynez Band of Chumash Indians to request government-to-government consultation pursuant to the Tribal Policy.

The Santa Ynez Band of Chumash Indians contacted CDFW's tribal liaison on February 13, 2017, and requested consultation with CDFW. While AB 52 requires a tribe to respond within 30 days of receiving formal notification of a project, the Tribal Policy does not require a tribal response within a limited timeframe. CDFW responded to the consultation request and worked with the Santa Ynez Band of Chumash Indians to conduct a consultation meeting on April 19, 2017, in Calabasas, California. CDFW's Regional Manager for CDFW's South Coast Region, its Tribal Liaison, and its Environmental Program Manager overseeing the project met with the Santa Ynez Band of Chumash Indians' representatives and discussed issues related to the project and the Draft AEA. On May 2, CDFW's Tribal Liaison offered for CDFW's Director to meet with the Santa Ynez Band of Chumash Indians for further consultation discussions. The consultation discussions are ongoing as of this writing. Separate and apart from CDFW's responses, CDFW will memorialize its formal consultation efforts with the Santa Ynez Band of Chumash Indians as part of the administrative record for this project.

Comment No. NA2-6:

IV. INTEREST OF SANTA YNEZ

What would be gained through consultation with Santa Ynez? The Tribe being able to directly address the agencies in explaining its tribal interests and concerns about the project is vital to a legitimate CEQA process.

The interest of California Tribes in full preservation-in-place analysis and a transparent consideration of the feasibility of each method of preservation, flows from their deep passion for their ancestors and their traditional lands. Many tribes, including Santa Ynez, were separated, some forcibly, from all or part of their homelands and traditional areas over the last several centuries during the "settling" of the West.¹

Off-reservation sacred places, burial grounds, gathering areas, ceremonial places and villages are now under the jurisdiction of local and state agencies for which CEQA is the primary legal mechanism for identifying, evaluating and mitigating potentially adverse impacts. Thus, tribes, including Santa Ynez, often find themselves trying to have their cultural and religious items, places and views adequately integrated into the CEQA process, as has been historically the case in the Newhall Project, which is located in Chumash ancestral lands. If consultation had been properly initiated, the Tribe would have raised these concerns prior to release of the draft AEA.

¹ See, for example, *Early California Laws and Policies Related to California Indians*, California Research Bureau, Kimberley Johnston-Dodds, September 2002 <<http://www.library.ca.gov/crb/02/14/02-014.pdf>> Also see, *AN AMERICAN GENOCIDE: The United States and the California Indian Catastrophe, 1846-1873*, Benjamin Madley, Yale University Press, 2016

Response No. NA2-6:

The comment addresses the Santa Ynez Band of Chumash Indians' interests generally regarding the project site, and provides citations to two articles. The comment also states that CDFW's consultation efforts with the Tribe have not been proper. As more fully described in Response to Comment NA2-5, CDFW's consultation efforts are consistent with its Tribal Policy and the consultation efforts with Santa Ynez Band of Chumash Indians are ongoing as of this writing. (See also **Topical Response 1: Additional Environmental Analysis.**)

As to the articles, the first is titled, *Early California Laws and Policies Related to California Indians*, by Kimberly Johnson-Dodds, and was published through the California Research Bureau, Sept. 2002. It was prepared at the request of State Senator John L. Burton for purposes of investigating whether California law prohibited Indians from practicing their religion, speaking their native languages, or practicing ceremonies and customs. The article presents the results of the research that focused on four examples of early California laws and policies that significantly impacted the California Indians' way of life.

The second article titled, *An American Genocide: The United States and the California Indian Catastrophe 1846-1873*, by Benjamin Madley (2016), documents killings and other adverse consequences to California Indians that peaked between 1846 and 1873.

While the articles present important information, they do not identify or focus on the Santa Ynez Band of Chumash Indians' connection to the project or resources within the project area to which the Band has assigned traditional or cultural affiliations. Consistent with its Tribal Policy, CDFW has instituted a consultation process. In addition, the issues involving Cultural Resources were addressed in the 2010 Final EIR and were not found to be deficient by the court; therefore, no additional analysis of Cultural Resources is required for purposes of the AEA. See **Topical Response 1: Scope of the Additional Environmental Analysis** for a discussion of the scope of the recirculated analysis. Section 4.10, Cultural Resources, of the 2010 Final EIR addressed cultural resources in full compliance with CEQA. With implementation of mitigation measures already adopted for the Newhall Ranch Specific Plan and the Valencia Commerce Center, as well as five new mitigation measures adopted specifically for the RMDP/SCP project, impacts of the project on cultural resources would be reduced to less than significant levels.

In January 2011, various petitioners filed suit challenging the EIR certification and project approval, including certain cultural resources claims. The trial court ruled in favor of petitioners on the cultural resources claims. CDFW and the project applicant filed notices of appeal. After briefing and a hearing, the Second District Court of Appeal reversed the trial court's judgment in its entirety and found that no grounds existed to set aside the EIR certification because of errors in connection with the Native American cultural resources analysis or mitigation. (*Center for Biological Diversity v. California Department of Fish and Wildlife*, 224 Cal.App.4th 1105, 1155-59 [2014].).

