



SIERRA CLUB, SAN DIEGO CHAPTER  
San Diego and Imperial Counties  
3820 Ray Street  
San Diego, CA 92104

Jurg Heuberger, Director  
Planning Department  
Imperial County  
940 West Main Street  
El Centro, CA 92243-2875

Dear Mr. Heuberger:

Re: Comments on the Draft Environmental Impact Report for the  
Imperial County General Plan Update (SCH #93011023)

The Conservation Committee appreciates the opportunity to comment on the Draft EIR for the proposed update of the Imperial County General Plan. The San Diego Chapter of the Sierra Club serves members residing in both San Diego and Imperial Counties and has long expressed an interest in issues related to public lands in Imperial County. The Conservation Committee received input from persons residing in Imperial County in the preparation of these comments on the Draft EIR for the Imperial County General Plan. Attached are the comments prepared by the Conservation Committee for the San Diego Chapter of the Sierra Club. The Committee's comments on the text and maps of the General Plan are included as a separate response. Because numerous portions of the DEIR were copied verbatim from the Draft General Plan many comments on the two documents are cross-referenced.

Again, the committee appreciates the opportunity to comment on the DEIR. If you have any questions please contact Edie Harmon.

Sincerely,

A handwritten signature in cursive script that reads "Nick Ervin".

Nick Ervin, Chair  
Conservation Committee

**RECEIVED**

MAR 22 1993

IMPERIAL COUNTY  
BUILDING INSPECTION

DRAFT EIR COMMENTS

INCORPORATES

ALL OF DRAFT

GENL PLAN COMMENTS

BY REFERENCE

Comments on the Draft Environmental Impact Report for the  
Imperial County General Plan Update (SCH #93011023)

The following comments in response to the Draft Environmental Impact Report (DEIR) for the proposed Imperial County General Plan Update are submitted by the Conservation Committee of the San Diego Chapter of the Sierra Club which serves San Diego and Imperial Counties. General comments are followed by more specific comments related to the adequacy of the DEIR. The more specific comments not covered in other discussion are included toward the end of the comments. This response incorporates by reference all the discussions of inadequacies, inconsistencies, and errors included comments in response to the Draft General Plan Update which is separate document.

INTRODUCTION

The DEIR for the Imperial County General Plan Update contains useful and interesting information about the County, even though some of that information is out-dated or of questionable relevance. Beyond that, the DEIR is deficient in a number of critical respects, including but not limited to the following issues.

237 [ There should be clarification about the geographic location of Imperial Valley v. Imperial County within the GP and DEIR.

DEIR FAILS TO EVALUATE IMPORTANCE OF INTERNAL INCONSISTENCIES  
IN DRAFT GENERAL PLAN UPDATE

288 [ 1. The DEIR fails to evaluate the proposed General Plan in terms of the proposed Plan's consistency with State planning laws regarding general plans as spelled out by the Governor's Office of Planning and Research in the document entitled State of California General Plan Guidelines, cited as "(OPR)". The State Legislature has declared that:

Decisions involving the future growth of the State, most of which are made and will continue to be made at a local level, should be guided by an effective planning process, including the local general plan, and should proceed within the framework of officially approved statewide goals and policies directed to land use, population growth and distribution, development, open space, resource preservation and utilization, air and water quality, and other related physical, social and economic development factors. (Govt. Code Sec. 65030.1)

California planning laws as detailed by OPR contain very specific provisions with respect to protection of the natural environment and resources and other mandatory issues such as housing. However, the DEIR does not contain an adequate evaluation of the proposed Plan's conformance to the State's mandatory

requirements.

The Legislature of the State of California intends that the General Plan, its elements and all parts thereof must be "internally consistent". "The concept of internal consistency, as used in California Planning Law, means that no policy conflicts exist, either textual or diagrammatic, between the components of an otherwise complete and adequate general Plan." (OPR, 1987, p. 10.)

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The comments in response to the General Plan Update include areas where the different classifications of inconsistencies within the General Plan itself have been discussed. Because so many of these inconsistencies have been carried over to and expressed in the DEIR discussion, they are discussed together. Rather than include all those GP and DEIR text/map, text/text, map/map, element/element, and intra-element inconsistencies in each document, the reader is referred to the comments on the General Plan.

#### EXTERNAL INCONSISTENCY BETWEEN LAND USE ELEMENT AND COUNTY 1991 AIR QUALITY ATTAINMENT PLAN IS DOCUMENTED BY DEIR

If the DEIR is supposed to be reflective of the text and maps and programs in the Draft General Plan Update, it succeeds very well in pointing out the external inconsistencies between the proposed General Plan and the existing 1991 Air Quality Attainment Plan for the County. (DEIR, III-188, 189.) Why, when the preparers of the Draft General Plan Update and the DEIR are the same firm, did that firm not seek to draft implementation policies and programs to resolve those external inconsistencies? Why have these inconsistencies not been resolved?

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Why does the DEIR propose mitigation measures which are based on the mixed land use and balanced housing and jobs strategies of the Air Quality Attainment Plan, when the implementation programs of the Draft GP Land Use Element are inconsistent with those strategies and would prohibit the implementation of such programs? How would incorporation of the Air Quality Attainment Plan strategies L-1, L-2, and L-3 be incorporated into the Land Use Element? Why hasn't this already been done along with the necessary changes in the development standards of the various land use designations if it is recommended in the DEIR? Why didn't the preparers of the proposed General Plan Update resolve such external inconsistencies before it was released for public review?

#### DRAFT GENERAL PLAN UPDATE IS MISSING STATE APPROVED MANDATORY HOUSING ELEMENT SO DEIR PROJECT DESCRIPTION IS INCOMPLETE

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It seems that the County can't decide what to do about the Housing Element with its 1989-1994 time frame. On DEIR p.II-13 it is suggested that the Housing Element was to have been included,

and indeed, it was in a December 1992 draft.

290 The draft General Plan Update is missing a State approved current draft of a Housing Element, a mandatory element of the General Plan as required by Govt. Code 65583. Although the Board of Supervisors adopted a Housing Element for the time frame 1989-1994 on 10/23/90, it was not accepted by the State. The 11/92 draft General Plan Update included a reformatted version of that out-dated Housing Element. With significant changes being made in the GP-LUE and other elements it is essential to include a revised Housing Element which will be consistent with the other elements of the General Plan as required by State law and which will be a Housing Element acceptable to the State. The absence of a state accepted Housing Element will result in an updated General Plan which is not internally consistent or complete, and therefore not legally adequate. Consequently the project description for the DEIR review is incomplete.

The subsequent or revised draft program EIR for the General Plan Update should include the proposed updated Housing Element and be recirculated for the full comment period.

#### DEFICIENCIES AND INADEQUACIES OF THE DEIR

The following includes a brief summary of some of the deficiencies and inadequacies of the DEIR which will be addressed in more detail in other sections. Some of the major issues include, but are not limited to:

291 1. DEIR erroneously includes discussion of "two proposed large-scale privately-owned regional landfill projects" (DEIR III-150) under discussion of "Existing Conditions", Solid Waste under the Environmental Analysis for Public Services and Safety.

292 2. The DEIR includes an inadequate and often misleading discussion of the biological resources based on out-dated and mismapped information from the Bureau of Land Management (BLM) California Desert Conservation Area Plan of 1980 (CDCA, 1980), California Dept. of Fish and Game, and other unidentified sources. Other deficiencies include the failure to provide information and mapping changes adopted by BLM amendments to the CDCA Plan since its original adoption. The majority of the maps/figures fail to identify the sources of information.

For additional comments on inadequate discussion on Biological resources see also the comments on the General Plan.

293 3. The DEIR and the referenced elements of the Draft General Plan provide inadequate discussion of the groundwater resources relied upon for residential growth in areas not served by Imperial Irrigation District (IID) or other irrigation districts supplying Colorado River water. The discussion of one groundwater basin

(Ocotillo-Coyote Wells basin) relies on an out-dated 1977 study by the U. S. Geological Survey (USGS), and fails to discuss more recent data collected by USGS during subsequent semi-annual monitoring of water levels and water quality and other studies since 1977. Information on the three other basins relied on for domestic uses is not provided.

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OPR has noted the importance of using up-dated information and the consequences of failing to do so when it noted that: "Unless it is periodically updated, a plan will become obsolete in the face of community change. A general plan based on outdated information and projections is not a sound basis for day-to-day decision making and may be legally inadequate. It will be more susceptible to successful legal challenge." (OPR, p. 14.)

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4. The DEIR describes three "alternative plans", the "Increased Agriculture Alternative", the "Increased Development alternative", and the "No Project Alternative" or retention of the 1973 General Plan. Both the 1973 Plan and the Agriculture alternative appear to be totally unrealistic because they call for the expansion of irrigated agriculture into the area known as the East Mesa, while BLM policy specifically prohibits irrigated agriculture on classified lands and recommends acquisition of private inholdings in the East Mesa ACEC to prevent agricultural activities on private inholdings. This area primarily consists of federal lands managed by the BLM, in many places with special reference to optimal habitat for the Flat Tail Horned Lizard (FTHL), a candidate for federal listing in the near future. This species is currently a federal category 1 candidate for listing under the Endangered Species Act of 1973 as Amended (ESA). It will soon be elevated to "proposed" status.

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5. The Increased Development plan is unrealistic because it proposed increased population growth in the Ocotillo/Nomirage area despite known limitations/resource constraints of the groundwater resource.

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6. The DEIR does not include an alternative Plan based upon the protection of limiting resources as a first concern. On the contrary, the General Plan's primary concern appears to have been aimed at accommodating the anticipated growth projections based on NAFTA assumptions and requests for designation of several Specific Plan Areas requested by individual property owners. (Mooney, 1/93 public meeting.)

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7. The DEIR should have addressed the problems associated with this approach. Specifically, OPR General Plan Guidelines include the following guiding principle. This DEIR fails to meet the following "first Step" guidelines for general plan revision.

Evaluation of the jurisdiction's environment is the classic first step in preparing or revising a plan for

the distribution of land uses. Information collected on environmental hazards (such as flood plains and landslide areas), resources (such as mineral deposits), and natural phenomena (such as deer migration routes or critical habitats), tells much about the amount and types of possible development and where growth should and should not take place. Written as text or, preferably, compiled as a series of maps and overlays, this information will aid in determining the relative suitability of lands for development. (OPR, 45)

297 Further, the OPR Guidelines suggest that the carrying capacity of the land and air should govern the ultimate population assumptions, not the reverse. The OPR Guidelines state that: [Population] [p]rojections may require adjustments as assumptions change during the planning process and vice versa. For instance, if the final land use plan substantially alters the amount of land reserved for residential use, the original assumptions will be similarly changed. When this occurs, projections should be revised accordingly. Conversely, if growth projections will exceed assumptions used in the Air Quality Management Plan (AQMP), the impact on regional air quality should be evaluated and additional measures developed to maintain consistency with the AQMP, (OPR, 48)

298 8. None of the proposed alternative plans is based on air quality constraints or based on concepts of "carrying capacity." For example, resource constraints such as constraints to groundwater based population growth in the Salton Sea areas, the Ocotillo/Nomirage Community area, domestic uses in irrigation districts near the Colorado River, and agricultural uses at site specific areas remain conveniently ignored. Development constraints based on the need for compatibility between uses on private lands and adjacent BLM ACECs or nearby Critical Habitat for an endangered species such as the desert pupfish are inconsistent within the proposed Plan or missing. Development Standards for Recreation/Open Space designation (GP-LUE p.45-46) are incompatible with surrounding BLM management plans and policies.

299 9. The DEIR "accepts" information and projections from an outdated Housing Element for the time frame 1989-1994. The DEIR fails to discuss the implications of having a Housing Element which covers only the time frame of 1989-1994 at a time when major revisions to the General Plan are proposed. The DEIR fails to mention that until the Housing Element is updated to be consistent with the other mandatory elements of the proposed General Plan, Imperial County will be without an "integrated, internally consistent and compatible statement of policies" (Govt. Code Sec. 65300.5, cited in OPR, 2) as intended by the Legislature.

300 10. Mitigation measures related to environmental and infrastructure impacts are often very broadly stated. It is not explained how the numerous mitigation measures consisting of future studies, and environmental impact reports for future developments will or could reduce potentially significant impacts to a level of insignificance or to a level below significance, particularly impacts on air quality, groundwater quality and sensitive biological resources. Examples are discussed in other sections of this response.

301 11. The DEIR and indeed the General Plan Update contain no map indicating the pattern of landownership, federal state, county, military, Indian lands, and private ownership in Imperial County. The DEIR Table 1, "Imperial County Land Use Distribution (in Acres)" (DEIR, p. III-2) indicates that there 1,221,644 acres of privately owned lands subject to County Planning authority out of a total 2,942,080 acres, yet no figure is presented to indicate the pattern of land ownership. Such maps are readily available from BLM at the El Centro Resource Area office. These maps are not completely updated. Current information is available from the County Assessors office.

302 12. GP and DEIR figures ignore the location and BLM ownership of lands within the area depicted for the Felicity Specific Plan Area (SPA) immediately adjacent to the Fort Yuma Indian Reservation. See BLM DAG 21.

303 13. GP and DEIR fail to identify Fort Yuma Indian Reservation which extends from the Colorado River to the perimeter of Felicity SPA and surrounding the communities of Bard and Winterhaven. Note also that figures do not locate Bard. A BLM comment on the Scoping meeting for the Open Space Element Biological Resources observed that: "Our purpose is not to do the planning that local agencies should be doing, but to point out where local planning is lacking or plan implementation is a problem." (DEIR, Appendix G.)

304 14. GP and DEIR ignore the checkerboard pattern of landownership on the northeast side of the Salton Sea in the area designated as rural residential land use category (LUC) #6. this area includes some state and BLM lands, with only about 50% being privately owned based on BLM DAG 21. This pattern of landownership, therefore constrains development for residential uses and is not mentioned in map or text.

305 15. GP and DEIR ignore the pattern of BLM/private ownership in the area designated Hot Mineral Spa/Bombay Beach as Community area. Similarly the pattern of land ownership in the Ocotillo/Nomirage Community Area is missing.

306 16. GP and DEIR figures and text describing the West Shores Salton City Urban area plan ignore the lands of the Torres Martinez Reservation, which includes approximately 8 sections checkerboarded



306 west of Desert Shores and W and SW of Salton Sea Beach but included in the urban area on the County Proposed Land Use Plan (DEIR, Fig.4).

307 17. Figures in the DEIR Environmental Assessment for Biological Resources contain numerous errors and are not based on the current status of the BLM CDCA Plan as amended. Such information including maps is also available from BLM's El Centro Resource Area office. Figures in different sections of the DEIR inappropriately locate irrigated agriculture (DEIR Fig.5, III-31), sensitive biological resources (DEIR Fig 11, p.III-93), and urban areas (DEIR Fig.4, p.III-11 and Fig 1 GP-LUE, p.4) in the same geographical location. DEIR figures are often inconsistent with respect to different environmental assessments, and inconsistent with the figure of the same title in the General Plan Update. (e.g. Fig. 3 GP-LUE, p.24 and DEIR Fig.18, III-151)

308 18. DEIR fails to adequately discuss inconsistencies between the proposed project (General Plan Update) and existing General Plans of the adjoining San Diego and Riverside Counties (as requested by the Riverside County Planning Department 9/30.92 letter in Appendix G), and between the various adopted BLM management plans and BLM CDCA plan amendments as required by CEQA Guidelines Sec. 15125(b) which states that: "The EIR shall discuss any inconsistencies between the proposed project and applicable general plans and regional plans." BLM Plan Amendments and Habitat Management Plans are listed in the reference section.

309 19. DEIR contains inconsistent discussion related to two proposed regional landfills and has inadequately discussed the cumulative impacts of "past, present, and reasonably anticipated future projects" as required by CEQA Guidelines Sec. 15130. This inconsistent discussion is reflected in the different maps of the same title (GP-Fig.3, LUE p.24 and DEIR Fig.18, III-151) and DEIR text pgs. S-7, III-76, III-150).

310 20. DEIR does not adequately consider the indirect impacts on an ESA listed species caused by habitat destruction or "man-made factors" and the implications of the prohibitions against the "taking" of an endangered species as defined by 16 USC Sec. 1538(a)(1), and/or as defined by California ESA, and the implications of the 1992 settlement agreement in The Fund for Animals v. Lujan which includes the FTHL for review. There are at least five areas where this will be an important factor in any development on private lands. These include recharge areas for the San Sebastian Marsh/San Felipe Creek ACEC, East Mesa ACEC, West Mesa ACEC, Yuha Basin ACEC, and the planned Chuckwalla desert tortoise habitat management area.

311 21. The DEIR fails to discuss inconsistencies within the General Plan Update and evaluate the consistency of the General Plan Update with mandatory state planning laws. Our response to the General

311 Plan update is attached hereto and incorporated by reference.

312 22. The DEIR fails to discuss inconsistencies within the GPO Update created by the failure to include detailed Urban Area Plans and maps and Community Area Plans and Maps in the GP-LUE Appendix A as referenced in GP-LUE text (at pp. 3, 6).

313 23. The DEIR fails to provide environmental impacts analysis based on using the "existing conditions on the ground" as a starting point for comparison rather than comparison to build-out of the 1973 Plan.

314 24. The DEIR fails to address the environmental impacts associated with aquaculture which were discussed in the GP-AE (p.27-28). Among the impacts related to aquaculture identified by the GP-AE are the following: problems associated with seepage of water resulting from aquaculture ponds in areas of high filtration rates; poor quality or improper management resulting in odors; sensitivity of aquatic organisms to certain pesticides carried by canal water or as drift from aerial spraying; fish eating birds and migratory waterfowl and impacts on sensitive species and habitats.

315 25. The GP-AE and DEIR both cite statistics from 6/92 projections of population and household numbers from the Department of Housing and Community Development for projected populations. GP-AE estimates a population of 140,000 people in 1999 (GP-AE, p.18), while DEIR (p. III-42) estimates 164,115 people in 2000. Is it realistic to expect a population increase of 24,115 persons in one year? Why are the two figures based on the same source so different? Which should be considered more accurate?