Petitioners filed a petition for review with the California Supreme Court as to three issues. The Supreme Court granted the petition and the petition was granted, and issued its decision in November 2015. The Supreme Court's decision invalidated the EIR's GHG emissions significance findings, and the two stickleback-related mitigation measures (BIO-44 and BIO-46), which called for stream diversion and fish collection and relocation (if stranded), under Fish and Game Code section 5515's prohibition against the take or possession of the fully protected fish species. The Court also held that petitioners had exhausted their administrative remedies as to another fish species (steelhead) and the cultural resources claims. The Supreme Court remanded the case to the Court of Appeal to reexamine the substantive merits of steelhead issue and the cultural resources claims.

On July 11, 2016, the Second District Court of Appeal reversed the trial court judgment except for two issues, namely the EIR's GHG significance findings and the two biota mitigation measures. The Court of Appeal also reexamined the merits of the issues concerning Native American cultural resources and steelhead. The Court of Appeal concluded that "substantial evidence supports the [CDFW's] conclusions and

plaintiffs' assertions are all premised on a misapplication of the standard of review." (Court of Appeal slip opn. p. 10.)

As to Native American cultural resources, the Court of Appeal rejected petitioners' arguments that the 2010 EIR's cultural resources analysis failed to adequately disclose, evaluate, or mitigate the project's impacts on Native American cultural resources. The Court also considered whether there had been a failure to consult with trustee agencies regarding cultural resources.

The Court of Appeal rejected all such claims, holding that CDFW's responses: (i) "explain there has been full compliance with Guidelines section 15064.5, subdivision (d), concerning consultation with other agencies," (ii) identified and attached "letters sent to persons representing the interests of the various Native American tribes and documented telephone conversations," and (iii) attached "letters sent by the engineering corps to individuals representing Native American interests or other governmental organizations." (Court of Appeal slip opn. pp. 16-17.) The Court of Appeal also held that CDFW's responses to "the Native American cultural resources comments fully comply with California's statutory or regulatory and decisional requirements." (Court of Appeal slip opn. p. 17.)

Petitioner Wishtoyo Foundation filed a petition for review with the Supreme Court as to the Court of Appeal's cultural resources holdings. The Supreme Court summarily denied the petition. The Court of Appeal's July 11, 2016 opinion is now final. This means that the courts already have upheld the 2010 EIR's cultural resources impacts analysis and mitigation, as well as CDFW's consultation efforts with regard to Native American cultural resources on the project site.

Comment No. NA2-7:

V. THE TRIBE HAS RAISED PERSISTENT CULTURAL RESOURCE IDENTIFICATION AND TREATMENT CONCERNS THAT HAVE NOT BEEN ADDRESSED TO DATE

The Tribe has long expressed concerns about how the project identified and proposes to treat resources of concern to the Tribe. These concerns have been expressed in amicus letters to the California Supreme Court (see two attached letters) and in a declaration from former Santa Ynez Tribal Chairman Vincent Armenta in federal court (see attached declaration). The applicant and agency, parties in both of those legal proceedings, were aware of the Tribe's concerns but have made no timely effort to seek the Tribe's views and expertise prior to releasing the AEA.

Notwithstanding the state appellate court opinion on remand, the Tribe continues to assert these concerns and substantial evidence regarding these concerns. The agency has not timely engaged the Tribe in consultation to discuss these issues regarding how to ensure cultural resources of importance to the Chumash will be adequately considered and protected in the CEQA process prior to scoping or releasing the draft AEA. The AEA merely states that, "For purposes of CEQA compliance related to CDFW's review of and action on the project, the AEA augments the environmental information developed in the 2010 Final EIR, CDFW will take into account the combination of the 2010 Final EIR with its supporting materials and the AEA when it considers related action in the future." (AEA, pages 1-4 to 1-5). Please explain how the agency has considered Tribal concerns in the AEA and how it intends to specifically understand and address the Tribe's concerns prior to taking action on the project in the future?

The Tribe remains concerned about the adequacy of the cultural resources mitigation measures for the project. The Newhall Opinion on remand, affirming that court's prior holdings regarding cultural resources, appears to interpret CEQA Guidelines section 15126.4 (Consideration and Discussion of Mitigation Measures Proposed to Minimize Significant Effects) to allow: 1) that a preservation-in-place method need not be acceptable to culturally-affiliated tribes and 2) that feasibility determinations for that method or a contingent measure that is not preservation-in-place can be done at some future time after project approval, without the use of standards to ensure the determination is supported by substantial evidence or tribal participation. Thus, the Opinion may disproportionately impact Chumash resources specifically and California Tribes and tribal entities more generally, by appearing to "bless" a shortcutting of a full analysis of

each of the potential methods to achieve preservation in place,² the determination of feasibility of preservation measures and the appropriateness of a project's contingent measures (if any). The Tribe hereby requests the project's cultural resource (and other) mitigation measures be revised to require any post-approval actions be made in an open, transparent and accountable process and by a party without an inherent bias (the applicant or its agents). These issues are of vital importance to Santa Ynez (and likely other California Tribes) for the following reasons:

² *CEQA Guidelines section 15126.4 states that preservation-in-place maintains the relationship between the artifacts and their archaeological context and may also avoid conflict with the religious or cultural values of groups associated with the site. It also states that specific methods of achieving preservation-in-place may include but are not limited to: 1) planning construction to avoid sites, 2) incorporating sites into parks or open space, 3) covering sites with sterile soil and building tennis courts or similar facilities, or 4) dedicating sites into permanent conservation easements. These four methods, and others that might be conceived given a project's and site's facts and environmental context, can be very different from one another and may offer comparative advantages and disadvantages. Such factors should be evaluated in an environmental document and, along with the affiliated tribe's views on the methods, be taken into consideration by the decision maker. Madera Oversight Coalition v. County of Madera, 199 Cal.App.4th 48 (2011).*

First, while CEQA addresses trustee, responsible and lead agencies, until the promulgation of AB 52 in late 2014, it did not directly address tribal governments. This often created a situation where the cultural resource section of environmental documents defaulted to consider only the views of "credentialed" archaeologists or academics interested in "scientific" values rather than to also reflect the views of the people who are in fact culturally-affiliated with those same resources and usually for the cultural or religious (not scientific) value of the resources - which can result in different mitigation measures. Mitigation that might be appropriate to mitigate impacts to archaeological values (i.e., excavation or capping), may not be appropriate to mitigate impacts to the *cultural* values of the resource. Further, because there are no "accepted" standards of cultural resource management practice (contrary to the statement in the Opinion (page 12)), the cultural resource mitigation required on projects can vary widely. This overreliance on unaffiliated, "scholarly" consultants working off of unpromulgated, inconsistent standards resulted, in part, in a systemic lack of integration of tribal values and perspectives into projects, their environmental documents and mitigation,³ including as exhibited in the Newhall Project. Such omissions, and their unmitigated cumulative effects on tribal resources, also resulted in the passage of AB 52.

³ See, for example, *How the archaeologists stole culture: A gap in American environmental impact assessment practice and how to fill it*, Dr. Tom King, *Environmental Impact Assessment Review* 18(2) LI 17-133, March 1998
<https://www.researchgate.net/publication/248536857_How_the_archeologists_stole_culture_A_gap_in_American_environmental_impact_assessment_practice_and_how_to_fill_it>

Second, CEQA standards and documents continue to often be poorly harmonized with federal processes such as the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA), as occurred previously in Newhall, despite the CEQA Guidelines preference for coordination of those statutory processes and environmental documents (CEQA Guidelines section 15226 (Joint Activities)). This disconnect often manifests itself in the CEQA documents coming first in time, and only later, the federal documents. This includes cultural resource management documents such as Historic Property Treatment Plans (HPTPs) which then - often years after the project has already been approved under CEQA - form part of the puzzle about what can be preserved and how, and what is feasible. Moreover, CEQA's preference for preservation-in-place can offer a stronger, substantive protection for cultural resources compared to the federal frameworks which may be largely procedural. The agencies should not be allowed to continue to engage in uncoordinated and deferred joint activity analysis that creates a perfect storm: reducing the substantive protection for sites, unfairly placing the tribes outside of determinations of feasibility and leaving tribes potentially without a timely CEQA remedy. Please explain what steps are being made to update the NEPA, NHPA and ESA aspects of the project and what efforts will be made to consult with affiliated tribes on the federal side and how these will be coordinated with state actions.

Third, we are concerned about not just *when* determinations of feasibility of preservation-in-place methods are made, but *by whom* and *on what basis*. If feasibility determinations are made post-project approval, and outside the "public" CEQA process, there should be clear performance standards set out *prior to project approval* for how feasibility is to be determined and supported by substantial evidence. In Newhall, these standards were not clear from the answers to the petition for review or the mitigation measures themselves, which we understand remain unchanged. Moreover, such determinations should be made *by the lead agency*, not the project applicant: To allow the applicant to make the determinations, would be for an agency to improperly yield its independent judgment to a private entity and one with an inherent bias in making such findings. Those determinations, likely would be based on maximizing project profits - not maximizing the public good. Tribal interests, which might otherwise be considered by a lead agency including pursuant to government-to-government relations, would also be shortchanged.

Fourth, sometimes an effort is made by agencies or applicants during the CEQA process to pit one tribal entity against another, or have one tribal entity agree to speak on behalf of other tribal entities without authorization from those entities, efforts that are typically not made regarding other types of governmental entities. To help prevent this tribal "forum shopping", it is important that evaluations and mitigations that address the culturally-appropriate treatment of cultural items be required in the CEQA documents themselves - and recognize that the treatments may differ given the resources encountered and the cultural practices of the tribes affiliated with those resources, which in Newhall, are both the Tataviam and Chumash. Yet, no provisions were made in the Newhall mitigation measures for the appropriate treatment of any Chumash materials that may be encountered on the Newhall Project despite Chumash monitors having been used during site work on an earlier road project at one of the sites in the project area.