316 26. The continued use of the Salton Sea for agricultural run-off (GP-AE, Objective 5.3, p.33) will result in increased salt and selenium added to the Salton Sea by irrigation run-off (GP-AE, p.22). How can this problem be resolved in a manner consistent with the Water Element goal of protecting the Salton Sea for wildlife, ecological communities and recreation (GP-WE, p.26)? Are the goals and objectives of the GP-AE and GP-WE with respect to the future uses of the Salton Sea incompatible? Please explain why or why not.

317 27. The DEIR fail to adequately address the white fly infestation which is described in the GP-AE (p.25).

318 28. DEIR inappropriately relies on non-existent Air Quality Element to mitigate air quality impacts resulting from implementation of GP (DEIR, V-5) and on 1991 Air Quality Attainment Plan which contains strategies inconsistent with GP-LUE policies (DEIR, III-188, 189).

#### RECOMMENDED ACTIONS

The Conservation Committee, based upon the following specific concerns in response to the DEIR and Draft General Plan Update, recommends that the County of Imperial authorize the General Plan Consultant to prepare a Subsequent or Supplemental Draft EIR (SDEIR). Specific concerns include but are not limited to the following: (a) numerous errors in the figures, because figures are inconsistent with the associated text; (b) inadequate analyses of potential impacts on air quality and groundwater resources both in Imperial County and in Riverside County; (c) use of out-dated information when current information is available from County departments or federal agencies; (d) the failure to provide a forward looking proposed Housing Element consistent with the draft General Plan Update; (e) inadequate discussion of cumulative impacts related to past, present, and planned or reasonably anticipated future projects, including the identified SPAs and identified proposed SPFs/regional landfills, one of which is mapped on GP-LUE Fig 3; (f) failure to provide urban area plans and maps and community area plans and maps to permit analyses of potential environmental impacts in the 31,840 acre Salton City Urban Area and 108,000 acre Ocotillo/Nomirage Community Area; (g) failure to include any reasonably feasible alternative plan that could minimize environmental impacts; (h) failure to include a reasonable range of feasible alternatives.

319 CEQA: California Environmental Quality Act Statutes (Public Resources Code Secs. 21166) makes provisions for the preparation of a Subsequent or Supplemental EIR under three different sets of circumstances which do not foresee the above listed inadequacies. CEQA Guidelines Sec. 15162 and 15163 interpret the three situations in which a Subsequent or Supplemental EIR would be required. A Subsequent or Supplemental EIR "must receive the same circulation and review as the previous EIR." (CEQA Guidelines Sec. 15162, Discussion.)

Guidelines Sec. 15162 reiterates the criteria of Pub. Res. Sec. 21166 with additional explanation as follows. A subsequent EIR shall be prepared when:

- (1) Subsequent changes are proposed in the project which will require important revisions of the previous EIR ...due to the involvement of new significant environmental impacts not considered in previous EIR... on the project;
- (2) Subsequent changes occur with respect to the circumstances under which the project is undertaken, such as a substantial deterioration in the air quality where the project will be located, which will require important revisions in the previous EIR ... due to the involvement of new significant environmental impacts not covered in a previous EIR...; or
- (3) New information of substantial importance to the project becomes available, and
  - (A) The information was not known and could not have

been known at the time the previous EIR was certified as complete ... and

- (B) The new information shows any of the following:
1. The project will have one or more significant effects not discussed previously in the EIR;
  2. Significant effects have previously examined will be substantially more severe than shown in the EIR;
  3. Mitigation measures or alternatives previously found not to be feasible and would substantially reduce one or more significant effects of the project; or
  4. Mitigation measures or alternatives which were not previously considered in the EIR would substantially lessen one or more significant effects on the environment.

(b) If the EIR ... has been completed but the project has not yet been approved, the Lead Agency shall prepare or cause to be prepared the subsequent EIR before approving the project. (CEQA Guidelines Sec. 15162.)

While none of the above listed situations are identical to the inaccuracies that burden this DEIR, Guidelines Sec. 15162 "new information" clearly justifies the provision of a supplemental or subsequent DEIR as provided in 15162(3)(b). A subsequent or Revised Draft EIR should be prepared because the existing DEIR has the following defects:

319 (a) the omission of existing information in relevant BLM documents currently available,

(b) the reliance on out-dated documents when more current monitoring data are available,

(c) inadequate discussion of the cumulative impacts of the proposed general plan revision within the meaning of CEQA Guidelines,

(d) inadequate discussion of impacts in large areas covered by missing urban area and community area plans and maps, which are the result of the General Plan Update omission of the mandatory Housing Element consistent with other mandatory elements and missing GP-LUE

(e) environmental analysis inappropriately compares impacts of proposed plan implementation to the 1973 plan rather than to "existing conditions on the ground", and

(f) failure to address mitigation measures or alternatives which would substantially lessen one or more significant effects on the environment resulting from changed land use designations and boundaries.

They constitute issues of substantial importance and will be shown to have "one or more significant effects not discussed previously in the EIR." "Significant effects previously examined will be more severe than shown in the EIR" and "mitigation measures or alternatives which were not previously considered in the EIR would substantially lessen one or more significant effects on the environment." To ignore the need for preparation of a Subsequent

319 EIR because the "information of substantial importance" is not "new", but rather is existing information which is readily available, would be to circumvent the purposes of CEQA as well as the intent of the Legislature. Such "new information" is that information that (1) is available information which has been ignored by the preparers of the General Plan Update and DEIR or (2) is missing Urban Area Plans and maps and Community Area Plans and maps which should have been prepared and included with the Draft General Plan Update-Land Use Element when that document was distributed for public review.

CEQA Guidelines Sec. 15163 would authorize the Lead Agency to choose to prepare a Supplemental EIR rather than a Subsequent EIR if "(2) Only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation."

320 The DEIR is intended as a "Draft Program EIR for the County of Imperial General Plan" for "use with later activities" as per Guidelines Sec. 15168(c)(1). But because the DEIR is inadequate for various reasons including but not limited to those cited above, the DEIR would not be sufficient to eliminate the need for subsequent EIRs (CEQA Guidelines Sec. 15162) for any projects having potential environmental impacts in areas of inadequacy/inadequacies. The DEIR at issue is inadequate to meet the asserted advantages of a Program EIR because (1) its consideration of effects of the proposed General Plan Update and the included alternatives was neither "exhaustive" nor comprehensive, and (2) the consideration of effects and cumulative effects was often based on insufficient or out-dated information such as that related to effects on biological resources and groundwater basins and (3) did not include consideration of past, present and reasonably anticipated future projects as required by CEQA Guidelines Sec. 15130. Further, the DEIR fails to state that projects involving federal lands will require not only tiered EIRs, but EAs (EIS) for NEPA compliance as well.

The corrections and additional material necessary for an adequate Program EIR are not minor but rather substantial and therefore require a Revised or Subsequent DEIR to be recirculated for as would be required for a draft EIR under CEQA Guidelines Sec. 15087 as cited in Sec. 15163(c).

To serve as a Program EIR, the deficiencies of the DEIR should be corrected through preparation of a Subsequent Draft EIR for it has been noted that:

where agencies have prepared good general plan EIRs with comprehensive cumulative impact assessment, such agencies will be able to successfully focus their environmental review for subsequent site-specific projects. Where general plan EIRs do a poor job of assessing cumulative effects, however, individual project EIRs and negative

declarations will not be able to rely on the prior EIR.  
(Remy, 244)

Remy et al. (p. 245) describe the use of a Program EIR and its limitations under the "streamlined" CEQA review process including the referencing of a prior EIR (Pub. Res. Sec. 21083.3) by "qualifying projects consistent with relevant planning documents for which good EIRs were prepared". The authors note that:

in order for a lead agency to gain the benefits of streamlined CEQA review, (1) the prior EIR on which the agency intends to rely must contain an adequate analysis of the "potentially significant off-site impacts and cumulative impacts" related to the site-specific project; (2) the lead agency must adopt all feasible relevant mitigation measures adopted in connection with the general plan for which the prior EIR was prepared; and (3) the lead agency must impose on the project any additional "uniformly applied development policies or standards"--even those deriving from planning documents other than a general plan--required to at least "substantially mitigate" the environmental effects in question. Even adoption of such policies or standards, however, may not be enough to avoid site-specific review if "substantial new information" shows the policies or standards "will not substantially mitigate" the relevant effects. (Remy, 245)

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The DEIR is inadequate if the County intends to have a program EIR for the General Plan Update which could serve as a first tier EIR or which will be able eliminate the need for certain additional site specific EIRs.

To effectively serve this second function, a program EIR must be very detailed; in other words, it must include enough site-specific information to allow an agency to plausibly conclude that, in analyzing "the big picture," the document also addressed enough details to allow an agency to make informed site-specific decisions within the program. (Remy, 249)

[F]or a program EIR to allow an agency to dispense with additional EIRs or negative declarations for later site-specific projects, the program document must be at once both comprehensive and specific. It must concentrate on a project's long-term "cumulative" impacts, but must also contain enough details to anticipate "many subsequent activities within the scope of the project." "A program EIR will be most helpful in dealing with the subsequent activities if it deals with the effects of the program as specifically and comprehensively as possible." (CEQA Guidelines Sec. 15168, subd. (c)(5).) (Remy, 250)

The DEIR as it exists suffers from too much missing

information, too much out-dated information, and omits site specific information related to the existing environmental conditions (environmental setting) to satisfy the requirements for a Program EIR. The corrections and additional material necessary for an adequate EIR are not minor but rather substantial and therefore require a Revised or Subsequent DEIR to be recirculated for the full comment period as would be required for a draft EIR under CEQA Guidelines Sec. 15087 as cited in Sec. 15163(c). No public purpose could be served by failing to prepare a revised or Subsequent DEIR where the lead agency has failed to meet the minimum requirements for an integrated internally consistent General Plan prior to completing and certifying the EIR in the first instance. (Remy, 263, citing judicial decisions "in which courts ordered additional CEQA analysis pursuant to Public Resources Code Sec. 21166 before the initial projects were approved. (emphasis in Remy.))

When significant new information is added to an EIR after notice is given (CEQA Guidelines 21092.1) (and such as will be necessary to correct inadequacies in the present DEIR including failure to analyze the impacts of 12 Urban Area Plans and 2 Community Area Plans missing from Appendix A of the Land Use Element), the deficient DEIR must be recirculated in compliance with Pub. Res. Sec. 21166. Under that statutory standard for recirculation in Sutter Sensible Planning, Inc. v. Board of Supervisors (1981) 122 C.A. 3d 813, 822 [176 C.R. 342]:

"There cannot be responsible decision-making when data appears in the final EIS without being subject to the critical evaluation that occurs in the draft stage. There are two dangers that can occur when information appears in the final EIS for the first time: (1) the ultimate decision-makers will believe that there is no controversy due to the lack of critical comment; and (2) objective errors without being red-flagged would go unnoticed. It is for these reasons that [an agency regulation] provides: 'A supplemental statement is to be processed in the same manner as a new environmental statement.' (23 C.F.R. Sec. 1.38, p.20 (1974).)

Supplemental information, which has not been processed in the same manner as the draft EIS, cannot resurrect a deficient impact statement. [Citation.] The failure to include [the information] in the draft impact statement denied the plaintiffs the opportunity to test, assess, and evaluate the data and make an informed judgement as to the validity of the conclusions to be drawn therefrom." [Citations.]...where "substantial changes" in the EIR are made, recirculation is required. [State of Alaska v. Carter (D. Alaska 1978) 462 F.Supp.1155, 1164.] (Sutter Sensible Planning, Inc. v. Board of Supervisors (1981) 122 C.A.3d 813, 822; 176 C.R. 342.)

In addition to responses to the specific comments, the

Subsequent Draft EIR to be recirculated for review should contain at a minimum the following discussions, including but not limited to:

321 (1) An evaluation of the General Plan consistency with State planning laws as discussed in OPR Guidelines.

322 (2) Development and analysis of a General Plan alternative which is based on resource constraints and carrying capacity of the land, water, and air and which will not adversely impact significant resource values in the area. This alternative should be developed only after a complete set of detailed constraints maps more accurate than in the present DEIR have been compiled for the entire planning area. Because large areas of private lands on both the east and west side of Salton Sea are presently dependent on groundwater resources from wells in Riverside County, these constraints maps should include details of the watershed for the applicable groundwater basin(s) in Riverside County. Discussion should include the utilization of those basins projected by the Riverside County Comprehensive General Plan. The alternative plan should give special consideration to limitations on development in areas including but not limited to floodways, floodplains, areas of geologic hazards, sensitive habitats, habitats for listed species under the Endangered Species Act, prime agricultural lands, portions of groundwater basins sensitive to overdraft or saline intrusion and adopted BLM management plans and policies. Projected populations and projected industrial and commercial growth should be based upon the ability of the land, water, air and essential infrastructure and services to support these projections without jeopardizing the natural ecosystems and public health. Consideration should be given to significant aspects or limitations of the natural environment as a constraint to development in terms of both the location and the intensity of such present or planned development.

323 (3) Development and analysis of an alternative which eliminates or reduces to a greater extent those significant impacts of the project on the natural environment and with respect to transportation/infrastructure and air quality impacts along the Mexican border.

324 (4) Discussion of an alternative which expands the "Preservation" land use designation of the 1973 Plan to include but not be limited to all BLM ACECs, habitat management areas for sensitive or ESA listed species, And Wilderness Study areas. This alternative should have provisions for further expansion of preservation areas to include any future wilderness area adopted by federal law and any habitat designated as Critical Habitat for an ESA listed species. All authorized uses and development standards should be compatible with the management needs and objectives of the state or federal agency with management authority. Boundaries should extend sufficiently beyond the boundaries of special management areas to



324 ensure compatibility state and/or federal management policies and plans.

325 (5) Discussion of consistency or compatibility with federal land management mandates related to BLM and US Fish and Wildlife Service (USFWS), and include updated maps/figures delineating BLM Areas of Critical Environmental Concern. The discussion should include BLM and USFWS habitat management responsibilities and planning with reference to the desert tortoise (listed in 1990), flat tail horned lizard (listing anticipated this year) and endangered desert pupfish and other state or federal listed, proposed or candidate species or populations. Discussion should also include appropriate maps/figures showing the pattern of federal, state, county, Indian, and private lands within the County.

326 (6) Environmental analyses which include consideration of the detailed Urban Area Plans and maps and detailed Community Area Plans and maps.

327 (7) Discussion of groundwater quantity/water quality resource constraints in relation to projected requirements and potential impacts related to build-out under the Land Use Element for each groundwater basin to be relied on, including the groundwater basin in Riverside County from which well water is supplied to Imperial County communities along the Salton Sea.

(8) The recirculated draft EIR should also include but not be limited to the issues discussed below.

#### DRAFT PROGRAM EIR FOR THE GENERAL PLAN UPDATE IS INADEQUATE

328 Environmental impact reports ("EIRs") serve a number of important functions. The documents force agencies to develop specific information about how projects may adversely affect the environment; they involve the public in environmental decisionmaking; they require decisionmakers to reveal their "environmental and economic values" so that the public can remember come election day; they facilitate interagency consultation; and they generate proposals for project modification to be effected through adoption of alternatives or mitigation measures. (emphasis added) (Remy, 24).

Put simply, the basic purpose of an EIR is to provide public agencies and the members of the public with sufficient detailed information or data which is relevant to the proposed project and indicate the relationship of such information or data to the environmental impact report. And specifically, "to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project." (Public Resources Code Sec. 21061.)

Public Resources Sec. 21001.1 further "declares that it is the policy of the state that projects to be carried out by public agencies be subject to the same level of review and consideration under this division as that of private projects required to be approved by public agencies."

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Public Resources Code Sections 21000 (a) through (g) and 21001 (a) through (g) explicitly spell out the policies of the Legislature with respect to CEQA, the California Environmental Quality Act. The role of the EIR in protecting California's environmental resources under CEQA is discussed in more specific detail of the California Supreme Court in its Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 C.3d 376,390,391,392,394,396,398,399; 253 C.R. 426 decision. (See appendix.)

DEIR SUMMARY DOES NOT ADEQUATELY REFLECT ENVIRONMENTAL ISSUES ADDRESSED IN TEXT AND MAPS OF DEIR AND/OR IN TEXT AND MAPS OF GENERAL PLAN UPDATE PROJECT BEING EVALUATED

1. Land Use

The DEIR Summary is inadequate because it fails to include some of the major areas of conflict that will result from implementation of the General Plan, particularly where land use categories or authorized uses within the categories have changes.

The DEIR discusses the potential of the GP-Land Use Element (GP-LUE) to result in a "conflict between a city's sphere of influence and a proposed Urban Area designation." (DEIR, S-2.) But the discussion fails to note the even more serious conflicts that are likely to result as the areas of urbanization extend beyond the present urban limits and further into the adjacent irrigated farmlands. The impacts of increased urbanization and expansion of residential development were addressed in some detail in the GP-Agricultural Element (p.18-23, 30-32, 34, 36, 40-41) and should also be included in any DEIR summary.

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Additionally, the DEIR Summary is inadequate because it fails to mention the increased conflicts between authorized uses on private lands under the Recreation/Open Space land use category and the adopted management plans, actions and policies of the Bureau of Land Management on its adjacent or surrounding lands, including Areas of Critical Environmental Concern. This planning problem is exacerbated by the failure of either the GP or the DEIR to include any maps showing patterns of federal, state, Indian Reservation lands and private lands.

Further, to assert that the adverse impacts associated with Special Purpose Facilities (SPFs) referencing "Implementation Strategies included in the Land Use Element of the Plan Update" (DEIR, S-2) is misleading. It is misleading because the GP-LUE

contains no Implementation Policies and Programs (GP-LUE, Section D, p.54-56) related to or even mentioning Special Purpose facilities. Under GP-LUE Section C, "Land Use Designations and Standards", there are "development standards" for solid waste facilities (GP-LUE, p.48-49), but not for any of the other uses which "may be permitted within the Special Purpose Facility land use designation" (GP-LUE, p.49). Those other listed uses for which no development standards are mentioned include the following: "uses which are appropriate, supportive, or compatible with the principal Special Purpose Facility use of the site." (GP-LUE, p.49.) Uses described in the conditional use permit may include uses such as: commercial, industrial, agricultural uses; facilities operated by public agencies or public utilities, geothermal facilities, solid waste sorting, recovery, and recycling facilities; mining and processing of mineral aggregate, or other natural resources; private or public parks or recreational facilities; employee residences where not subject to adverse air quality or other impacts incompatible with residential use. (GP-LUE, p.49.)