Finally, when the negotiation of these treatment protocols is deferred to post-project approval or at the time of late discoveries, it frequently disenfranchises all the tribes and creates a void that archaeologists or academics are once again invited *to fill with approaches other than preservation-in-place methods*, such as sampling, partial or full data recovery excavation (all three of which are different) or other methods (sometimes euphemistically called "contingencies") that primarily benefit archaeologists and applicants. Make no mistake: such contingent measures rarely result in preservation-in-place. Moreover, whether preservation-in-place will in fact occur is not an allowable "detail" to be deferred or a substantially confirming measure that may be "substituted" pursuant to CEQA. In Newhall, the contingent mitigation for cultural resources may result in desecrations and spiritual violations for tribes, the impacts of which continue to fail to be analyzed in the EIR or AEA.

Response No. NA2-7:

The comment does not identify any specific concerns related to the proposed modifications analyzed in the Draft AEA. The scope of the AEA is limited to two issues needed to address the Supreme Court's decision (see **Topical Response 1: Scope of the Additional Environmental Analysis**). The Court of Appeal on remand has determined that the Final EIR adequately disclosed, evaluated, and mitigated the project's impacts on Native American cultural resources, and that CDFW properly consulted with trustee agencies and complied with all statutory and regulatory requirements in its responses to cultural resources comments. The Supreme Court denied the petition for review. The Court of Appeal decision is final.

Although the comment is beyond the scope of the Draft AEA, CDFW also points out that there is no improper deferral of cultural resources mitigation in the 2010 EIR. The mitigation measures are based on a preference for the avoidance of impacts to the two significant cultural sites within the project, including preservation-in-place mitigation techniques. CDFW also points out that the Santa Ynez Band of Chumash Indians' comment about deferred mitigation reflects the same or similar arguments raised by petitioner Wishtoyo Foundation, which the Court of Appeal rejected in its July 2016 opinion.

The Court of Appeal explained, in both its original opinion and its opinion on remand, that "substantial evidence" supported CDFW's "findings concerning Native American cultural resources," stating that "the use of preservation in place practices, as discussed at length in the [EIR], is the preferred technique for mitigating archaeological impacts." (Court of Appeal slip opn. p. 19.) The Court pointed out that "specific

limitations are imposed on construction” near the two cultural sites; and if it is infeasible to avoid construction, “specific contingencies are to be implemented,” including Phase III data collection efforts in consultation with the Fernandeano Tataviam Band of Mission Indians. (Court of Appeal slip opn. pp. 19-20.)

Comment No. NA2-8:

VI. PROJECT CHANGES MAY AFFECT CULTURAL RESOURCES OF CONCERN TO TRIBES AND MUST BE CLEARLY DESCRIBED AND REFLECTED IN THE AEA ANALYSIS

The Tribe understands that the Superior Court's writ in the state litigation was narrow to revising the EIR to address the stickleback and greenhouse gas (GHG) issues mentioned above. The Tribe also is generally supportive of protective mechanisms for the stickleback and improvements to control GHG. However, to the extent the project now will be changed to address GHG effects, i.e. a building or road is placed somewhere new that may have direct, indirect or cumulative effects to cultural resources, or, to the extent the proposed modifications to Newhall Ranch's GHG reduction measures and design and construction process for the Santa Clara River bridges and streambank stabilization efforts could impact burials or other cultural resources, then there may be new, unanalyzed cultural resource impacts that should have also been considered in the AEA. The AEA merely states that the revised project will be in "essentially" identical to that in the 2010 FEIR (AEA, page 3-37). Are these in the same locations or not? Please explain how the revised project differs from the prior project in more specific detail relative to project component locations

It is well known that villages, burial areas, sacred sites and resource procurement locations are also found in, along or not far from wetland areas or other water sources. CEQA unambiguously states that if project mitigation may cause additional environmental effects, those effects must also be discussed in the environmental document. CEQA Guidelines section 15126.4(a)(1)(D). Yet, the AEA, section 4.1, does not indicate that any cultural resource professionals contributed to the new analysis.

Also, please explain whether any prior or new cultural surveys cover these areas and explain why such surveys may not have been done to examine, or previous surveys updated, to reflect current conditions. It is well known that environmental conditions change over time, such as through erosion, bioturbation, etc., and that survey methodology evolves over time, therefore cultural surveys require regular updating to reflect current conditions and methods. Accordingly, the Tribe requests that all such surveys be updated and based off on contemporary survey techniques that include the participation of knowledgeable, affiliated tribal monitors and representatives.

Response No. NA2-8:

The comment notes that the Santa Ynez Band of Chumash Indians is “generally supportive of protective mechanisms for the stickleback and improvements to control GHG.” CDFW acknowledges this comment.

The comment also states that there may be a new building or road to address GHG effects that could impact cultural resources; or that the proposed construction modifications to the bridges and bank stabilization could impact burials or other cultural resources. The comment states that none of these issues were analyzed in the Draft AEA.