329 GP-LUE also includes prisons and airports within the SPFs (GP-LUE, p.48). In other words, the SPFs could include just about every imaginable land use with the exception of urban residential. Without GP-LUE discussion of standards or implementation policies and programs, it would appear that no criteria have been proposed within any subsection of the GP-LUE for any SPF other than solid waste facilities.

The summary also fails to mention land use conflicts associated with the potential inclusion of hazardous waste treatment facilities, incineration, stabilization and solidification, residuals repository in the Industrial land use designation at Plaster City, without the mention of even a conditional use permit.

The DEIR summary fails to mention the potential infrastructure impacts of urbanization and increased winter visitors to the west of the Salton Sea, in the Hot Mineral Spa/Bombay Beach area, at Felicity and Winterhaven.

## 2. Agriculture

How probable is it that alternative SPA sites (DEIR, S-3) would be chosen to avoid agricultural impacts once they have been mapped on the Proposed Land Use Plan?

330 Specifically where or how would "replacement Important Farmland" (DEIR, S-2) be located? Is this intended to include lands currently under Federal management in the East and West Mesas? If so, the authors should review the BLM 1985 Plan Amendments including the added prohibition to uses of irrigated agriculture on all but unclassified lands, as well as the East Mesa ACEC Wildlife Habitat Management Plan.

330 What is meant by the "signed state[ment]s" related to mitigation of indirect impacts (DEIR, S-3)? Would such statements become the equivalent of deed restrictions as such and be legally binding on all future owners?

### 3. Traffic Circulation

331 The DEIR fails to adequately discuss the impacts of upgrading 2 lane roads such as Forrester Road to a 4 lane road, including direct disturbance of habitat and noise impacts resulting from increased volumes of traffic. These impacts are mentioned in GP-CE, p.19, S-4,5,7.) How would the "future volumes [of traffic] conform[ing] to projections (S-4) result in no adverse impacts? Why does the discussion of traffic circulation fail to include other modes of transportation such as railroads and bicycle travel? There is inadequate mention of the impacts that would result from the widening of various segments of the State highways and the construction of the proposed new SR-7 north from the proposed new border crossing east of Calexico. How can impacts be mitigated by the preparation of additional studies?

### 4. Noise

Statements about increased noise from "expanded railroad service" and the use of railroads to reduce long haul trucking should also have been addressed in sections on transportation and infrastructure. The DEIR discussion is not reflective of the text in the GP-NE or GP-CE.

Why is the "proposed Mesquite Landfill near Glamis" (DEIR, S-5) mentioned by name in the summary for environmental issues related to noise, but not in the sections related to Land Use of Circulation? Discussion of this issue is inconsistent even within the DEIR Summary.

332 Why are SR-7 and SR-86 construction and improvements mentioned by name in discussion of noise impacts, but not in discussion on the preceding page under traffic circulation?

Why is there no mention of the noise impacts associated with mining operations, sand and gravel operations, and heavy industry?

How would the preparation of an "acoustical analysis" for discretionary projects serve to mitigate the impacts of noise? The statement that: "The County shall assure that noise impacts are analyzed where appropriate" (DEIR, S-6) is not reassuring, and provides no hint of any mitigation measures that might be triggered as the result of the required acoustical analysis.

### 5. Biological Resources

333 Although most of the native vegetation in the cultivated and urbanized parts of the central portion of Imperial County have been lost due to man's activities, the same is not true for the remainder of the County, most of which is not available for private

development as a result of federal management.

333 Among the "current and anticipated impacts to biological resources within the County", the following impacts, identified elsewhere in either the DEIR or GP and have been identified: (a) direct and indirect impacts (including noise and air pollution from) from airports, railroads, and landfills including proposed regional landfills.

#### 8. Air Quality

334 Why is there no mention of the air quality impacts resulting from mineral extractions and from off-road vehicle recreation? Both are well recognized sources of increased levels of dust and increased potential for wind erosion.

#### 10. Water Quality

335 Contrary to the conclusion in the summary, new residential, commercial and recreational developments in groundwater dependent areas have the potential to cause significant impacts to water quality. These most groundwater dependent areas are areas where there is not presently agriculture, so impacts of new development would add to the existing impacts. This has not been adequately addressed anywhere in the DEIR or GP including the GP-WE. The assertion that mitigation measures cannot be identified at present because future uses are unknown (DEIR, S-11) seems both misleading and irresponsible. The intended future uses are spelled out in the detailed descriptions of authorized uses in the GP-LUE along with standards for development within each land use category.

The County knows that it has groundwater basins with serious resource constraints because it has been funding studies of groundwater resources for a number of years, including more than 15 years of monitoring of the Ocotillo-Coyote Wells basin by USGS. So why are there no mitigation measures specifically protecting watersheds and recharge areas for groundwater basins and limiting growth by the establishment of minimum lot sizes and included in Objectives 8.11 and 8.12 (GP-C/OSE, p.41)? Clearly the DEIR is not reflective of the "project description" included in the General Plan Update.

#### 11. Geology/soils

336 Based on the proposed uses in the Recreation/Open Space land use category, including extractive operations and intensive recreation uses, there is the potential for severe disturbance to the soil surface which could result in degraded air quality and/or increase erosion by either wind or water. Why are these issues not addressed in the DEIR Summary?

#### 12. Flood Control/Hydrology

337 As is discussed in depth in this response and in the comments on the draft General Plan Update, the Water Element is woefully inadequate in its treatment of groundwater resources. The goals,

objectives, and policies of the Water Element all basically ignore groundwater resources or provide grossly inadequate or out-dated discussion of the groundwater resources upon which a number of unincorporated communities in the County rely.

337 The GP-WE did not discuss the use of reclaimed water facilities "to aid in groundwater recharge" or to "avoid the future need for disruptive pipeline construction activities in "built-out" areas" as described in DEIR, S-13). Is this intended to be a proposal for groundwater dependent areas, or for expanding urbanization into agricultural lands served by Colorado River water? In Imperial County it is the Public Works Department which has engineers. Is the "Engineering Department" separate from the Public Works Department?

#### DEIR ALTERNATIVES TO THE PROPOSED PROJECT ARE INFEASIBLE

##### 1. Increased Agriculture Alternative

338 By designating a "portion of the East Mesa as agriculture" (DEIR, S-14), the preparers have created an infeasible and unrealistic non-alternative. The majority of the East Mesa is under BLM management, including the East Mesa Area of Critical Environmental Concern. The East Mesa ACEC was originally designated in the BLM CDCA Plan in part to manage flat-tailed horned lizard habitat. In its 1983 East Mesa Wildlife Habitat Management Plan, one of BLM's planned actions was the initiation of a "land exchange/acquisition program" for identified private lands. (BLM, EMWHMP, 1983, p.5) The purpose of the land acquisition was to "prevent habitat loss and to prevent possible impacts of pesticide use when inholdings are converted to agricultural use." (BLM, supra, p.5.)

Because the Increased Agriculture Alternative has as one of its main features the expansion onto federal lands for which adopted management plans do not contemplate disposal of lands for conversion to agriculture, the Increased Agriculture Alternative is a non-alternative as described and need not be further evaluated.

##### 2. Increased Development Alternative

339 The Increased Development Alternative is also not a realistic or feasible alternative because it includes mapped areas for increased populations in the Ocotillo/Nomirage community area where there are groundwater resource constraints as to the available water for future growth. To ignore the resource constraints results in drafting an infeasible alternative. It also includes a proposed SPA at Gordon's Well, a plan incompatible with BLM management of the surrounding areas. By designating larger urban areas it would encourage leapfrogged development into the agricultural areas surrounding urban centers. Thus, again, the Increased Development Alternative as presented in the DEIR is a non-alternative.

3. No Project Alternative/1973 General Plan

340 The 1973 Plan is also a non-alternative for the same reasons both of the above alternatives are non-alternatives. Additional reasons for the 1973 Plan to be considered a non-alternative are: (a) it designated large areas of BLM land to the north and west of Ocotillo for residential development; (b) it designates large areas of BLM land for heavy industry in the Plaster City Area; (c) it inappropriately located a large area of agricultural land along the New River north of Seeley for industry; and (d) patterns of development, particularly industrial development have not followed that plan.

Therefore, the DEIR contains neither a reasonable range of alternatives to the proposed project, nor does it contain any reasonable and feasible alternatives. Consequently the DEIR is inadequate for failing to provide meaningful discussion of alternatives as required by CEQA.

DEIR CONTAINS AN INCOMPLETE AND INACCURATE PROJECT DESCRIPTION

341 The project description should contain a brief discussion explaining that the Imperial County General Plan Update only covers development on private or county owned lands and not on state, federal or Indian lands.

342 The DEIR, in its program description, includes a list of the purposes of the General Plan Update. In the preparation of the Draft Program EIR, it should be remembered that the courts have determined that under CEQA review, "environmental values are to be assigned greater weight than the needs of economic growth." (San Francisco Ecology Center v. City and County of San Francisco (1974) 48 C.A.3d 584, 591; 122 C.R. 100.)

EIRs can serve a number of important purposes including forcing agencies "to develop specific information about how projects may adversely affect the environment; they involve the public in environmental decision-making; they require decisionmakers to reveal their "environmental and economic values" so that the public can remember these values come election day" (Remy, 24).

343 ... CEQA Guidelines define "project" to mean "the whole of an action" that may result in either a direct or indirect physical change in the environment. (CEQA Guidelines Sec. 15378, subd.(a).) Each "project" must be fully analyzed in a single environmental review document. Thus, in performing its analysis, an agency generally may not split a project into two or more segments. (Remy, p.47)

CEQA requires: "that environmental considerations do not become submerged by chopping a large project into many little ones -- each with minimal potential impact on the environment -- which cumulatively may have disastrous consequences." (Citizens Association for Sensible Development of Bishop Area v. County of Inyo (1985) 172 C.A. 3d 151, 165-166.)

343 For purposes of impact assessment, a lead agency should define its project broadly to ensure a complete analysis of impacts resulting from future expansion or continuation of the initial aspects or phases of a project. Such impacts resulting from future expansion or continuation of the project is a reasonably foreseeable consequence of the project as initially conceived, and where the actions will change the scope or nature of the initial project or its environmental effects. (Laurel Heights Improvement Association v. Regents of the University of California (1988) 47 C. 3d 376, 395-396) [253 C.R. 426]] Cited in Remy (1993), p. 47).

CEQA Guidelines Sec. 15378 states that:

(a) "Project" means the whole of an action which has the potential for resulting in a physical change in the environment directly or ultimately, and that is any of the following:

(1) Any activity directly undertaken by any public agency including but not limited to ...enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof pursuant to Government Code Sections 65100-65700. (CEQA Guidelines Sec. 15387.)

#### DEFERRING SPA ANALYSIS RESULTS IN INADEQUATE PROJECT DESCRIPTION

344 The proposed General Plan Update Land Use Element (LUE, p. 8-19) in its discussion of "Specific Plan Area" land use category (SPA) discusses eight designated SPA locations which are depicted in the DEIR Fig.4, "Proposed Land Use Plan", p. III-11. DEIR p. III-13 states that:

Land within this category usually has environmental constraints or unique land use concerns or opportunities which require special land use and/or design control. Suitable areas also include lands proposed for large-scale urban development, natural resource protection, historic preservation, or other use requiring more detailed planning than would typically be required by County Zoning or Subdivision Ordinance. (DEIR p. III-13)

Under general discussion of Specific Plans in the General Plan Land Use Element (GP-LUE), it is noted that detailed discussion of



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the land uses in this SPA category will be deferred until some future time with separate approval by the Board of Supervisors. There is a brief description of the proposed uses for each proposed SPA location is provided in the Land Use Element. However, the two paragraph policy discussion included under the "objectives" for implementing each Specific Plan Area suggests the DEIR intent to chop the larger General Plan update project into many smaller ones, an action unacceptable under CEQA. Such a division of the general plan update and proposed actions can result in an agency overlooking the "whole of the action" of the project's cumulative impacts "by separately focusing on isolated parts of the whole." (McQueen v. Board of Directors of the Midpeninsula Regional Open Space District (1988) 202 C.A. 3d 1136, 1144 [249 C.R. 439], cited in Remy, 1993, p. 47.)

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The DEIR Summary for Environmental Issues, environmental impacts of Land Use states:

Because of possible conflicts between proposed Specific Plan Area (SPA) land uses and uses adjacent to the SPAs, a potential for significant adverse land use impacts exists. The SPAs with a potential for significant land use impacts are Mesquite Lake, Interstate 8/State Route 111, Felicity, Glamis, the Holtville Air Strip, Tamarack Canyon Ranch, East Border Crossing, and Bravo Ranch. (DEIR p. S-2)

The above list of "designated" SPAs includes all the SPAs shown on DEIR Fig. 4, Proposed Land Use Plan.

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The policies related to each designated SPA contain language identical to or similar to the following in GP-LUE pp. 12,13,14,15,17,18,19:

The Specific Plan shall include a public facilities financing plan outlining needed capital improvements, feasible financing mechanisms, and timing for their construction. This includes sewer, water, transportation, fire and police protection, parks, and schools.

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The DEIR summary states that: "Because of possible conflicts between proposed Specific Plan Area (SPA) land uses and uses adjacent to the SPAs, a potential for significant adverse land use exists." (DEIR, S-2.) "Requiring site specific environmental studies" (DEIR, III-16) for the proposed/mapped SPAs would result in the piecemealing of the proposed General Plan Update project.

Not only does postponing until some future time the various uses proposed for the specific mapped SPAs constitute piecemealing of environmental review of cumulative impacts, but so, also, does the failure of the DEIR to provide any meaningful discussion of the SPF Mesquite Regional Landfill which is currently undergoing environmental review and which is identified by name in the DEIR (p.III-150), curiously under the section on "Existing Conditions," and shown on the GP-LUE Fig.3, (p.24).

347 By deferring the EIR process as related to the already apparently specifically planned SPAs, the DEIR impermissibly narrows the "project" to exclude those isolated portions of the general plan update project that may have lesser, although still "a potential for significant land use impacts" and thereby overlook the CEQA Guidelines Sec. 15130(b) requirement for discussion of cumulative impacts of the "whole of the action" of the proposed project (General Plan Update) including "past, present, and reasonably anticipated future projects producing related cumulative impacts...".

In County of Inyo v. City of Los Angeles (1977) 71 C.A. 3d 185, 193 (Inyo II) explained that a thorough project description is necessary because:

348 A curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the "no project" alternative) and weigh other alternatives in the balance. (Id. at 193.)

349 By not fully discussing the proposed Specific Plan Areas and the proposed regional landfills mentioned in DEIR p. III-150, the DEIR project description omits information that is essential to an adequate evaluation of project related environmental and cumulative impacts. Further, the project description is inadequate in addition to being incomplete.

350 Additionally, the DEIR fails to explain how preparation of an EIR for a SPF would "mitigate the potential impact below a level of significance" as asserted in DEIR (S-2).

INFORMATION MISSING FROM DEIR RESULTS IN INACCURATE AND INADEQUATE PROJECT DESCRIPTION

Specific information missing from the DEIR includes, but is not limited to the following:

351 Sources of information are missing from almost all maps and figures. Because of this omission, information cannot be verified.

BECAUSE COMMUNITY AREA PLANS AND MAPS AND URBAN AREA PLANS AND MAPS ARE MISSING FROM LAND USE ELEMENT, LAND USE ELEMENT IS INCOMPLETE. RESULT IS INCOMPLETE DEIR PROJECT DESCRIPTION

352 1. GP-LUE states that: "Appendix A contains more detailed descriptions and maps of the 12 Urban Area Plans which are adopted concurrently herewith as a part of this General Plan Land Use Element, and supercede the previously adopted Current land Use Plans." (GP-LUE, p.3.) Similarly, GP-LUE states that: "Appendix A contains a detailed description and maps of these Community Area Plans which are adopted concurrently herewith as part of this Land Use Element, and supercede the previously adopted Current Land Use Plans." (GP-LUE, p.6.) However, no such information is contained in Appendix A as distributed with the draft General Plan Update. Appendix A in the copy received contains only a "list of organizations and persons consulted." There is no other appendix included nor is there any detailed description of either the 12 Urban Area Plans or three Community Area Plans or maps for such included anywhere in the GP-LUE. The omission of the referenced 12 Urban Area Plans and the 3 Community Area Plans and maps also represent an intra-element inconsistency and an area plan inconsistency. Without these missing Area Plans and maps, the General Plan is an incomplete document and presents an incomplete project description for CEQA review.

This is an important omission because the West Shores/Salton City Urban Area Plan encompasses 31,840 acres (GP-LUE, p.6) and the Ocotillo/Nomirage Community Area Plan covers 108,000 acres (GP-LUE, p.7).

PROJECT DESCRIPTION FAILS TO IDENTIFY LANDS NOT SUBJECT TO COUNTY PLANNING AUTHORITY

353 2. Approximately 50% of County lands are largely undeveloped and under federal ownership. (DEIR, III-1.) All maps/figures ignore patterns of land ownership showing federal (including military), state, county, Indian Reservations and private lands. This is crucial because the Imperial County land use planning authorization and jurisdiction extends only to private lands within the County. Public lands managed by the Bureau of Land Management fall under the planning and management responsibility of BLM. This map information is readily available in the form of three large maps called Desert Access Guides (DAGs): Salton Sea (DAG 20), Midway Well (DAG 21), and Imperial Valley South (DAG 22). These DAGs show the pattern of land ownership and leaves the reader with a clear understanding of which lands within Imperial County are subject to BLM planning and management. The County GP should do no less. DAGs are several years old and current patterns of land ownership can be updated at the County Assessors Office.

354 3. Correct locations of lands used for military activities is missing. All figures incorrectly locate military withdrawn lands.