The Draft AEA points out that there have been no revisions since the 2010 Final EIR to the land use programs for the project area. As a result, the Draft AEA provides that these planned uses “will serve as the source of GHG emissions projections for the AEA — just as they did for the 2010 Final EIR.” (See Draft AEA, Section 1.0, p. 1-6.) Based on the Draft AEA’s additional GHG analysis, therefore, there would be no new buildings or roads resulting in new or more severe impacts to any cultural resources. Further, the Newhall Ranch bridges and bank stabilization locations are not new, nor do the proposed construction modifications change the location, size, or use of the bridges or bank stabilization since the time when those project features were analyzed in the 2010 Final EIR. Thus, there would be no new or more severe impacts to any cultural resources. To the contrary, as explained in the Draft AEA, pp. 3-27, in some cases, bridge impacts would be less than those analyzed in the 2010 Final EIR because the modified bridges would have a total of

five fewer piers (which equates to 20 fewer columns and supporting piles) than the bridges previously analyzed. Thus, the Draft AEA does not result in any new or more severe impacts than those analyzed in the 2010 Final EIR.

In addition, the comment states that the Draft AEA does not “indicate that any cultural resource professionals contributed to the new analysis,” despite the existence of “known” cultural resources “found in, along or not far from wetland areas or other water sources.” Further, the comment asks why new or updated cultural surveys were not performed and that environmental conditions changed over time, as do survey methods. The Santa Ynez Band of Chumash Indians also asks that new or updated surveys include the participation of knowledgeable, affiliated tribal monitors and representatives.

The Draft AEA was prepared in response to the Supreme Court’s decision, which invalidated two distinct portions of the 2010 Final EIR, namely: (i) the determination that the project’s GHG emissions would be less than significant was not supported by substantial evidence, and (ii) Mitigation Measures BIO-44 and BIO-46 violated the Fish and Game Code Section 5515 prohibition against authorizing the take or possession of the fully protected stickleback species. No other portion of the 2010 Final EIR was found to be deficient. The Draft AEA’s scope is limited to addressing the two portions of the 2010 Final EIR invalidated by the Supreme Court. As explained above, the proposed location of the bridges and bank stabilization has not changed since CDFW originally certified the 2010 Final EIR and adopted the project approvals on December 3, 2010. Further, the Draft AEA’s GHG analysis and mitigation measures have not changed or altered the previously approved land uses within the project site.

The environmental analysis has not identified new or more severe impacts to cultural resources that would require CDFW to engage in other, different, or additional environmental analysis beyond addressing the two issues contained in the Draft AEA (see **Topical Response 1: Scope of the Additional Environmental Analysis**). At the time of this writing, CDFW is engaged in continuing consultation with the Santa Ynez Band of Chumash Indians regarding the bridge and bank stabilization and GHG analysis and mitigation measures.

Comment No. NA2-9:

VII. AUTHORITY TO IDENTIFY AND INTERPRET CULTURAL RESOURCES

CEQA provides that certain historical resources are presumed to be historically or culturally significant for the purposes of CEQA. See PRC Sec. 21084.1. Additionally, CEQA provides that, even if a resource has not been identified as significant pursuant to one of these mechanisms, a lead agency has the discretion to determine whether the resource may be a historical resource for the purpose of CEQA. Id. The CEQA Guidelines further clarify the authority of a lead agency to determine the presence of historically significant resources:

Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant to in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be historical resources, provided the lead agency’s determination is supported by substantial evidence in light of the record.

CEQA Guidelines at 14 CCR sec. 15064.

Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing in CRHP, which include the following:

(A) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;

(B) Is associated with the lives of persons important in our past.

(C) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or

(D) Has yielded, or may be likely to yield, information important in prehistory or history.

CEQA Guidelines at 14 CCR at Sec. 15064.5

Thus, there is authority to identify resources of historic significance even if such historic resources have not been previously identified. In fact, in light of the recommendations regarding the protection of traditional tribal uses, the lead agency also appears to have an obligation to evaluate ongoing traditional tribal uses as significant historic resources in the CEQA process.

Specifically, the Tribe requests that culturally-appropriate methods for identification occur, including but not limited to: conducting an updated NAHC Sacred Lands File search, old maps searches, search of any THPO databases; having a qualified and affiliated Tribal Monitor/Representative on the initial pedestrian survey; looking (around) for resources of tribal concern which may also include natural features, views, sacred water sources, phenomena, essence of place, intangible or ceremonial aspects, landscape values; the Tribe providing input on appropriate boundaries; and the agency working with Tribal Preservation Consulting Services (Tribal Preservation Departments, THPOs, THPO CRM programs, etc.)

Tribal perspectives about significance also must be considered; these may include that: an individual artifact may have cultural value or has value as a component of larger place (landscape, district); may show indication of individual artisan (painting, incising, etching, fingerprints); and must consider cultural, spiritual or religious value for affiliated people.

Tribal perspectives about integrity must also be considered: resources may not need to be in "original" location; Ancestor remains may be in any state of completeness or decomposition; "disturbed" sites can still have cultural value; resources may not need to be intact; natural decay may be okay, part of a cultural process; and objects may be "associated" even if at some distance.

Finally, regarding eligibility, the Tribe expects that testing will be considered an adverse effect/impact; that noninvasive testing tools will be considered first such as Ground Penetrating Radar, Geoarchaeology, Historic Human Remains Detection Canines, historical and current aerial photography, LiDAR, etc.; that eligibility will be assessed under all Criteria - A, B, C and D; that value to the Tribal Community will be considered; and that ethnographic studies and regional syntheses can help provide context as an evaluation tool - not necessarily just as after-the-fact mitigation measure, at the very start of project application and before the draft environmental document published.

Response No. NA2-9:

The comment identifies certain CEQA and CEQA Guidelines provisions regarding the identity and interpretation of cultural resources. The comment also states that the CEQA and the CEQA Guidelines provisions cited create "an obligation to evaluate ongoing traditional tribal uses as significant historic resources in the CEQA process."

In addition, the comment requests that "culturally-appropriate methods for identification" be used and it provides examples of such methods. The comment states that tribal perspectives about significance and integrity be considered and that non-invasive testing tools be considered and studies be used as evaluation tools.

CDFW, in coordination with USACE, in the 2010 EIR conducted a thorough cultural resources analysis and adopted mitigation measures. The mitigation reduced impacts to less-than-significant levels with regard to all identified cultural resources. Following the Supreme Court decision, on July 11, 2016, the Second District Court of Appeal reexamined the merits of the issues concerning Native American cultural resources and rejected petitioners' arguments that the 2010 EIR's cultural resources analysis failed to adequately disclose,

evaluate, or mitigate the project's impacts on Native American cultural resources. The Court of Appeal also rejected claims that CDFW had failed to consult and found that CDFW's responses to Native American cultural resources comments complied with all statutory and regulatory requirements. Wishtoyo Foundation filed a petition for review with the Supreme Court as to the Court of Appeal's cultural resources holdings. The Supreme Court summarily denied the petition. The Court of Appeal's July 11, 2016 opinion is now final. As stated, the discrete issues addressed in the Draft AEA do not result in a re-opening of the 2010 Final EIR's cultural resources analysis or adopted mitigation measures; and, therefore, the comments are beyond the scope of the Draft AEA.

The two discrete issues evaluated in the Draft AEA do not result in any changes or alterations to the project's land uses, or to the location or purpose of the bridges and bank stabilization. The proposed modifications do not increase the footprint or intensity of ground disturbance relative to what was analyzed in the prior EIR. Thus, the Draft AEA need not re-open the 2010 Final EIR's cultural resources analysis, adopted mitigation measures, or methodologies (see **Topical Response 1: Scope of the Additional Environmental Analysis**).

CDFW continues to consult with the Santa Ynez Band of Chumash Indians on the project at the time of this writing consistent with its Tribal Policy, as discussed above.

Comment No. NA2-10:

VIII. CULTURAL LANDSCAPES

A historic property may be a cultural landscape and it may be based on traditional uses of natural resources. The Department of State Parks has interpreted historic resources to include "cultural landscapes" and has looked to federal guidance interpreting the National Historic Preservation Act (16 U.S.C. sec. 470, et seq.) to define what resources may be designated a cultural landscape. See www.parks.ca.gov/default.asp?pageid=22854 (examples such as Golden Gate Park and Lake Shasta). Consistent with federal guidance, the State Parks website explains that the term "cultural landscape is an umbrella term that includes four general landscape types: historic designated landscapes, historic sites, and ethnographic landscapes which are defined in the National Park Service, Preservation Brief 36, Protecting Cultural Landscapes (Brief 36). Id.

Brief 36 defines a cultural landscape to be a "geographic area, including both cultural and natural resources and the wildlife and domestic animals therein, associated with a historic event, activity or person or exhibiting other cultural or aesthetic values." In the definition of ethnographic landscape, Brief36 also notes that subsistence activities are often a component of the landscape.

After reviewing the various types of cultural landscapes, State Parks identifies a list of themes in California history that are recognized as cultural resource deficiencies in the State Parks System. With regard to significant properties, State Parks offers the following themes:

- ▲ Settlement and Subsistence Patterns;
- ▲ Special Adaptations and Environmental Management;
- ▲ Trade and Movement; and
- ▲ Ideology (e.g. sacred sites, petroglyph and pictograph sites, intaglios).

California State Parks website at www.parks.ca.gov/default.asp?pageid=22854.

The California Environmental Resources Evaluation System (CERES) has also issued guidelines for monitors and consultants working with Native American cultural, religious, and burial sites, which describe the scope of historical resources. Guidelines for Monitors/Consultants Native American Cultural, Religious, and Burial Sites, <http://ceres.ca.gov/nahc/guidelines4mon.htm1>.

Consistent with State Parks interpretation of cultural landscapes, these guidelines advise that historic resources can include Native American graves and artifacts; traditional cultural landscapes; natural

resources used for food, ceremonies or traditional crafts; and places that have special significance because of the spiritual power associated with them. Id.

The protections of historic and cultural resources under CEQA and the National Historic Preservation Act are interrelated, and as noted above, California State Parks looks to federal policy documents with respect to evaluating historic and cultural resources. Similarly, the National Parks Service guidelines for cultural resources management also illustrate the connection between cultural landscapes and traditional uses. The National Parks Service recognizes that "[e]thnographic resources are basic expressions of human culture and the basis for continuity of cultural systems" and they are not limited to things commonly thought of as cultural resources. See NPS-28, Cultural Resource Management Guideline, issued pursuant to Director's Order #28. "A cultural system ... includes traditional arts and native languages, religious beliefs and subsistence activities." Id. "Ethnographic resources are variations of natural resources and standard cultural resource types. They are subsistence and ceremonial locales and sites, structures, objects, and rural and urban landscapes assigned cultural significance by traditional users." Id. When natural resources acquire meaning according to different cultural constructs of a particular group, they become ethnographic and thus cultural resources as well, and the heritage significance of the natural resources may be related to religious, healing, and subsistence. Id.