354 They are correctly located on BLM DAGs, consistent with the changes made in the BLM 1985 Plan Amendment. Maps were redrawn following the cooperative agreement between the Navy and BLM that was part of the 1985 Plan Amendment process. Although the BLM California Desert Conservation Area Plan (CDCA Plan) was adopted in 1980, there have been numerous corrections, refinements, and boundary changes for Areas of Critical Environmental Concern (ACEC) to accommodate the BLM management mandates. The preparers of the GP and the DEIR apparently failed to review the numerous plan amendments that affected BLM lands in Imperial County.

355 4. BLM is the manager of the vast majority of land in the East Mesa which includes several Areas of Critical Environmental Concern (ACECs), which are managed for FTHL habitat among other issues. Consequently lands in the East Mesa are not available for large scale expansion of irrigated agriculture. Discussion of BLM policies and land use designations on BLM managed lands are missing from the DEIR.

356 5. BLM ACECs are incorrectly located or of a reduced size and have not been updated to include redrawn boundaries and new ACECs within Imperial County based on BLM Plan Amendments subsequent to the CDCA 1980 Plan. Plan Amendments and maps are available for review at the BLM office in El Centro.

357 6. Missing is any mention of the location of BLM owned lands within the square identified as Felicity SPA. See BLM DAG 21.

358 7. Project description fails to identify the location of the Fort Yuma Indian Reservation which extends from the Colorado River to the border of the proposed Felicity SPA, and which surrounds the communities of Bard and Winterhaven. Likewise Bard is not located on various figures/maps.

359 8. The project description and associated figures ignore the checkerboard pattern of public v. private ownership in the area designated as Hot Mineral Spa/Bombay Beach on the East side of Salton Sea in an area designated for Rural Residential (Land Use Category #6 (LUC #6)). Only about 50 % of the land is privately owned. (See BLM DAG 21)

360 9. Missing are figures that show the extremely small percentage of lands within the Ocotillo/Nomirage Community Area which are privately owned. Estimates are 10 to 20% private ownership in that area, depending on the boundaries. (See BLM DAG 22.) The Ocotillo/Nomirage Community Area Plan 3/10/93 text (without map) supplied by Stepler of the Consultant's firm, indicates 13.9% of the proposed Community Area is in private ownership.

361 10. The West Shores/Salton City Urban Area ignores the Torres Martinez Indian Reservation with its approximately eight Sections checkerboarded with portions of Desert Shores, and west and

361 southwest of Salton Sea Beach, but included as urban area on the proposed County Plan. The Torres Martinez reservation seems to have been ignored both in text and maps. (See BLM DAG 20)

362 11. The project description contains no topographic map of Imperial County as recommended by CEQA Guidelines Sec. 15124 (a).

DEIR CONTAINS AN INADEQUATE DESCRIPTION OF PROJECT ENVIRONMENTAL SETTING

363 To be used as a "reference guide for the preparation of environmental documentation for future projects" (DEIR, I-2) the it should be based on current data, reports, and reflect the current available planning and management information reflecting mandated programs on adjoining federal and state lands. Reliance on an outdated (1985) overview and outdated USGS (1977) study while ignoring current monitoring data is not adequate.

364 Discussion of the proposed General Plan asserts that "included in the General Plan is a Land Use Map" (DEIR II-1). The bound GP circulated for public review contains no such map, nor does it include the title for such a map in the list of figures. Why was the GP submitted for public review without the mandatory Land Use Map? The Draft General Plan is further deficient because all 12 Urban Area Plan descriptions and maps and Community Area descriptions and maps which were to have been included in Appendix A are missing. Consequently the Land Use Element is internally defective and inconsistent.

366 The Housing Element adopted by the Board of Supervisors 10/23/90 (DEIR, II-1) was not accepted by the State and therefore remains as an unapproved backward-looking element, almost obsolete document (with its time frame of 1989-1994). Because it is so outdated, and has not been cross-referenced by other elements it is not likely that a General Plan adopted without an updated Housing Element will be able to meet the state requirements for consistency between the elements and the data that form a framework for the plan

367 The first page of the DEIR project description of the proposed general plan asserts that the Housing Element "is not being amended with this General Plan." (DEIR, II-1). Why then in the same project description of the General Plan does the final sentence state that: "The proposed General Plan Update has reformatted that previously adopted Element"? (DEIR, II-13.)

368 Also critical to the adequacy of the DEIR is the necessity to have a complete and accurate description of the project setting prior to the analysis of impacts or effects of the proposed action.

An EIR must include a description of the environment in the vicinity of the project, from both a local and a regional perspective.

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(c) Where a proposed project is compared with an adopted plan, the analyses shall examine the existing physical conditions and well as the potential future conditions discussed in the plan. (CEQA Guidelines Sec. 15125)

If the impacts analyses are based on inaccurate, incomplete, or out-dated project setting information, the resulting impacts analyses cannot be accurate. CEQA Guidelines discussion following Sec. 15125 emphasizes the importance of an adequate discussion of the existing environmental setting.

Because the concept of a significant effect on the environment focuses on changes in the environment, this section requires an EIR to describe the environmental setting of the project so that the changes can be seen in context. The description of the pre-existing environment also helps reviewers to check the Lead Agency's identification of significant effects. A number of agencies have been required to spend large amounts of public funds to develop regional plans as a way of dealing with large-scale environmental problems involving air and water pollution, solid waste, and transportation.

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Subsection (c) reflects the decision in Environmental Information and Planning Council v. County of El Dorado (1980) 131 C.A. 3d 350, which held that in comparing an old general plan with a new county general plan that would allow less growth than the old plan, the EIR had to address the existing level of actual physical development in the county as the base line for comparison. The two plans could not be compared with each other without showing out how they would relate to the existing level of development. (CEQA Guidelines Sec. 15125, discussion.)

An adequate discussion of existing environmental physical conditions is essential to form the basis of a Program DEIR for the a General Plan as required by courts and by CEQA Guidelines Sec. 15168.

Among the deficiencies in the environmental setting of the project, the proposed General Plan Update, are the following, including but not limited to:

1. DEIR CONTAINS INADEQUATE AND INACCURATE DISCUSSION/MAPPING OF BIOLOGICAL RESOURCES

370

Biological information contained in the DEIR is inadequate and often misleading for the purposes for which it is being used. Erroneous mapping of locations of vegetation resources or habitat

370 types can lead to incorrect assumptions about rainfall and, accordingly, recharge to groundwater basins. Incorrect mapping of sensitive biological resources including areas managed by BLM as habitat for species listed as threatened or endangered or soon to be listed species will result in conflicts with federal management plans and maps and create confusion for members of the public and decision-makers attempting to use the Program EIR in conjunction with future proposed projects.

More accurate figures/maps of biological resources based on studies and federal management plans are required to determine the true impacts of the project on these resources and to form a basis for modifying land uses and locations for various types of development so that such impacts will be eliminated or reduced.

371 Because the DEIR failed to review the various BLM ACEC Management Plans and Wildlife Habitat Management Plans, and the Plan Amendments adopted by BLM since the adoption of the 1980 BLM California Desert Conservation Area Plan (CDCA Plan), and because the persons preparing the maps were unfamiliar with the vegetation of the desert region, there are numerous mapping errors and erroneous assumptions about BLM management policies in its ACECs. In some cases mapping changes will be offered, in others, the preparers of the DEIR are directed to the appropriate BLM documents to make the required corrections.

372 a. Plants and Vegetative habitats

What are the sources of the information used in preparing Fig. 10, DEIR Habitat Map? Reference should be added to table 13 for listing of sensitive species of plants in Imperial County.

373 There are several important mapping errors. DEIR Fig. 10 Habitat Map (DEIR, III-84) and the identical GP C/OSE "Habitat Map" (GP-C/OSE Fig. 1, p.C/OSE-5) indicate a large area of "Pinyon-Juniper & Mixed Chaparral" which covers the entire area for the Jacumba Mts. and Coyote Mts. and extends onto the alluvial fan east of Ocotillo and Coyote Wells to elevations of 300-400 ft. with its approximately 3 inches of rainfall/year. Munz (1974, p. 4) states that pinyon-juniper woodland "occurs commonly at 5000-8000 ft., receives 12-20 inches of precipitation, with some snow." Such a mapping error for the watershed area for the Ocotillo-Coyote Wells groundwater basin suggests a much higher recharge rate than actually exists and would overestimate the groundwater resources available for development in that groundwater basin.

This mapping error is inconsistent with the text (GP-p.6-7 and DEIR, III-88) which states that the "mixed chaparral and pinyon-juniper habitats are restricted to a small area, overlapping area in the extreme southwestern corner of Imperial County, in the Jacumba Mountains adjacent to the San Diego County line." Such an inconsistency between text and diagram violates the consistency requirements of legislative policy expressed in Govt. Code Sec.

373 65300.5 as explained in OPR General Plan Guidelines (OPR, p. 13). Levin (1993) concurs that DEIR, Fig. 10 habitat mapping in SW Imperial county is in error and has provided corrections. (See attached map.)

b. Wildlife

Reference should be made to Table 14 for listing of sensitive wildlife in Imperial County.

374 Why is there such a discrepancy in the numbers of birds species found within Imperial County? DEIR (III-90) indicates 279 species of birds, DEIR (III-120) says over 350 species, GP-C/OSE (p.8) reports 203 species, and the Salton Sea National Wildlife Refuge brochure (1988) includes 371 species o birds. Why shouldn't the DEIR preparers at least try to be consistent when presenting numerical information?

c. Sensitive Species and Habitats

MAP OF SENSITIVE SPECIES AND HABITATS CONTAINS ERRORS

375 There are several mapping errors on Fig. 11 "Sensitive Plants, Wildlife Areas and Unusual Plant Assemblages (DEIR, III-93). GP and DEIR maps locating and naming sensitive plants, wildlife areas, and unusual plant assemblages (GP-C/OSE, Fig 2, C/OSE p. 10) and (DEIR, Fig 11, III-93) correctly locate one stand of crucifixion thorns, but fails to locate the two larger stands of crucifixion thorns in SW Imperial County, one in the Yuha desert and the other in Skull Valley. (See attached map.)

376 In addition to the areas along the Colorado River designated as Unusual Plant Assemblages of Mesquite Hummocks, there are a large number of mesquite hummocks near the San Sebasitan Marsh/San Felipe Creek ACEC, in Pinto Wash, and a number of large mesquite hummocks in the Yuha Badlands. These additional areas of mesquite hummocks represent important wildlife habitat in the areas where they occur.

377 In addition to any California fan palms which may occur at sites around the Salton Sea (DEIR, III-87), there are several palm oases in Pinto Canyon and Mountain Springs, in the Jacumba Mountains Natural Outstanding Area (Harmon, 1993) and probably in other desert mountain canyons as well. Such palm oases in the mountain canyons represent relict flora. Rather than being a dominant species in desert succulent shrub in Imperial County, the presence of saguaro is extremely localized in the eastern mountain areas near the Colorado River (Levin, 1993).

378 Levin (1993) also noted that on DEIR Fig.11 and GP-C/OSE Fig.2, Orocopia Sage, a sensitive plant species, is incorrectly located near the eastern shore of the Salton Sea, when in reality it exists in a canyon near Shepherder's Canyon in the Chocolate Mts. Both Levin and the text in Munz (1974, p.538) indicate both Fig. 11 and the listed locale in Table 13 are in error. The locale



378 miscopied information from Munz, which lists the Orocopia Mts in Riverside County and makes no reference to a Orocopia canyon in the Chocolate Mts.

379 Levin (1993) further commented that the mapping of biological resources includes not only current data but also historical data. He noted that there should be a clear differentiation of current information for planning purposes. For example, when DEIR Fig.5 (showing existing agricultural lands) is compared with Fig. 11 (depicting ranges of sensitive species) it will be obvious that there are some mapping errors. These errors are best shown on DEIR Fig. 15 "biological Sensitivity Map". A review of BLM's Habitat Management Plans for the Yuha Basin ACEC and East Mesa ACEC should be convincing that flat-tailed horned lizards are not to be found in the midst of cultivated agricultural lands as is shown on either side of the areas of irrigated agriculture.

380 These maps of wildlife areas ignore the location of the BLM "Chuckwalla Desert Tortoise Habitat Management Plan" map which includes the area east of the Southern Pacific railroad to the east of the dunes to the eastern boundary of the BLM California Desert Conservation Area (CDCA) and south to the All American Canal, and N to an area east of Calipatria between the railroad and the gunnery range. (See attached map.)

#### Amphibians and Reptiles

381 Why isn't the desert tortoise, which is already listed as threatened by both USFWS and CDFG, given as much discussion as the Flat-tailed horned lizard which is not yet listed?

382 The discussion of flat tailed horned lizard declines in GP-C/OSE (p.11) lists impacts in addition to those listed in the DEIR and more accurately reflects information in BLM ACEC management plans. Those additional impacts listed in the GP-OSE include habitat modification and destruction from recreational developments, "such as off-highway vehicle activity, geothermal development, gold mining, construction of roads and power transmission lines, sand and gravel extraction, pesticide spraying, and habitat fragmentation." (GP-C/OSE, p.11.)

#### Mammals

383 All species of bats listed as Category 2 candidates for federal listing (GP-C/OSE, p. 12 and DEIR, III-108) are entirely insectivorous, with two species feeding only on insects in flight. (Barbour and Davis, 1969, p. 30, 161, 168, 222-223.) The sensitivity of bats to pesticides has been well documented in numerous publications in recent decades. Because bats forage in the evening, throughout the night and dawn hours, they are particularly vulnerable in Imperial County because of the night time aerial application of agricultural chemicals. Consequently, although agricultural areas may be considered as providing foraging habitat for bats, the nighttime application of agricultural

383 chemicals represent a major threat to any bats feeding in the vicinity. Indeed, there was earlier a documented incident of a bat die-off in Imperial County, apparently related to the spraying of agricultural chemicals during the summer of 1976. (Harmon, 1993.)

384 It is recommended that the DEIR prepare a set of maps (similar to those for DEIR Figs. 12,13) depicting the historic and present ranges of the desert tortoise for which a habitat management plan is currently being prepared by BLM. Additional information on the biology of the desert tortoise and conditions that have led to its decline are noted by Steinhart (1990, p.89). A map of the Chuckwalla desert tortoise habitat management area proposed by BLM and discussed at its January 1993 scoping meetings is included.

385 On Fig.12, it should be noted that the Algodones Dunes are not mountains as indicated by the map legend.

386 d. RESOURCE AREAS MAP INCORRECTLY LOCATES MANY RESOURCE AREAS  
The discussion of the Resource areas is too vague to be of value in determining the potential impacts of the proposed changes in land use designations. Particularly important is the failure of the DEIR to provide any meaningful detail for any of the BLM ACECs, most of which have site specific plans which discuss the existing conditions within the ACEC.

387 Because of mapping errors or unexplained differences between the locations of resources on the map and the physical location of the resource on the ground, it appears that resource documents relied on were out-dated, information was incorrectly transferred from one map to another, or both. The numerous BLM Plan Amendments since 1980 must be carefully reviewed for changes in ACEC boundaries and addition of new ACECs in addition to changes in BLM management policies such as the agricultural policy.

388 Fig.14 (DEIR, III-15) fails to identify the source or sources of information used in its preparation. There are errors based, in part, on the failure to consult BLM Plan Amendments. DEIR Fig. 14 fails to locate the following ACECs: Imperial Dunes ACEC, Pilot Knob ACEC, West Mesa ACEC, and Coyote mt. ACEC. Of special reference are the BLM EA (1989) to expand the Coyote Mt. ACEC (decision pending); and the already adopted Plan Amendments including BLM ROD (1978) to expand the boundaries of the Yuha Basin ACEC to its present size of 64,462 acres; BLM ROD (1987) to change boundaries of Gold Basin/Rand Intaglios ACEC; and BLM ROD (1988) creation of new West Mesa ACEC north of Navy withdrawn lands. These documents are all available for public review at the BLM El Centro Resource Area office.

389 Also missing from the Resource Area map is any designation for the Chuckwalla desert tortoise habitat management area proposal under current preparation by BLM.

390 The three "Imperial Wildlife Areas" do not match the boundaries or locations designated for such on BLM DAG 20.

391 These mapping errors are important because they will define a broader range of conflicts between the proposed General Plan Update land use designations and their permitted uses and the adopted management Plans for the adjoining or surrounding BLM ACECs and Wildlife Habitat Management areas. The expansion of the Yuha Basin ACEC and the potential listing of the Category 1 species for which this is optimal habitat "would have a profound impact on future development proposals within or adjacent to" (DEIR, III-107) this ACEC. The expansion of the ACEC boundaries means that more than four square miles of private lands are now surrounded by or adjacent to the Yuha Basin ACEC.

392 The DEIR failure to discuss the BLM ACECs in any meaningful way results in the inadequate discussion of the existing conditions for the environmental setting adjacent to and surrounding scores of square miles of private inholdings within or adjacent to these ACECs. Different ACECs have different management mandates depending on the reasons for each ACEC designation. The BLM COCA Plan (1980 at p. 124) also has requirements for monitoring the conditions of the ACECs, and BLM's concerns about the uses on these inholdings was addressed in the 1980 Plan and in ACEC and Wildlife Habitat Management Plans such as the East Mesa WHMP (1983, p.5).

e. Plans/Policies

Imperial County General Plan

393 DEIR (III-121) states that the 1973 Plan preservation designation has been deleted from 611,514 acres and redesignated as Recreation/Open Space. However, the DEIR fails to address how much of that land is privately owned and how much of that land is located adjacent to or surrounded by BLM ACECs. The Recreation/Open Space land use designation (GP-LUE, p.45-46) would authorize agricultural uses and intensive commercial recreation/high density residential uses on parcels over 160 acres with a Specific Plan. Such uses as noted earlier would be incompatible with BLM management plans and policies for the ACECs.

394 The DEIR fails to adequately discuss the inconsistencies between the proposed general plan update land use designations (their development standards and authorized uses) and the existing adopted BLM plans as required by CEQA Guidelines Sec. 15125(b).

395 Although DEIR III-122 asserts that "a significant portion of this acreage would be dedicated to the preservation of natural resources", there was no text or maps in either the DEIR or GP to indicate just where this acreage dedicated to preservation of natural resources might be located. Nowhere in any element of the GP were there even any maps of the watersheds for groundwater basins upon which some communities rely!

The DEIR lists the uses which are planned for this expanded area designated as Recreation/Open Space by noting that: Recreational land uses within this category are limited to recreational vehicle parks and uses which consist primarily of outdoor facilities such as parks, athletic fields, golf courses, swim and tennis clubs and off-road vehicle use areas. Light to medium agricultural uses, including row and field crops, orchards, aquaculture, grazing and apiaries, are also permitted in this category. (DEIR, III-122.)

396 Thus is provided a laundry list of uses which are clearly incompatible with BLM mandates with respect to the ACECs. Furthermore, to assert that "residential development is allowed at a maximum density of one single-family dwelling per 20 acres" (DEIR, III-122) is misleading, because GP-LUE (p.45-46) describes the higher densities of use permissible with a Specific Plan on parcels of 160 acres or larger. Indeed, where is there an RV park with just one family per 20 acres?

The DEIR again makes the same flawed analysis as in the earlier discussion of land uses by comparing potential impacts of development under the proposed plan with the impacts at build-out under the 1973 Plan. The fundamentally flawed analysis is clear from the following statement that:

397 Because a significantly larger amount of open space is designated by the proposed Plan, however, there is greater potential to preserve more acreage of biological sensitivity in Imperial County than was available with the previous Plan. (DEIR, III-122.)

This statement is quite preposterous, given the much higher intensity and density of uses authorized under the proposed plan as described in the GP, particularly in areas surrounded by or adjacent to ACECs. The old plan must be evaluated for its internal consistency between maps and text. The imprecise language in the GP provides for little or no protection in sensitive areas. Nor could any language to establish wildlife corridors be found.

398 The DEIR (III-122) states that "the proposed Plan will allow the County and appropriate resource agencies to exert greater land use controls over future projects in the "Recreation/Open Space " land use category for the purpose of protecting biological resources." How can this possibly be when the GP and DEIR clearly authorize agricultural uses within this land use designation? Where is the text, goals, objectives, and implementation policies and programs to support the assertion that biological resources will receive greater protection by deleting the 1973 "preservation" designation and replacing it with the Recreation/Open Space designation.?

399 Where specifically in the GP-C/OSE were "the various RCAs" identified and described? The language of the GP-C/OSE under "implementation programs, begins by stating "Identify Resource

399 Areas to conserve and enhance native vegetation and wildlife." (GP-C/OSE, p.43.) That language belies the DEIR suggestion that any RCAs contemplated under the implementation program are identified and/or described in the GP-C/OSE. Further, RCA is not a term used in the GP-C/OSE.

400 The objective in doing an environmental impacts analysis for the general plan update is to examine the potential impacts on the environment as it exists at present. (Environmental Planning and Information Council v. County of El Dorado (1982) 131 C.A. 3d 350, 354; 182 C.R. 317.) The DEIR has failed to do this. How will this error be corrected?

401 California Desert Conservation Area Plan  
The DEIR discussion of the importance of the CDCA Plan and BLM's management of ACECs, Wildlife Habitat Management Areas and Wilderness Study Areas and the relationship of BLM's management mandates to vast acreages within Imperial County is inadequate. It fails to address the issue of potential incompatible uses within the County Recreation/Open Space designation and the BLM ACECs, and the BLM action programs for acquisition of private lands within certain ACECs in order to prevent incompatible uses of private inholdings.

Under discussion of various management plans should be included the on-going preparation of the desert tortoise habitat management plan (BLM 1/93 scoping meeting), and the USFWS designation of Critical Habitat for the endangered desert pupfish (BLM SSM/SFC, 1986, p.5).

#### DEIR DEFICIENCIES IN DISCUSSION OF LAND USE ELEMENT INCLUDING LAND DISTRIBUTION/PATTERNS OF PUBLIC/PRIVATE OWNERSHIP

402 Patterns of federal, state, county, Indian and private lands must be accurately identified on maps along with descriptions of the land uses existing or proposed for those different jurisdictions. The Wildlife Management Plans, Habitat Management Plans, Areas of Critical Environmental Concern, and Recreation Area Management Plans already adopted by BLM in addition to those Habitat Management Plans in the process of preparation should be discussed where they apply to lands adjacent to or surrounding private lands under County planning jurisdiction to ensure compatible adjoining land uses within different jurisdictions. DEIR fails to provide meaningful discussion of existing impacts on the threatened desert tortoise for which BLM is currently preparing a Habitat Management Plan. A list of the various applicable BLM management plans (available for review in the BLM El Centro Resource Area Office) is appended.

3 DEIR Table 1 "Land Use Distribution" is based on out-dated 1985 information which will inevitably be inconsistent with the

403 Table 2 Imperial County Population and Housing (1990)" for both incorporated and some of the unincorporated communities. The reliance on such out-dated information cannot provide an adequate framework for discussion of the "existing physical conditions" required by CEQA Guidelines Sec. 15125 (c).

404 Were the provisions that there be no conversion of land from agricultural uses (with certain exceptions) for a five year period based on "documented health, safety, and general welfare provisions" as per Govt. Code Sec. 65858? The criteria should be explained.

405 The uses described for the industrial land use designation do not accurately reflect those in the GP-LUE (p.45) which may permit hazardous waste treatment and incineration among other waste treatment and storage uses at the Plaster City site. Was this intentional?

406 The GP-LUE Recreation/Open Space authorized agriculture based on the erroneous assumption that because areas in the East and West Mesas and Pilot Knob contain soils suitable for agriculture (DEIR, p. II-8), therefore the federal government would abandon its adopted management policies and adopted management plans and dispose of federal lands for agriculture. Such is not the case.

The GP-LUE (p.45) and DEIR II-8 justification for permitting agricultural uses within the Recreation/Open Space category, referencing the BLM's East Mesa and West Mesa, is without merit and conflicts with established BLM management plans and policies and with adopted BLM Plan Amendment related to prohibition of disposal of lands for irrigated agriculture (BLM, 1985; ROD, 1/87).

407 BLM wildlife Habitat Management Plan for the East Mesa (1983) calls for "maintaining and enhancing wildlife habitat and populations of species of special management concern" including the flat-tailed horned lizard, Yuma clapper rail, and California black rail.

The 1985 BLM Plan amendment #2 (Record of Decision (ROD) 1/87, p. 6-7) extended the prohibition of agriculture (other than livestock grazing) to all BLM lands in the California Desert except on unclassified lands. The amendment states:

408 . . . . The Federal Land Policy and management Act of 1976 (FLPMA) sets forth the principle that public lands are to be retained in public ownership and managed for the public good. . . .

The Desert Plan, in its zoning system, intended that retention lands which were in multiple use classes would be maintained in essential wildland character, except as authorized under specific lease, permit or grant. Agricultural use is not generally one of those kinds of authorized uses. Further, agricultural use contemplates

408 disposal of land from Federal ownership.  
There are no unclassified lands in ACECs (Watkins, 1993), consequently no federal lands are available for agriculture in the East Mesa.

409 Further, the BLM has included proposed management actions for the acquisition of private lands within the ACEC to afford better FTHL habitat management. Among BLM's East Mesa Wildlife Habitat Management Plan (1983) management "planned actions" is a "land exchange/acquisition program" which states that: "Land exchange is necessary to prevent habitat loss and to prevent possible impacts of pesticide use when inholdings are converted to agricultural use." (East Mesa WHMP, 1983, p. 5.)

410 Consequently, the DEIR (p.II-8) and GP-C/OSE (p.28) assertion that the lands "suitable for cultivation" in the East Mesa and West Mesa (also FTHL habitat) represent "potential irrigable lands [which] present a valuable future resource which should be protected" for potential future agriculture. The related GP-AE Objective 1.9 and GP-AE Objective 1.12 supporting conversion of state and federal lands to irrigated agriculture are all incompatible with the pattern of federal ownership and BLM's proposed management actions for acquisition of private inholdings to manage for FTHL habitat.

411 Based on BLM DAGs #20 and #22, almost the entire East Mesa area E/SE of Calipatria to the Mexican border is under BLM management, with much of it being included in the East Mesa ACEC managed in part for protection of critical wildlife habitat-for the flat-tailed horned lizard and cultural resources. Because of BLM's adopted policies and management plans, neither the East Mesa, including the East Mesa ACEC, nor the West Mesa, including the West Mesa ACEC are available for irrigated agriculture. Therefore the justification for permitting agriculture within the Recreation/Open Space GP-LUE (p.45) is inconsistent with and incompatible with BLM management responsibilities and should be deleted from the authorized uses in the Recreation/Open Space land use category to minimize expectations and minimize land use incompatibility with the federal lands.

It may be true that: "Some areas designated Recreation/Open Space contain soils suitable for agriculture, such as the East Mesa and West Mesa and Pilot Knob Units of Imperial Irrigation District, which are predominantly owned by the Bureau of Land Management and not improved for agricultural cropland." (DEIR, II-8.) It may also be true that: "Other areas are suitable for aquaculture" (DEIR, II-8). However, because the preparers of the GP failed to review the relevant BLM Plan Amendments and/or to consult the BLM Habitat Management Plans, leads to an erroneous conclusion that: "Agricultural uses are, therefore, permitted in the Recreation/Open Space category as long as they do not conflict with Bureau of Land Management "Areas of Critical Environmental Concern" (DEIR, II-8.).

411 This policy would not be justified or supportable, because federal lands are not available for development of irrigated agriculture and many are planned for acquisition. Such inclusion of agriculture as a permitted use in the Recreation/Open Space category could lead to unwarranted expectations by the public.

412 The Statement that "residential development will be limited to one dwelling unit per twenty acres unless further defined by a Specific Plan" (DEIR, II-8) is misleading because it fails to discuss the much higher densities contemplated on large parcels. Furthermore residential standards authorizing "greater densities" which "may be permitted by Specific Plan encompassing at least 160 acres for appropriate recreation oriented residential development" (GP-LUE, p.46) is inconsistent with the stated minimum lot size of 1 single family dwelling per 20 acres and ignores any references to the groundwater resource constraints related to watershed and recharge area protection, potential groundwater contamination resulting from waste or holding tank disposal, and/or compatibility with federal management criteria for habitat protection for sensitive and listed species, particularly in the vicinity of an ACEC.

413 Re Agricultural Land Use Standards (GP-LUE, p.46), agriculture should be limited to those areas already designated for agriculture in the Agriculture land use category. Because agriculture and its associated groundwater usage is not compatible with BLM management for sensitive and listed wildlife species, agriculture should not be permitted within the Recreation/Open Space land use category. The DEIR Fig.4 does indicate an isolated agricultural operation to the west of the San Sebastian Marsh/San Felipe Creek area, so any other existing agricultural operations should also be so designated on the Proposed Land Use Plan. Groundwater based commercial agricultural operations should be prohibited throughout the Recreation/Open Space land use category, including on private lands within or adjacent to BLM ACECs. Since BLM already prohibits agriculture on BLM lands including lands in ACECs, there is no need to specifically prohibit those activities on federal lands over which the County has no planning authority. However, such a prohibition should apply to private lands adjacent to or surrounded by BLM ACECs. However, this is also assumed with the recommended prohibition of commercial agriculture in the Recreation/Open Space category.

414 The above discussion related to adopted federal management criteria indicates that the preparers of the General Plan Update and DEIR either were ignorant of existing adopted federal policies and plan amendments or, in the alternative, those federal management policies were ignored by the preparers in violation of Govt. Code Secs. 65103(e)(f), 65351 and 65352 which require "local governments to work not only with citizens, but also with other governmental agencies and public utility companies in preparing and implementing their general plans. (OPR, 67.)



415 The imprecise use of language under discussion of Agricultural Land Use Standards in the Recreation/Open Space land use category (GP-LUE, p.46) prohibiting agriculture "in areas designated by BLM as "Areas of Critical Environmental Concern"" is meaningless because BLM already prohibits agriculture in its ACECs. BLM management authority extends only to federal lands and does not apply to the private lands adjacent to or surrounded by (inholdings) BLM ACECs. To be compatible with BLM adopted management policies, the County should prohibit agriculture on private lands adjacent to or surrounded by BLM ACECs and the language used must be more precise to exclude any possible misinterpretations. Additionally, the County General Plan Update must correctly draw the ACEC boundaries to reflect BLM plan amendments. Only then will the Recreation/Open Space text have any meaning.

416 GP-LUE p.45-46 discussion of intensive commercial recreation uses which could be permitted on privately owned parcels larger than 160 acres fails to mention that such uses would be incompatible with BLM management policies and actions related to wildlife habitat management plans. This is particularly germane to ACECs with habitat management for sensitive wildlife species including those already listed as endangered or threatened or those for which listing is anticipated as a result of the 12/92 settlement agreement in The Fund for Animals v. Lujan. Also of concern related to commercial recreation are potential off-site impacts on cultural resources in ACECs.

417 The need for compatibility of County authorized uses on private lands should be addressed in GP-LUE land use categories since it is recognized in the GP-C/OSE discussion of Open Space. GP-C/OSE (p.25) states that: "The County has no regulatory authority over these lands [BLM lands], and if controlled recreational use is permitted, it will be subject to the management procedures imposed by the Bureau of Land Management." To avoid possible conflicting land uses which have the potential for significant off-site impacts on federal lands and to avoid unwarranted development expectations of private landowners, the DEIR for the General Plan Update must more carefully consider what uses will be compatible with BLM adopted mandates, be more precise in its choice of language related to prohibitions, and more accurately map resource constraints and map patterns of landownership.

418 BLM plans call for land exchange and acquisition of private inholdings to prevent possible impacts of pesticide use when private lands are converted to agriculture. (BLM, EMWHMP, 1983, p.5) By contrast, the County General Plan Update and the DEIR (II-8) anticipate just the opposite action on the part of the federal government. By failing to review all the applicable BLM management Plans and plan amendments, including the agricultural conversion

418 prohibition (BLM, ROD, 1987) the County has proposed a land use designation which is incompatible with the federal management policies throughout much of the desert.

419 The discussion of residential development standard permitting 1 dwelling unit per 20 acres (DEIR, II-8) is misleading. The GP-LUE (p.46) text would authorize high density intensive recreational residential development on parcels of 160 acres or larger, with structures confined to not more than 50% of the lot.

The Recreation/Open Space Residential Development Standards (GP-LUE, p.46) contains an internal contradiction that would allow for the intensive urban type of use which would result in what would otherwise be considered premature or improper conversion of open space that the GP-C/OSE seeks to avoid. The low density residential use of a small parcel but high density residential development of parcels 160 acres or larger presents a profound inconsistency when one recalls that the Urban Area Plan for the "city" of Winterhaven covers only seventy (70) acres (GP-LUE, p.6) and one notes that the vast majority of private lands included in the Recreation/Open Space land use Category are isolated sections scattered throughout publicly owned lands managed by BLM. There is no map showing the land use categories for the Proposed Land Use Plan in the Draft General Plan Update, however, the DEIR does include such a map as Fig. 4 (DEIR, p.III-11).

420 If Winterhaven with its 70 acres of private lands is to be considered an Urban Area, why wouldn't the intensive, high density recreational vehicle park and mobile home parks anticipated by the discussion of the Recreation/Open Space land uses and residential development standards allow for the developers' anticipated hopscotch recreation/urban areas with minimum 80 acres size throughout the desert? Surely this is the logical interpretation of development potential if 50% of the 160 acre minimum parcel size for intensive residential recreation use is contemplated with a Specific Plan! Clearly the Residential development standards of the Recreation/Open Space land use category (GP-LUE, p.46) are inconsistent with the discussion of the Recreation/Open Space lands as being "characterized by a low intensity of human utilization" DEIR (p. II-8) and its mapped location on Fig.4 of the DEIR and incompatible with adopted BLM management plans and policies for the surrounding public lands.

421 The DEIR notes that land within the Specific Plan Area (SPA) designation "usually has environmental constraints" and that: "Suitable areas also include lands proposed for large-scale urban development, natural resource protection, historic preservation,..." (DEIR, II-9, emphasis added.) Where are the lands that are proposed for natural resource protection or historic preservation? How can such lands meet four of the five criteria listed on GP-LUE, p.9 for approval?

DEIR PROJECT DESCRIPTION OF THE HOUSING ELEMENT IS INADEQUATE AND MISLEADING: 10/90 HOUSING ELEMENT WAS NOT ADOPTED BY STATE

422 It seems that the County can't decide what to do about the Housing Element with its 1989-1994 time frame. On DEIR p.II-13 it is suggested that the Housing Element was to have been included, and indeed, it was in a December 1992 draft.

423 Missing from the DEIR is information about the existing populations and available housing units in the unincorporated communities of Palo Verde, Bombay Beach, Hot Mineral Spa, Salton Sea Beach, Desert Shores. There is no discussion of the "noticeable increase in population during winter months" (DEIR, III-3) cited for these communities and the Ocotillo/Nomirage area. The result is the DEIR never provides discussion of the impacts resulting from seasonal and very substantial changes in population on the environment or on the various components of infrastructure.

DEIR PROJECT DESCRIPTION OF WATER ELEMENT INCLUDING GROUNDWATER RESOURCES IS INADEQUATE

424 1. Although the Water Element provides much information about Imperial Irrigation District (IID) and its operations and current programs, it is deficient in all other respects. The GP-WE summary and indeed, the GP-WE itself are woefully inadequate and basically useless in its discussion of groundwater resources, recharge areas, or even any water districts other than IID. Furthermore, the goals, objectives, and implementation policies and programs are often not consistent with those in the GP-C/OSE and/or fail to address issues, including water related objectives, discussed in other elements. Serious consideration should be given to deleting this element and incorporating relevant portions in the GP-C/OSE and GP-AE. The GP-WE relies on out-dated information, provides no maps locating aspects of the water transport infrastructure or groundwater basins and their recharge areas.

425 2. The communities of Palo Verde, Bombay Beach, Hot Mineral Spa, Salton City/West Shores area, Ocotillo/Nomirage area, Bard and Winterhaven depend on groundwater for domestic purposes. Without information about the existing communities and the present demands on groundwater resources, and the seasonal fluctuations in those demands, it is not possible to adequately discuss resource constraints and/or environmental impacts or effects resulting from the proposed project.