These authorities, and others such as cultural landscape publications on the ACHP website, must be considered regardless of whether AB 52 is found to apply to the AEA. Natural resources with cultural value relevant to the Newhall site include arroyo willow, juncus, tule, clay and river rock sources and other resource locations must be considered in the AEA. More detail about them can be provided through consultation between CDFW and the Tribe. The Tribe expects to see such analysis be applied to the whole of the project, any recent project changes and to the project's mitigation.

Response No. NA2-10:

As discussed above, the project evaluated in the Draft AEA did not result in any project changes to the previously approved land uses within the project area, nor does it result in any change to the location, size, purpose, or use of the bridges or bank stabilization. Please see **Response to Comment No. NA2-12** regarding the prior litigation of Cultural Resources issues. Accordingly, the analysis presented in the Draft AEA is appropriate (see **Topical Response 1: Scope of the Additional Environmental Analysis**). For further responsive information, please refer to **Response to Comment Nos. NA2-8 and -9**.

Comment No. NA2-11:

IX. FIFTH CIRCUIT CA COURT OF APPEALS DECISION THAT PROTECTS TRADITIONAL CULTURAL PLACES (TCPs) AS PART OF THE CEQA AFFECTED ENVIRONMENT

MADERA OVERSIGHT COALITION CASE CITATION AND ABSTRACT:

http://www.narf.org/nill/bulletins/state/documents/madera_oversight_v_madera.html Court of Appeal, Fifth District, California.

MADERA OVERSIGHT COALITION, INC., et al., Plaintiffs and Appellants, v.

COUNTY OF MADERA, Defendant and Appellant;

Tesoro Viejo, Inc., et al., Real Parties in Interest and Appellants.

No. F059153. Sept. 13, 2011.

CEQA requires consideration of project impacts on either archaeological sites or historical sites deemed to be historical resources. If the project will cause a substantial adverse change to the characteristics of an historical resource that conveys its significance or justifies its eligibility for inclusion in the California Register, the project is judged to have a significant effect upon the environment, according to Section

15064.5 of the CEQA guidelines. Five of the seven resources in the project area are considered historical resources: CA-MAD-295/827, 826, 2392, 2394 and P-20-002308. In addition, there are areas that are of special religious or social significance to the Native Americans (e.g., Traditional Cultural Properties) in the project area. [ill Based on the current project design, all historical resources and the sites of special religious or social significance within the Project Site may be impacted by the proposed development, either directly or indirectly.

2. Specific rules for historical resources of an archaeological nature

Guidelines section 15126.4, subdivision (b) addresses mitigation measures related to impacts on historical resources. When the particular historical resource is archaeological in nature, the discussion contained in the EIR is governed by subdivision (b)(3) of that guideline, which provides in part:

"Public agencies should, whenever feasible, seek to avoid damaging effects on any historical resource of an archaeological nature. The following factors shall be considered and discussed in an EIR for a project involving such an archeological site:

"(A) Preservation in place is the preferred manner of mitigating impacts to archaeological sites. Preservation in place maintains the relationship between artifacts and the archaeological context. Preservation may also avoid conflict with religious or cultural values of groups associated with the site.

*84 "(B) Preservation in place may be accomplished by, but is not limited to, the following:

"1. Planning construction to avoid archaeological sites;

"2. Incorporation of sites within parks, greenspace, or other open space;

"3. Covering the archaeological sites with a layer of chemically stable soil before building tennis courts, parking lots, or similar facilities on the site.

"4. Deeding the site into a permanent conservation easement.

"(C) When data recovery through excavation is the only feasible mitigation, a data recovery plan, which makes provision for adequately recovering the scientifically consequential information from and about the historical resource, shall **653 be prepared and adopted prior to any excavation being undertaken...." FNI6

FNI 6. These provisions apply to archaeological sites that are historical resources. Archaeological sites that are not historical resources are subject to different requirements. For example, when a site meets the definition of a unique archaeological resource and is not an historical resource, it is treated in accordance with the provisions in section 21083.2, not Guidelines section 15126.4, subdivision (b)(3). (Guidelines, § 15064.5, subd. (c)(3).) As a result, unique archaeological sites that are not historical resources are subject to less stringent requirements regarding mitigation of impacts.

The AEA does not describe how the project is consistent with this case.

Response No. NA2-11:

The comment makes reference to the Fifth District Court of Appeal decision *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th 48. The comment asks that the Draft AEA describe how the project is consistent with this case. The comment does not identify any specific concerns related to the proposed modifications analyzed in the AEA.

As addressed in **Response to Comment No. NA2-6**, the litigation over the adequacy of the 2010 EIR included claims as to the adequacy of the EIR's cultural resource analysis, methodologies, mitigation measures, and consultation efforts. This litigation challenge heavily relied upon the *Madera Oversight Coalition* decision

with regard to claims that the 2010 EIR's mitigation was deferred or otherwise insufficient. The Second District Court of Appeal rejected all of petitioners' cultural resources claims and contentions, including the claim of deferred or insufficient mitigation under the *Madera Oversight Coalition* decision.