426 3. Because the communities on both sides of the Salton Sea depend on groundwater pumped from deep wells in Riverside County, the project setting must include the existing conditions of that groundwater resource so the impacts of projected growth in these communities can be addressed in relation to impacts on the groundwater basin in Riverside County and compatibility of the

426 proposed General Plan Update with the Riverside County Comprehensive General Plan and potential groundwater resource constraints.

427 4. Groundwater resources associated with seepage from the Colorado River for communities located in close proximity to the Colorado River are not adequately addressed, nor are the potential problems of leachate contamination from septic systems during periods of high water table.

428 5. Discussion of groundwater resources in the Ocotillo-Coyote Wells Basin which supplies the U.S. Gypsum Corp., communities of Ocotillo and Nomirage and other scattered private parcels in SW Imperial County is based on out-dated information. Groundwater resource constraints should be based in part on the underlying geological formations and on information gained from semi-annual monitoring of water levels and water quality by USGS, the agency which did the original study. Current information is needed to modify land uses and locations and density of development to reduce or eliminate the threats of groundwater contamination resulting from continued concentration of pumping in areas with large cones of depression. (Refer to earlier discussion.)

429 6. For all groundwater basins with existing and/or proposed development, maps of watersheds and locations of other wells, particularly those wells serving other than individual residences should be identified together with discussion of the locations and extent of existing cones of depression and well interference, locations of known poor quality groundwater and changing water quality in monitoring wells. The complete and accurate description of the existing groundwater issues facing each groundwater dependent community will vary with geographic setting, but a more detailed description of the existing "pre-existing environment" must form the basis for land use planning decisions based on the carrying capacities of each groundwater resource.

430 7. DEIR Fig. 14 Resources Areas (p. III-115) shows San Sebastian Marsh/San Felipe ACEC and San Sebastian Marsh SNA and Fig. 10 Habitat Map (III-85 indicate as sensitive desert Riparian downgradient and to the east of areas shown on Fig. 4 (proposed Land Use Plan) designated for agriculture and recreation/open space which would authorize agriculture or intensive commercial recreational uses. DEIR provides inadequate discussion of how the proposed use designations could avoid exacerbating the existing and potential impacts of declining water levels and chemical use on riparian habitat vegetation and habitat for the desert pupfish. DEIR also fails to mention that all projects potentially impacting water in San Felipe Creek need to comply with the ESA because of the presence of the endangered desert pupfish and its Critical Habitat (Watkins, 1993).

431 8. DEIR fails to include any discussion of water resources for

431 the designated Felicity Specific Plan Area, the proposed site for development of a new community immediately adjacent to the Fort Yuma Indian Reservation in SE Imperial County. DEIR should include discussion about existing groundwater usage in the area, the extent of the watershed and any other existing usage from the basin, i.e. mining or agriculture, other communities. Discussion of water quality and any potential resource constraints presently known is needed.

ADDITIONAL INADEQUATE DEIR DISCUSSION OF PROJECT DESCRIPTION

432 1. The DEIR project description does not adequately discuss the infrastructure components of the Circulation and Scenic Highways Element (GP-CE), because the GP-CE failed to include discussion of all mandatory infrastructure components. The GP/CE failed to discuss air and railroad transportation, and other infrastructure components such as pipelines for liquid petroleum and natural gas, sewage systems, drainage systems, communications, electrical generating facilities and transmission corridors, bicycle routes, etc.. Inadequacies of the GP-CE are discussed in a separate response to the draft General Plan Update.

433 2. Discussion of the existing school facilities and carrying capacity of schools in Calexico is inadequate. Without discussion of existing conditions, there can be and, indeed, was no discussion of impacts on the Calexico Unified School district as a result of the proposed General Plan Update which would result in potentially significant growth in the school age population. The absence of an approved Housing Element poses serious problems related to this aspect of planning.

434 3. Discussion of health care services is inadequate in light of recent problems and loss of Medicare funding for and possible closure of the Calexico Hospital. DEIR contains no discussion of health care services provided by the Clinicas Salud De Pueblo for low income members of the community in Brawley and Calexico. Nor does it discuss the reliance of many Imperial County residents on medical services offered by providers in San Diego County, Mexicali, and Yuma.

435 4. The DEIR should have noted that Noise Element GP-NE failed to provide the required noise contours of existing noise sources as required by Govt, Code, and failed to mention sources of noise generating activities such as resource extraction.

436 5. The DEIR project description of the Seismic and Public Safety Element (GP-S/PSE) discussion of this element is too brief to tell much about this element of the proposed Element in the proposed project, the General Plan Update.

437 6. DEIR also failed to include much information in its project description of the Agriculture Element (GP-AE). However

437 inadequacies of the DEIR project description for this element are similar to the discussion of the GP-LUE related to agricultural uses.

438 7. The DEIR project description of the Conservation/Open Space Element (GP-C/OSE) is so superficial as to be inadequate as a component of the proposed project, General Plan Update.

439 8. The summary of the Geothermal and Transmission Element (GP-GE) provides no useful information relevant to the DEIR's proposed project description.

440 9. DEIR contains inadequate discussion of the regional air quality situation at present. Regional air quality environment should of necessity include the situation in the city of Mexicali immediately across the international border. Existing air quality conditions that should be addressed include but are not limited to the following: transportation impacts, fugitive dust from unpaved roads and plowed fields, fugitive dust from off-highway vehicular recreation, agricultural burning, aerial spraying of agricultural chemicals, industrial uses, manufacturing and power generation, fugitive dust and chemicals associated with cyanide heap-leach mining, fugitive dust associated with sand and gravel and other mining operations, volatile from fuel and chemical storage areas, feedlots, military operations, inversions, high winds, low rainfall, and urban impacts from Mexicali and other urban areas at greater distance.

441 10. DEIR fails to provide meaningful discussion of existing impacts on the threatened desert tortoise for which BLM is currently preparing a Habitat Management Plan.

442 11. DEIR discussion problems related to wind and water erosion of fragile desert soils is inadequate and inconsistent, particularly with reference to impacts related to ORV use and mining activities.

443 12. DEIR fails to include a discussion of the existing setting in addition to failing to do an environmental assessment of the existing impacts created by mining and sand and gravel operations on air quality, surface and groundwater impacts because the off-site impacts may have secondary impacts on regional air quality and groundwater quality/quantity which affect the groundwater resource.

444 13. DEIR discussion is inadequate with respect to existing and future impacts of ORV activity on air quality, noise, water quality, rainwater run-off and infiltration. The impacts on public or private lands may result from increased development related to activities on private lands in the Recreation/Open Space designation.

445 14. DEIR fails to explain where in the County such mitigation measures such as clearing of vegetation for fire control and "fire

445 buffer clearing" are being used and what "understory cover" requires special protection. (re DEIR, III-132.) This reference suggests a misunderstanding of the local environmental setting.

446 15. Without additional detailed and current information about the regional and existing environment it is not possible to adequately determine the extent of the project impacts. Indeed, A good faith effort to comply with a statute resulting in the production of information is not the same, however, as an absolute failure to comply resulting in the omission of relevant information. [emphasis in original] (Rural Landowners Assn. v. City Council (1983) 143 C.A. 3d 1013, 1022 [192 C.R. 325].) (Mountain Lion Coalition v. Fish and Game (1989) 214 C.A. 3d 1043, 1052; 263 C.R. 104.)

#### DEIR FAILS TO ADEQUATELY ANALYZE AREAS OF CONTROVERSY RELATED TO GENERAL PLAN UPDATE IMPACTS

CEQA Guidelines Sec. 15151 states that: "An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of the environmental consequences." The EIRs must be "organized and written in such a manner that they will be meaningful and useful to decisionmakers and to the public." (Pub. Res. Sec. 21003 (b).) To be legally sufficient an EIR must be adequate, complete, and represent "a good faith effort at full disclosure. Analysis of the environmental effects need not be exhaustive, but will be judged in light of what was reasonably feasible." (Remy, 180)

447 Although disagreement among experts does not render an EIR inadequate, the report should summarize the main points of disagreement. [CEQA Guidelines Sec. 15151] The absence of information in an EIR, or the failure to reflect disagreement among the experts, does not per se constitute a prejudicial abuse of discretion. (Pub. res. Sec. 21005.) A prejudicial abuse of discretion occurs if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process. (Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 C. 3d 376, 403-405; 253 C.R. 426.) (Kings County Farm Bureau v. City of Hanford (1990) 221 C.A. 3d 692, 712; 270 C.R. 650.)

In discussing what constitutes an adequate EIR, Remy observed that the Kings County Farm Bureau Court addresses the following important issues:

the need to support with rigorous analysis and concrete substantial evidence the conclusion that impacts will be

insignificant; the requirement to analyze both "on-site" and "secondary" air pollution emissions in assessing the overall significance of air quality impacts; the proper method by which to assess cumulative impacts in context of an already degraded environment; the proper geographic scope of cumulative impact analysis; the requirement to provide comparative quantitative analysis in assessing the environmental merits and feasibility of project alternatives; and the fact that analysis of alternatives should not be unduly narrowed by investments made by applicants prior to the commencement of environmental review. (Remy, 181)

447 The missing information and inadequate discussions of the project environmental setting gives a DEIR which could not provide an adequate discussion of impacts not an adequate analysis of information based on evidence. Accordingly, many conclusions that the impacts of the proposed project/general plan update will be insignificant are without foundation. Although the DEIR contains much information and many tables, much of it is unrelated or irrelevant to the missing information and accurate mapping which is essential to support with "rigorous analysis and concrete substantial evidence the conclusion that impacts will be insignificant" (Remy, 181). It is a conclusory statement that "mitigation measures provided in this EIR shall mitigate potential cumulative impacts to below a level of significance." (DEIR, v. Cumulative Impacts section.)

Although an EIR analysis "need not be exhaustive" (CEQA Guidelines, Sec. 15151), nevertheless, even before the Kings County Farm Bureau decision, "the courts have favored specificity and use of detail in EIRs." (Whitman v. Board of Supervisors (1979) 88 C.A. 3d 397, 411; 151 C.R. 866.) "A conclusory statement 'unsupported by empirical or experimental data, scientific authorities, or explanatory information of any kind 'not only fails to crystallize issues [citation] but' affords no basis for 'a comparison of the problems involved with the proposed project and the difficulties involved in the alternatives.'" (People v. County of Kern (1974) 39 C.A. 3d 830, 841-842; 115 C.R. 67), quoting Silva v. Lynn (1973) 482 F.2d 1282,1285.) (Remy, 181-182.)

For example, how could continued groundwater monitoring in the Ocotillo-Coyote Wells basin alleviate any impacts when there are no proposed actions to be taken in response to data indicating water quality changes/degradation? Another example is the mitigation measures to reduce air quality impacts. One measure refers to the 1991 Air Quality Attainment Plan (DEIR, III-188-189) which proposes measures that conflict with the GP-LUE policy (GP-LUE, p.56). Cumulative impacts discussion is more unrealistic.



448 Why does the DEIR state that the already poor air quality of the County, with its existing problematic monitoring and enforcement by local officials "would be mitigated to below a level of significance through implementation of the General Plan Air Quality Element..." (DEIR, V-5) when no such Air Quality Element has been prepared in the past or for inclusion with the draft General Plan Update? The purported reliance on implementation of a non-existing General Plan Element is hardly likely to mitigate the present or future air quality impacts.

449 DEIR discussion of mitigation measures related to biological resources fails to provide data or scientific authorities to support conclusions that they would/could mitigate impacts. Such evidence is necessary, because BLM documents of 1978 and 1990 report on the lack of success of such mitigation measures in the desert environment and with the species in Imperial County.

The DEIR fails to fully disclose and discuss in detail the areas of controversy that should be known to the lead agency, and which have been raised by other agencies and by the public as required by CEQA Guidelines Sec. 15123(c). Examples of such issues include, but are not limited to the following.

450 1. Why doesn't the DEIR accurately reflect BLM policies and programs/management plans for the East Mesa and Yuha Basin (and elsewhere in the County)?

451 2. Based on current monitoring data and studies of the local underlying geology, what are the groundwater based resource constraints in the Ocotillo-Coyote Wells groundwater basin?

452 3. What are the groundwater resource constraints for the north end of the County on either side of the Salton Sea?

453 4. What are the nature of groundwater resource constraints in the Anza Borrego basin/groundwater planning area in Imperial County downgradient of San Diego County usage and in the Colorado River (East) groundwater basins relied upon by Palo Verde, Bard, Winterhaven and future SPA at Felicity?

454 5. What are the impacts of the 12/92 EPA ruling related to water quality of raw canal water available to rural residential users within the irrigated agricultural areas served by IID?

455 6. What are the impacts of possible closure of County operated landfills on BLM lands?

456 7. What are the implications of public review of a regional landfill proposed prior to completion of the County Integrated Waste Management Plan with its site selection and review process.? Why are proposed landfills discussed under "Existing Conditions" for Solid Wastes (DEIR III-150)?

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8. Why is there no discussion of potential conflicts in interpretation of authorized uses created by drawing curved boundaries for Ocotillo/Nomirage Community Area (in SW Imperial County) through rather than around individual parcels of land as was done everywhere else in Imperial County? All other land use categories boundaries appear to follow grid lines imposed by the township/range and section survey lines unless there is a water-way causing such a boundary. Likewise the curved boundary through Fort

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Yuma Reservation in SE Imperial County is without a logical basis especially since the County has no jurisdiction for planning on the reservation. But more importantly, why should there be a community area which includes only 13.9% of the land under private ownership? Much of that Community area includes two ACECs and two proposed Wilderness Areas. Why shouldn't this area be in the Preservation, with new uses and restrictions as proposed elsewhere in this response?

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9. Discussion of basin specific groundwater issues in the Water Element of the General Plan Update was either inadequate, imprecise, inaccurate, or lacking in any meaningful detail. There is simply not enough information for meaningful DEIR discussion of resource based carrying capacity related to potential impacts of proposed land uses at maximum build-out. Insufficient and inadequate discussion of groundwater basins relied on for development in both San Diego and Riverside Counties in addition to Imperial County resulted in the DEIR's absolute failure to discuss impacts to these basins from development anticipated in the draft General Plan Update. Further, there are the potential conflicts or incompatibility of the resulting groundwater resource demands resulting from projected (General Plan) growth in the adjoining counties which rely on the same groundwater resource. DEIR discussion based on out-dated or inadequate or inaccurate information results in an impact analysis that would underestimate or improperly characterize potential project impacts on the groundwater resources in different basins with projected increased utilization. Additionally, the misleading nature of the discussion and the failure to include relevant information related to groundwater based development anticipated by the General Plan Update render the EIR inadequate as an informational document. (King's County Farm Bureau v. City of Hanford (1990) 221 C.A. 3d 692, 717.)

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These issues should have been included in the DEIR Summary, but were not. Indeed, the summary has the following mandatory requirements:  
CEQA Guidelines Sec. 15123.  
(a) An EIR shall contain a brief summary of the proposed actions and its consequences. The language of the summary should be as clear and as simple as reasonably practical.  
(b) The summary shall identify:  
(1) Each significant effect with the proposed

mitigation measures and alternatives that would reduce or avoid that effect;

(2) Area of controversy known to the Lead Agency including issues raised by agencies and the public; and

(3) Issues to be resolved including the choice among alternatives and whether or how to mitigate the significant effects. (CEQA Guidelines Sec. 15123.)

460 Failure of the DEIR to address the major areas of controversy in the summary reflects the failure to discuss them elsewhere in the DEIR and is but one more inadequacy of the document.

DEIR FAILS TO ADEQUATELY DISCUSS SIGNIFICANT ENVIRONMENTAL IMPACTS OF GENERAL PLAN UPDATE AS REQUIRED BY CEQA GUIDELINES SEC.15126

DEIR fails to adequately discuss significant environmental impacts of General Plan Update as required by CEQA Guidelines sec.15126. With respect to the major deficiencies of the DEIR, relevant text of Sec. 15126 follows:

All phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation. The following subjects shall be discussed, preferably in separate sections or paragraphs. If they are not discussed separately, the EIR shall include a table showing where each of the subjects is discussed.

461 (a) The Significant Environmental Effects of the Proposed Project. An EIR shall identify and focus on the significant environmental effects of the project. Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects. The discussion should include relevant specifics of the area, the resources involved, physical changes, alterations to ecological systems, and changes induced in population distribution, population concentration, the human use of the land (including commercial and residential development), health and safety problems caused by the physical changes, and other aspects of the resource base such as water, scenic quality, and public services. The EIR shall also analyze any significant environmental effects the project might cause by bringing development and people into the area affected. ....

(b) Any Significant Environmental Effects Which Cannot be Avoided if the Proposal is Implemented. Describe any significant impacts, including those which can be mitigated but not reduced to a level of insignificance. Where there are impacts that cannot be alleviated without imposing an alternative design, their implications and the reasons why the project is being proposed, notwithstanding their effect, should be described. (CEQA

461 Guidelines, Sec.15126.)

DEIR FAILS TO SUPPORT WITH EVIDENCE CONCLUSIONS THAT IMPACTS WILL BE INSIGNIFICANT OR NONEXISTENT

462 The decision in Kings County Farm Bureau v. City of Hanford discussed earlier suggests serious analyses and reliance on concrete substantial evidence will be required to uphold determinations that project impacts are insignificant where such impacts are not minor or trivial. Specific examples of missing or inadequate discussion of impacts which the DEIR concluded could potentially be assumed to be insignificant, but for which evidence is lacking to support such a conclusion include, but are not limited to the following:

463 1. The DEIR discussion of environmental impacts on groundwater resources (water quality and water quantity) -- as distinguished from environmental impacts on water resources having their origin in Colorado River surface water -- is missing for all groundwater basins in section "f". Water Service and Availability" (DEIR III-170). Failure to discuss specific groundwater impacts cannot be construed to mean that future impacts will be either insignificant or nonexistent for purposes of CEQA. Rather: "The cumulative impact on local and regional water resources must be evaluated in light of the overall water supply and demand". (Kings County Farm Bureau v. City of Hanford (1990) 221 C.A. 3d 692,728.) In the absence of data indicating the volume of groundwater pumped for use by all existing and all projected uses anticipated by the proposed General Plan Update for each groundwater basin used for residential purposes and the existing General Plans of any jurisdiction using groundwater from the same basin(s), it is impossible to evaluate whether such impacts are significant or not, and whether and to what extent any proposed groundwater mitigations will succeed. (Kings County Farm Bureau, supra at 729.) Indeed, monitoring was proposed for only one groundwater basin. Because the pattern of land ownership in relation to the groundwater resources or sensitive portions of those resources has not been identified, the full nature of potential impacts and cumulative impacts cannot be evaluated.