In response, petitioner Wishtoyo Foundation filed a petition for review with the California Supreme Court, which was limited to challenging the Court of Appeal's holdings with regard to the sufficiency of the 2010 EIR's mitigation, again, relying on the *Madera Oversight Coalition* decision. The Supreme Court summarily denied the petition. Thus, the Second District Court of Appeal's July 11, 2016 decision is now final, and it upholds the 2010 EIR's cultural resources impacts analysis and mitigation, as well as CDFW's consultation efforts with regard to Native American cultural resources on the project site.

Comment No. NA2-12:

X. UNDRIP

In December 2010, the United States announced support for the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). In announcing this support, President Obama stated: "The aspirations it affirms-including the respect for the institutions and rich cultures of Native peoples-are one we must always seek to fulfill... [W]hat matters far more than any resolution or declaration - are actions to match those words." The UNDRIP addresses indigenous peoples' rights to maintain culture and traditions (Article 11); and religious traditions, customs, and ceremonies (Article 12); to participate in decision making in matters which would affect their rights (Article 18); and to maintain spiritual connections to traditionally owned lands (Article 25).

Assembly Joint Resolution 42 as filed with the Secretary of State August 11, 2014, expresses the Legislature's endorsement of the principles of the United Nations Declaration on the Rights of Indigenous Peoples. The measure, among other things, calls for increased awareness, sensitivity, and respect for issues of sovereignty related to the heritage of Native Americans and indigenous peoples. The consultation and CEQA processes used for Newhall do not appear consistent with UNDRIP principles, please explain.

Response to Comment No. NA2-12:

The comment provides background information regarding the 2010 announcement that the United States supports the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). The comment makes reference to Assembly Joint Resolution 42, and states that the CEQA and consultation processes for the Draft AEA "do not appear consistent with UNDRIP principles," and asks for an explanation.

The comment does not identify any specific concerns related to the proposed modifications analyzed in the AEA. As summarized above, the CEQA analysis is limited to two topics to address the Supreme Court's decision and the UNDRIP principles are not applicable to the issues analyzed in the AEA (see **Topical Response 1: Scope of the Additional Environmental Analysis**). As described in Response to Comment NA2-5, CDFW has engaged in consultation with the Santa Ynez Band of Chumash Indians consistent with its Tribal Policy.

As discussed in **Response to Comment No. NA2-6**, the litigation over the adequacy of the 2010 EIR included claims as to the adequacy of the EIR's cultural resource analysis, methodologies, mitigation measures, and consultation efforts. The certification of the 2010 Final EIR and related approvals was challenged in 2011 by several petitioners in the litigation captioned *Center for Biological Diversity v. California Department of Fish and Wildlife*. After lower court rulings on several issues, including cultural resources, the California Supreme Court in November 2015 invalidated the 2010 Final EIR's GHG emissions findings and two mitigation measures related to take of the unarmored threespine stickleback, while remanding the cultural resources issues to the Court of Appeal. On July 11, 2016, the Second District Court of Appeal reexamined the merits of the issues concerning Native American cultural resources and rejected petitioners' arguments that the 2010 EIR's cultural resources analysis failed to adequately disclose, evaluate, or mitigate the project's impacts on Native American cultural resources. The Court of Appeal also rejected claims that CDFW had failed to consult with trustee agencies, and found that CDFW's responses to Native American cultural

resources comments complied with all statutory and regulatory requirements. Petitioner Wishtoyo Foundation filed a petition for review with the Supreme Court as to the Court of Appeal's cultural resources holdings. The Supreme Court summarily denied the petition. The Court of Appeal's July 11, 2016 opinion is now final.

Comment No. NA2-13:

CONCLUSION

The Tribe appreciates your consideration of our comments on the Newhall Ranch Draft AEA and our request that the Newhall site be considered as a traditional cultural landscape to the Chumash. We hereby incorporate by reference Wishtoyo Foundation's and Mati Waiya's prior submitted comments on the EIR's deficiencies, including the content of those comments regarding the EIR's deficiencies as to the identification of, analysis of, and mitigation for Chumash cultural resources at CA-LAN-2133, 2233, 2235, and throughout the project site, and their additional comments on the Newhall Ranch Draft AEA and any litigation pertaining thereto.

The Tribe also looks forward to beginning meaningful consultation regarding cultural resource identification methods, the project's impacts, appropriate mitigation and the sufficiency of the environmental documents with each of the permitting agencies.

Response to Comment No. NA2-13:

CDFW appreciates the comments from the Santa Ynez Band of Chumash Indians and its request for consultation with CDFW regarding the project and the Draft AEA. Please see **Response to Comment No. NA2-12** regarding the prior litigation related to Cultural Resources issues. As to the scope of the AEA, please see **Topical Response 1: Scope of the Additional Environmental Analysis**. CDFW pursuant to its Tribal Policy remains engaged in consultation with the Santa Ynez Band of Chumash Indians at of the time of this writing.