464 Why is there no discussion on cumulative impacts of growth in the Ocotillo/ Nomirage Community Area or other groundwater dependent communities on groundwater quality? How can the public be expected to believe that potential cumulative impacts would be mitigated by deficient and/or lacking policies in the Water Element to adequately deal with even the existing groundwater quality issues? When the results of groundwater monitoring data and the implications of that data has been ignored for so long, why should the public feel any confidence in policies that fail to include any specific mitigation measures or actions to be taken when threshold changes to water quality constituents are observed by monitoring

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data?

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DEIR fails to discuss the down-gradient impacts of (1) increased groundwater use and (2) increased potential for groundwater contamination because of increased nitrate release via (a) septic leachate infiltration associated with increased residential and/or recreation usage or (b) infiltration and/or runoff containing agricultural chemicals. DEIR omits discussion of these issues both as they impact downgradient human uses on private lands and as they impact sensitive riparian habitats where declining water tables could drop below the root zone of the native vegetation and/or affect water levels and drainage patterns in the San Felipe/San Sebastian Marsh ACEC managed by BLM as desert pupfish habitat. The desert pupfish has been listed as an endangered species and is so included in Table 14 "Sensitive animal species in Imperial County" (DEIR, III-97). The San Sebastian Marsh ACEC is down gradient of an area designated on the Proposed Land Use Plan (DEIR Fig. 4) as agriculture, and otherwise surrounded by land use category Recreation Open Space, which indicates that agriculture would be among those uses authorized on private lands. Individuals with inholdings in the range of a listed or proposed species habitat have responsibilities (Sec. 10) under the ESA and can be prosecuted for violations. The cumulative impacts of increased development of permitted uses on private lands in addition to those impacts that can be reasonably anticipated by up-gradient water users in the portions of the groundwater basin in San Diego County should be, but have not been addressed in the DEIR.

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By failing to discuss groundwater use and impacts on the groundwater basin in Riverside County from which water is exported for use by current developments in Imperial County on both sides of the Salton Sea, the DEIR ignores the issue of potential impacts that could/would result from the urban build-out of 31,840 acres on the west side or the projected possible population of 75,000 on the east side of the Sea.

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2. Project inconsistencies or potential incompatibilities with plans of other governmental agencies in addition to the cumulative impacts on shared resources were not discussed. Plans of other such agencies are the San Diego County General Plan, Riverside County General Plan, and BLM El Centro Resource Area activity plans. The following is a list of some of the BLM management plans which should have been considered:

- Area of Critical Environmental Concern Management Plans
  - Yuha Basin 6/81
  - Yuha Desert 3/85
  - San Sebastian Marsh/San Felipe Creek, 12/86
  - East Mesa 9/82
  - In-Koh-Pah Mountains 2/88
  - Chuckwalla Bench 3/86

Pilot Knob 7/82  
Indian Pass 7/87  
Lake Cahuilla 9/84  
Singer Geoglyph 8/86  
Plank Road 9/85  
West Mesa, in progress

467 Habitat Management Plans  
Algodones Dunes 12/87  
Milpitas Wash 1/86  
Yuha Desert 7/83  
East Mesa 7/83  
Desert Tortoise, in progress  
Flat-tailed Horned Lizard 1/90

Recreation Area Management Plans  
Jacumba Outstanding Natural Area 79  
Imperial San Dunes 7/87

Applicable management plans of other agencies such as California Dept. of Fish and Game, U.S. Fish and Wildlife Service and Bureau of Reclamation were not mentioned, but consistency with their plans should also be discussed.

468 3. Failure of the DEIR to discuss the existing conditions of the Calexico school district other than listing the number of schools cannot justify total failure to discuss potential impacts on this school district when the largest area of urban expansion associated with incorporated cities in the proposed land use plan Fig. 4 is to the east of Calexico. Similarly, there was no mention of potential impacts on the Imperial Unified School District, all of whose schools are "operating at capacity" according to the DEIR at III-164. Impacts to these school districts and adjacent lands should be addressed.

469 4. The DEIR fails to discuss the existing conflicts and secondary impacts and potential increased impacts associated with the transport of sand and gravel through residential neighborhoods such as Ocotillo. Absence of direct discussion of existing and potential impacts can not be presumed to mean the impacts are insignificant.

470 5. DEIR III-171 notes that "the increase in the amount of development in the area would result in an increased demand for health care services." Then without any substantiating discussion the following sentence concludes that: "This is not expected to be a significant impact." With a SCAG projected population 50% increase by 2010 and consultant projected increase almost tripling (discussion at public meetings), it is difficult to see how serious impacts on the health care system can be avoided, particularly in light of the recent closing of the Calexico hospital. What documentation supports the DEIR conclusion about health care

0 impacts?

OTHER PROBABLE SIGNIFICANT IMPACTS NOT ADEQUATELY ADDRESSED

As a result of incomplete or inadequate project description, including figures with inaccurate or inconsistent locations of biological resources and the failure to provide any figure/map showing patterns of public/private land ownership, the DEIR fails to adequately address a number of probable significant effects or impacts including but not limited to:

- 471 1. Inconsistencies between the proposed General Plan Update and state law requirements for protection of resources, including sensitive or listed biological resources according to ESA and CESA..
- 472 2. Closure of existing County operated landfills on BLM lands if a new regional landfill for importation of out-of-county solid waste is sited within the county.
- 473 3. Groundwater quality impacts resulting from increased residential development and commercial recreational vehicle parks in groundwater dependent areas not served by existing or proposed sewage treatment facilities.
- 474 4. Groundwater level and groundwater quality impacts resulting from increased agricultural usage, including aquaculture, in groundwater dependent areas within the recreation/open space land use category, agriculture land use category, or within community area land use categories within which such uses would be authorized as a result of underlying zoning classifications.
- 475 5. The land use impact of converting existing open space/preservation areas to recreation/open space and authorizing intensive commercial recreational development or agriculture. Off-site impacts, including those associated with mining and potential regional landfills, on sensitive wildlife such as FTHL, desert tortoise, and desert pupfish need to be addressed where appropriate.
- 476 6. Impacts of the project to the desert pupfish and desert tortoise. Desert pupfish may be impacted by changing water quality and water levels in natural habitat currently managed by BLM. ESA requires review of any impacting project to Critical Habitat by USFWS. (Watkins, 1993.)
- 477 7. The DEIR fails to provide adequate discussion of the desert tortoise or inform the public and decision makers that the BLM is in the process of preparing a desert tortoise Habitat Management Plan. The BLM prepared map of the proposed Chuckwalla Habitat Management Area presented for public review at BLM's January

Scoping meetings for the project which included most of the area east of the railroad tracks in areas not shown on DEIR Fig 15 (III-126) to contain "sensitive biology". Not only is the desert tortoise a sensitive species, because it is listed as threatened, it is a fully protected species. Additionally, its habitat extends beyond that which is managed by BLM. (Watkins, 1993.)

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The desert tortoise was emergency listed as endangered in August 89 and downgraded to threatened in 4/90 (Watkins, 1993). The desert tortoise was inadequately discussed in the DEIR. BLM is currently in the process of preparing a desert tortoise habitat management plan (HMP). The proposed Chuckwalla HMP includes a mapping area considerably different from those indicated in figures 11 and 14 in the DEIR environmental assessment for biological resources. (BLM desert tortoise HMP map for the Chuckwalla HM area in Imperial County is included in the appendix.) The habitat is larger than that mapped by BLM (Watkins, 1993).

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8. Potential impacts associated with road widening and development of a new state route connecting to the new port of entry east of Calexico are not adequately analyzed. The DEIR fails to provide evidence or explain how evaluation of the proposed roadway projects could "avoid or minimize adverse impacts" as indicated on DEIR III-66. The statement that: "There would be no adverse impacts resulting from the update of the Circulation and Scenic Highways Element" of the 1973 General Plan fails to acknowledge that discussion of potential impacts must be addressed in terms of potential or probable changes from the existing conditions. (CEQA Guidelines Sec. 15125 & Discussion.) The DEIR must evaluate the environmental consequences of new roadway construction and other essential infrastructure facilities required to serve new development. Similarly, the proposed new SPA development areas designated on the figures showing proposed land use designations for the Proposed Land Use Plan should include discussion of roadways and transportation impacts.

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9. The DEIR III-51 fails to explain how knowledge of the Imperial County Right-to-Farm Ordinance (No. 1031) will actually serve to mitigate the cited impacts or land use conflicts resulting from the expansion of residential areas into agricultural lands, especially those residential areas that have "leap-frogged" into agricultural areas. How does acknowledging the existence of agricultural use creation of "nuisances such as flies, odors, dust, noise, night light, and chemical spraying" and farm machinery transport conflicts serve to minimize the impacts or the associated land use conflicts?

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10. DEIR III-55 fails to explain what is meant by "locating and securing replacement Important Farmland that has not been in agricultural production for at least the preceding five years". Where is this Important Farmland to be found, and what is meant by "improvement with necessary irrigation water delivery and drainage



480 systems"? Is this is a reference to proposed expansion of irrigated agriculture onto lands now managed by BLM in the East Mesa with special reference to habitat for the flat-tailed horned lizard? If so, the statement that: "The Agriculture designation would not conflict with underlying BLM designations and is in fact consistent with the designation of this area [East Mesa] as General Agriculture" stands in sharp contrast with stated BLM policy regarding its management of resources in the East Mesa area. BLM East Mesa ACEC HMP includes a management action for acquisition of private lands within the ACEC boundaries to afford better management and reduced land use conflicts in FTHL habitat. (See additional discussion elsewhere in this response.)

481 11. DEIR fails to explain why the designated SPAs for Tamarisk, East Border Crossing, Holtville Airstrip, and potential development along existing state roads and highway intersections would or could avoid urban/agricultural land use conflicts that would be created by permitting leapfrog residential development as discussed in the agricultural impacts sections.

12. Why does discussion of the groundwater basin in the Ocotillo/Nomirage community area get such inadequate discussion? Isn't the largest user of groundwater from that basin the wallboard plant at Plaster City? Doesn't it import all of its water from the Ocotillo basin?

The DEIR fails to discuss the impacts of industry at Plaster City using groundwater imported from the Ocotillo basin. U.S. Gypsum's wallboard plant at Plaster City is located in the only area of unincorporated Imperial County designated as "Industry" in the Proposed Land Use Plan. If it is anticipated that continuing increased growth in the western US may be expected, should not this cause concomitant expansion at U.S. Gypsum?

482 What would be the impacts to the Ocotillo-Coyote Wells groundwater basin if Plaster City continues pumping and exporting groundwater from its existing water wells located between the communities of Ocotillo and Nomirage at the present rate for the 100 year expected life of the gypsum deposit (General Plan Update, Conservation and Open Space Element, Appendix p. A-6)? How would the projected long term industrial use of groundwater impact future residential development in terms of both groundwater quality and availability given the patterns of federal/private land ownership? What would be the social and economic impacts of degraded groundwater quality on residential uses overlying the groundwater basin? What are the projected environmental impacts of long-term or increased industrial groundwater usage on down-gradient plant communities such as mesquite hummocks, ironwoods following drainage channels, and crucifixion thorn stands as sensitive unusual plant assemblages on BLM managed lands? How would impacts on vegetation and vegetative cover impact wildlife?

13. What is the anticipated source of water for development of other industrial activities in the Industry Land Use Category in the Plaster City area? If groundwater, will it be non-potable groundwater pumped from wells underlying the Industry land use category? If not, from where, and what are the environmental impacts of use at the proposed site and down-gradient?

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The DEIR should contain detailed discussion relative to expansion of industrial activities which may be permitted at the Plaster City Industry area. If Colorado River water is anticipated, the DEIR should discuss the procedures necessary to extend Imperial Irrigation service to the area, including, but not limited to exchange of water development rights within the IID service area, BLM rights of way or easements required, potential location of such right of way or easement, availability of supply from IID, and other development related criteria.

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14. DEIR should discuss the groundwater impacts and water requirements for each of the different cyanide-heap leach mining operations and any other gold or mineral mining operations discussed in the Conservation/Open Space Appendix A of the General Plan Update. What volumes of water are used for each operation? What are the localized impacts and what are the cumulative impacts for all operations relying on the same groundwater resource? Has groundwater extraction and transport resulted in any reversal of direction of flow or gradient related to the Colorado River? If so, what are the environmental impacts on riparian vegetation in washes and along runoff channels? How have changes in the microphyllous vegetative cover impacted the threatened desert tortoise and/or other sensitive wildlife species in the area?

How much water used for mining operations is surface water from the Colorado River? How is such surface water transported to the mining sites?

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15. Projected expansion of sand and gravel operations on BLM lands in the locations of such deposits are not adequately discussed in the DEIR. What are the projected lives of the reserves at each of the presently operating pits, both County operated pits and private pits? What mitigations are proposed to reduce the impacts of sand and gravel transport through residential communities such as Ocotillo? What are the local social and economic impacts of such operations on the communities closest to the sand and gravel pits? How will future increased conflicts be resolved if sand and gravel operations are expanded closer to residential communities?

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16. DEIR fails to provide adequate discussion of the potential infrastructure, water delivery, social and economic impacts of the December 1992 EPA decision related to the supplying of raw canal water from the Colorado River to rural residential users of IID water scattered throughout the irrigated agricultural areas. This is a major issue related to urban development beyond the service

486 boundaries of existing water service districts. DEIR should address plans or problems associated with expansion of infrastructure for providing potable water to such existing and future residences.

487 17. The DEIR fails to provide adequate discussion of land use conflicts, growth inducing impacts, and infrastructure impacts of State prisons both existing and under construction.

18. DEIR fails to adequately address the conflicts created between County land uses and Federal management plans and policies created by deleting "Preservation" designation of the 1973 Plan.

PRESERVATION VS. RECREATION/OPEN SPACE  
DEIR ERRONEOUSLY CONCLUDES REPLACING 1973 PRESERVATION  
LAND USE DESIGNATION TO RECREATION/OPEN SPACE TO INCLUDE  
AGRICULTURAL USES WILL NOT CONFLICT WITH BLM DESIGNATIONS

The DEIR discussion about the impacts of deleting the Preservation Land Use Category of the 1973 Plan and placing lands so designated into the Recreation/Open Space category (DEIR, III-17) is either intentionally misleading or very naive. The location of lands designated as preservation under the 1973 Land Use Plan (DEIR, III-5) was compared to the BLM maps (DAGs 20, 21, and 22), Fig. 11, "GPA Sensitive Plants, Wildlife Areas and Unusual Plant Assemblages" (DEIR, III-93), Fig. 14, "Resource Areas" (DEIR, III-115, and BLM Plan Amendments, including the 1985 plan amendment.

488 While it is true that the vast majority of these lands are federal lands managed by BLM, the changes would also include more than twenty (20) square miles of privately owned lands, most of them being inholdings surrounded by BLM lands. More than 20 square miles of lands on which agriculture would now be authorized according to the text of GP-LUE and DEIR (III-13, 17). (20 square miles is 12,800 acres.)

The majority of these private lands which would be removed from the 1973 Preservation designation are lands located within or adjacent to BLM areas which require special management plans, in part, to protect wildlife habitat for sensitive or endangered species. Consequently, the use of agriculture on these lands would conflict with the underlying BLM designations and adopted management plans and adopted BLM policy regarding irrigated agriculture.

Of the more than 20 square miles of private lands to be removed from preservation and opened up to agriculture are approximately 10 square miles which are either surrounded by or adjacent to BLM's Yuha Basin ACEC which is managed in part for optimal flat-tailed lizard habitat. Several more square miles are within the drainage/recharge area for the San Sebastian Marsh/San Felipe Creek ACEC which is managed, in part, for critical habitat

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for the endangered desert pupfish. Approximately 9 square miles appears to be adjacent to or surrounded by the Imperial San Dunes including 1 square mile surrounded by or immediately adjacent to the Algodones dunes Outstanding Natural Area.

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The DEIR states that changing the land use designation from preservation to Recreation/Open Space would allow "potentially impactive uses such as agriculture. (DEIR, III-17.) Both Fig. 11 and 14 must be updated to reflect mapping changes that have occurred since the adoption of the 1980 BLM CDCA Plan, but they still point out the conflicts created by the deletion of the Preservation designation and authorizing agricultural uses on those lands. By comparing Fig. 3, the 1973 Land Use Plan map (DEIR, III-5) with the locations of sensitive biological resources on Figs. 11 and 14 (DEIR III-93 and 115), it is apparent that the original designation of preservation closely corresponds to federal lands requiring special management programs. Therefore the DEIR reached an insupportable conclusion that: "The designation proposed by the Plan Update would not conflict with the underlying BLM designations, and therefore no adverse land use effects are anticipated." Nothing could be further from the facts or from the discussion of biological resources within Areas of Critical Environmental Concern and wildlife habitat management areas in the section on environmental analysis for biological resources (DEIR, III-117, 118 and elsewhere throughout that section). Opening to agriculture these lands adjacent to or surrounded by these federal lands with special management plans is to create authorized significant impacts on federal lands and thereby set the stage for conflicting uses.

DEIR INAPPROPRIATELY COMPARES ENVIRONMENTAL IMPACTS OF PROPOSED GENERAL PLAN UPDATE TO EXISTING 1973 PLAN RATHER THAN TO EXISTING CONDITIONS ON THE GROUND

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The typical "draft EIR must discuss any inconsistencies between the proposed project and existing general plans and regional plans" (CEQA Guidelines 15125(b), in Remy, 190.) In discussing the environmental impacts of the proposed General Plan Update project, the authors of the DEIR noted that: "There are differences between the land use designations of the 1973 Plan and the Plan Update." (DEIR, III-14.) Assuming that the General Plan Update could be treated as any other project for DEIR review, they proceeded to evaluate the "impacts associated with these differences" (DEIR, III-14).

What the drafters of the DEIR failed to understand is that the DEIR for the General Plan Update must evaluate environmental impacts differently than would be required for other project DEIRs.

Where a proposed project is an agency decision changing planning or zoning designations, its potential impacts should not be compared only with those that would

ultimately occur under an existing plan. Rather, such an analysis should focus on "existing physical conditions" before comparing the eventual future conditions that would result under build-out pursuant to both the existing and contemplated plan. (CEQA Guidelines, Sec. 15125(c) and discussion; citations, in Remy, 191)

In Environmental Planning and Information Council v. County of El Dorado (1982) 131 C.A. 3d 350, 354; 182 C.R. 317, the Court found a general plan amendment project EIR inadequate because it failed to analyze the plan amendment's physical effects in terms of the "existing physical conditions" in the "actual environment upon which the proposal will operate." (Id. at 354.) The Court found that the EIR "should have compared build-out under the proposed amendment to the relatively rural, undeveloped situation on the ground." (Remy, 191.)

490 Thus, following CEQA Guidelines Sec. 15125 and Discussion and the decision of the Court in Environmental Planning and Information Council v. County of El Dorado (1982) 131 C.A. 3d 350; 182 C.R. 317, the DEIR discussion of environmental impacts must be measured against the stated "existing conditions on the ground" noted in DEIR III-1 rather than comparing impacts of the proposed GP land use designations to build-out under the 1973 Plan (DEIR, III-14) (as was done in the existing DEIR).

The existing conditions which must form the basis against which impacts are measured are ones in which the developed area of the County with its cities, unincorporated communities, and support facilities "comprise less than one percent of the land (Table 1)." (DEIR, III-1.)

The DEIR analysis of environmental impacts that would result from adoption and implementation of the proposed General Plan as described in the text of the General Plan Update and the Proposed Land Use Plan (DEIR, Fig. 4, III-11) is fatally flawed because the analysis of potential environmental impacts of proposed land uses was not compared to existing conditions on the ground today. Even the subheading "Contrasts with the 1973 Plan" confirms that the DEIR impacts analysis was improperly prepared and of necessity will be inadequate under CEQA. How will this serious discrepancy be corrected?

#### ..Urban and Residential Development

491 Discussion of impacts resulting from urban and residential development begins on the wrong foot and from an inappropriate understanding of impacts analysis. The text compares acreage figures for areas designated as urban in the 1973 Plan (122,026 acres) and in the proposed 1993 plan (78,240 acres). (DEIR, III-14.) It then provides out-dated 1985 information that 18,028 acres were developed within both incorporated and unincorporated areas of the County. (DEIR, III-14.) In claiming that the "reduction in the total acres designated for urban land uses is not regarded as an

491 adverse impact..." (DEIR, III-14), the DEIR's authors exhibit their failure to comprehend the kind of impacts analysis required by CEQA and the courts in interpreting CEQA. The DEIR fails to analyze the environmental impacts that would result from the conversion of more than 60,000 acres of land from their present agricultural uses or existing undeveloped condition.

492 Additionally the changing of thousands of acres to Recreation/Open Space designation as described in the GP-LUE (p.45-46) would authorize intensive irrigated agriculture or intensive recreational residential or commercial recreational uses on large parcels (over 160 acres) of private lands throughout the County, in places where such uses would not have been permitted previously, and where land is vacant desert land today. The environmental impacts resulting from this kind of development on vacant desert lands, often as isolated inholdings or in a checkerboard pattern of private/federal ownership has not been evaluated. Is an unstated policy objective implied by this change? If so, please identify.

493 The environmental impacts analysis turns CEQA upside-down when it states that: "The reduction in the allocation of land for urban levels of land use intensity, as well as the reduction in areas designated for lesser intensity residential development on the periphery of urban areas, is not viewed as an adverse land use impact." (DEIR, III-15.) While that conclusion may be correct, the statement circumvents the analysis of impacts that must be considered as the result of converting agricultural lands or undisturbed desert lands to urban uses.

494 Why was the Desert Residential land use designation dropped from the proposed update? What policy objective is being furthered by such change?

495 ..Designation of Specific Plan Areas  
The DEIR does acknowledge that there will be environmental impacts associated with the development of the eight designated SPAs. (DEIR, III-15, 16.) The total acreage of 7 of the 8 SPAs for which acreage is given is 16,300 acres, or just a small fraction of the 60,000 acres which could be urbanized in the future. Why doesn't the DEIR discuss any potential for environmental impacts of future urbanization?

How do preparing site specific environmental studies, establishing standards and criteria for approval, and making findings serve to mitigate potential land use impacts? There is no reference to mandatory physical mitigations. What happens if environmental impacts cannot be mitigated adequately?

496 ..Agricultural Land  
"The Plan Update proposes an agricultural designation for 588, 417 acres." (DEIR, III-16.) This is considerably more than the 559,435 acres used for agriculture in 1990 (GP-AE, p.30). What is

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the location of the additional 30,000 acres intended for expanded agricultural operations over and above the amount of land already used for agriculture? The DEIR must provide an environmental analysis of the impacts associated with bringing new land into agricultural uses. If these lands are scattered about the desert on private inholdings surrounded by federal or state lands with adopted policies and management plans, there will be additional off-site land use impacts that must be addressed because of the federal and state management mandates with respect to sensitive or listed wildlife and its habitat.

From the brief discussion of environmental impacts related to agricultural land use designation changes, it is obvious that here too, the DEIR fails to comprehend the requirement to evaluate impacts based on changes from the existing conditions. Why has the logic of this requirement eluded the preparers of the DEIR?

#### DEIR FAILS TO ADEQUATELY ANALYZE CUMULATIVE IMPACTS

The above referenced discussion of impacts cited individual impacts and additionally often referenced specific issues related to cumulative impacts of existing or proposed uses related to the General Plan update (project). The DEIR discussion of cumulative impacts is inadequate and does not meet the requirements of CEQA Guidelines for discussing future impacts in part because the analysis of individual impacts is inadequate. CEQA Guidelines Section 15130 is specific when discussing cumulative impacts. (Refer to Appendix for more detail.)

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The DEIR for the Imperial County General Plan Update does not meet the criteria set forth under CEQA Guidelines Section 15130(b)(1)(A) or (B) for comprising an "adequate discussion of cumulative impacts." The Guidelines discussion of Section 15130 contains the following unambiguous explanation of what must be included among the cumulative impacts of a project. (Refer to Appendix for more detail.)

If the DEIR concludes that cumulative impacts are not significant, it should explain why. (Remy, 192) Inadequate discussion of cumulative impacts includes but is not limited to the following:

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1. The DEIR has failed to meet the criteria of CEQA Guidelines Sec. 15130, in part because it has failed to discuss, as required, the projects of other agencies with land use responsibilities within the County borders, Bureau of Reclamation, U.S. Fish and Wildlife Service, Bureau of Land Management, Anza Borrego State Park, and military uses.

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2. As listed earlier, the BLM El Centro Resource Area has adopted numerous management plans for its designated Areas of Critical

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Environmental Concern (ACECs), habitat management plans, and recreation area management plans in addition to numerous plan amendments which have changed boundaries of lands used for military activities, changed boundaries of ACECs, increased size of ACECs, deleted portions of ACECs, and added a new ACEC in the West Mesa of Imperial County. Additionally, BLM is now in the process of preparing a desert tortoise habitat management plan, including the proposed Chuckwalla habitat management area (BLM map attached). The DEIR fails to adequately describe the implications of these planning documents of BLM, an agency which must be considered as among the "other relevant public agencies". (See References section for list of adopted BLM Management Plans and Plan Amendments.)

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3. The DEIR fails to consider any significant projects, including current adopted General Plans of San Diego and Riverside Counties for adjacent lands where a resource (such as groundwater or air) is shared and where transportation/infrastructure components cross county lines. Such consideration was requested by the Riverside County Planning Department. (See DEIR Appendix.)

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4. DEIR cumulative impacts discussion related to two proposed regional landfills and gold mining operations is missing. Cumulative impacts discussion of solid waste facilities is clearly inadequate and misleading. Cumulative Impacts (DEIR p. V-4) states that: "Adequate landfill facilities and sites exist within the County to meet projected solid waste demands in the region." To completely ignore the discussion of solid waste under the Environmental Analysis for Public Services/Safety (DEIR p. III-150) is inexcusable and fails to comply with CEQA Guidelines Sec. 15130. The environmental analysis discussion of the DEIR stated:

There are currently two proposed large-scale privately-owned landfill projects in the County. These projects are the Mesquite Regional Landfill and the Chocolate Mountain Regional Landfill. The County of Imperial has required that these projects be designed to accommodate local solid waste as well as out-of-area solid waste. Additionally, the Bureau of Land Management (BLM) has requested that the existing landfills in Imperial County that are located on BLM land be closed. (DEIR, III-150.)

Why is this discussion included in the section on existing conditions when the environmental review documents have not yet been released for public review?

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5. Six of the County operated landfills are located on BLM land and would be subject to closure. The potential cumulative impact of closure of six local landfills and long-haul of locally generated solid waste will have additional impacts on transportation, air quality, social and economic impacts to the local communities and to the county that must be addressed. The social and economic consequences that may result from the County being identified as a dump site, with all the associated negative



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images should also be evaluated. The potential existence of two nearby trash by rail dump sites may well stigmatize the County and should be addressed. The cumulative impact of two proposed large-scale dump sites located within the boundaries of the BLM proposed Chuckwalla Desert Tortoise Habitat Management Area must be addressed. The cumulative impacts of the proposed landfills in addition to the existing mining operations also located within the Chuckwalla Desert Tortoise Habitat Management area must also be addressed.

6. The County should be aware of the proposed Chuckwalla Desert Tortoise Habitat Management planning area because Randy Rister, a County department head, was present at the BLM scoping meeting. In addition, Robert Filler of Arid Operations, the landfill project applicant, was also present at the meeting in Yuma.

Further, any discussion of off-site cumulative impacts resulting from both large-scale proposed landfills and existing cyanide heap-leach gold mining operations, must include a recognition that all plans for such uses in the area included in the BLM desert tortoise habitat management plan will displace wildlife and that such displacement will be felt off-site. The attraction of predators, especially ravens attracted to the landfill sites, could have a detrimental impact on the desert tortoise in this vicinity. BLM's "Chuckwalla Bench ACEC and Management Plan and E.A." noted that:

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The biology of the desert tortoise makes it vulnerable to a wide variety of human activities. The tortoise is long lived, some probably living over 80 years, and sexual maturity is not reached until the animal is nearly twenty. This means that the loss of even a single mature female can have a very significant effect on the ability of a local population to maintain itself. (BLM, chuckwalla, 1986, p. 8)

The sensitivity of desert organisms is widely recognized and has been discussed in other documents:

Desert organisms, like those in the arctic tundra, exist on the fringes of the earth's life support systems by virtue of their tolerance of extreme conditions. To survive and reproduce, patience and luck are required as well. Minor disturbances by man leave almost permanent scars on the habitat and major projects can be catastrophic. (Ginsberg, p. 5.)

Once a natural area is destroyed or significantly altered by man, it is likely that the animal species living there will also vanish. To only a very limited extent can animals change habitats because surrounding areas often are fully occupied, and the displaced animals, wandering on unfamiliar crowded ground, will usually die of predation, starvation, harassment, or

climatic extremes. Additionally, many animal populations are readily susceptible to disruption and extinction because they exist in discontinuous and isolated populations. (Ginsberg, et al, p. 15.)

The sensitivity of desert organisms is in part attributable to the relative newness of the desert as discussed by Dr. Daniel Axelrod of U.C, Davis during the 1978 BLM CDCA advisory committee meeting:

The desert is itself brand new. It is no older than 10,000 years, and probably even younger than that. It has taken some 70 million years to develop many of these taxa which are...living together in a very precarious relation. There is very little water. They are perfectly adjusted to the present conditions, but think of the desert in another sense. This is really just like a brand new baby. It just got here. We have to take care of it if we are going to have it. (BLM, 1978, p.7.)

7. The courts have required an analysis of environmental effects, including cumulative impacts of:

future expansion or operation if there is credible and substantial evidence that (1) it is a reasonably foreseeable consequence of the initial project and (2) the future expansion or operation will likely change the scope or nature of the initial project or its environmental effects. (47 C.3d 376, 396-398; Kings County Farm Bureau v. City of Hanford (1990) 221 C.A.3d 692, 738; 270 C.R. 650.)

Using these criteria combined with the fact that the Environmental Analysis discussing "existing conditions" under the subheading for Solid Waste the DEIR included discussion of the two large privately-owned regional landfills, the DEIR must then discuss cumulative impacts of the proposed regional landfills on the east side of the County in addition to the impacts of the mining operations. Again, there is the very serious question of why the DEIR includes details of the "proposed" regional landfills in its discussion of existing conditions. What is the explanation?

#### CUMULATIVE IMPACTS DISCUSSION RE FUTURE WATER AVAILABILITY FOR DEVELOPMENT BASED ON GROUNDWATER RESOURCES IS MISSING

1. In addition to the above failure to discuss landfill related cumulative impacts, the DEIR fails to discuss the cumulative impacts, both short-term and long-term of water usage for dust control at two potential large scale landfills located to the east of the IID service area. Since groundwater is used at the existing Mesquite gold mine for mining operations, should one presume that water for dust control and construction at the proposed Mesquite Landfill would also be groundwater? If so, would the groundwater

505 be from wells drilled in close proximity to the project site, or would the landfill operations rely on groundwater supplied by pipeline from the same wells supplying the gold mine? The DEIR should include discussion of the cumulative impacts of this proposed landfill, since the DEIR/DEIS is scheduled for public release sometime during the spring of 1993.

2. What is the proposed source of water for use at the proposed Chocolate Mountain Regional Landfill? If from groundwater, would it be from the same groundwater basin? If so, the DEIR should include a discussion of the individual impacts and the cumulative impacts of both landfills and the mining operations on the groundwater basin. If the preparers of the DEIR assert that there is insufficient data or that information was not readily assessable because of time or budget constraints, a 1987 decision by the 9th Circuit Court of Appeals clarifies the position a government agency must take when there is an insufficiency of data provided:

506 If a government agency has difficulty obtaining adequate information upon which to make a reasoned assessment of the environmental impacts of a course of action, it may not simply negate the existence of these impacts. Rather, it has an obligation to engage in what is called a "worst-case" analysis. (Methow Valley Citizens Council v. Regional Forester (9th Cir. 1987) 833 F. 2d 810, 817.)

It is not the responsibility of other governmental agencies or members of the public to supply information and analyses that should have been included in the informational document called the DEIR for the General Plan Update. In Environmental Planning and Information Council v. County of El Dorado (1982) (131 C.A.3d 350, 354; 182 C.R. 317) the Court faulted the lead agency for failing to concern itself adequately with the proposed project's effects on "the existing physical conditions" in the "actual environment upon which the project will operate". The Court noted that the EIR forced the reader to "painstakingly ferret out" information regarding actual "physical impacts upon the existing environment". (Id. 357)

507 3. Do the mining operations use groundwater from the same basins that are relied on for domestic purposes by any RV parks, existing communities, future planned communities or scattered residential uses? What are the cumulative impacts anticipated for the remaining useful life of the mining operations? Discussion should also include social and economic impacts of mining/ industrial use of groundwater on other human uses anticipated at full build-out of the General Plan for lands relying on the same groundwater basin. What are the cumulative impacts of groundwater use by mining in addition to the proposed regional landfill(s) and other uses including commercial recreation.

508 4. The DEIR fails to identify and focus on the possible  
DEIR, Imperial County General Plan

significant impacts of the proposed project and the cumulative impacts related to groundwater based development throughout the County as described by CEQA and its guidelines. (CEQA Guidelines Sec. 15126(a), 15130(b) and discussion; Pub. Res. Sec. 21000(a).) (Refer to the Appendix for more detail.)

508 The greatest emphasis should be placed on those impacts that are the most significant and most likely to occur. The analysis should clearly identify both direct and indirect impacts, as they will occur both in the short-term and long-term. It should also discuss the environmental specifics of the affected area; the resources involved; anticipated physical changes and any potential related health and safety problems; anticipated alterations to ecological systems; and probable resulting changes in population distribution and concentration, the human use of the land (including commercial and residential development), and other aspects of the resource base such as water, scenic quality, and public services. (CEQA Guidelines, Sec. 15126 (a), 15143.) (Remy, 191)

A draft EIR must discuss any significant "cumulative impacts." (CEQA Guidelines Sec. 15130.) Where the document concludes that cumulative impacts are not significant, it should explain the basis for that conclusion. (Citizens to Preserve the Ojai v. County of Ventura (2d Dist. 1985) 176 Cal. App. 3d 421, 432 [222 Cal Rptr. 247]. (Remy, 192)

509 5. During the 11/30-12/2/78 meeting of the California Desert Conservation Area Advisory Committee, Bureau of Land Management, in Riverside California, a panel of scientists provided information on physical attributes of the Mohave and Sonoran deserts, an area including Imperial County. Dr. Richard Jahns noted that "10,000 to 30,000 years ago the area was covered with a great chain of connected lakes. As recently as 17,000 years ago glaciation was at a maximum. Most of the groundwater in the desert today is from 10,000 to 100,000 years old and is not water that enters the region now." (BLM, 1978, p. 7) Dr. Richard Vogl added that "most of these desert aquifers have fossil water, meaning it was laid down during the ice age." (BLM, 1978, p. 28.)

510 6. The DEIR for the General Plan Update fails to provide any current information on any of the groundwater basins upon which various development projects including residential development would depend. The one basin mentioned at any length referenced only out-dated information and ignored subsequent monitoring data collected by the agency (USGS) that prepared the original report and subsequent reports prepared by the County's consultant, Dr. Huntley. Consequently, the DEIR fails to provide any meaningful discussion of impacts or cumulative impacts that would result before or at build-out based on the proposed Land Use Plan. Thus, for major portions of the County subject to the General Plan

Update, there is an avoidance of all discussion of impacts on groundwater both locally or regionally. This failure results from the failure to provide any specific information about other groundwater basins.

The decision in King's County Farm Bureau v. City of Hanford (1990) 221 C.A.3d 692; 270 C.R. 650 suggests that where projected impacts questioned are not minor or trivial, the court will require "rigorous analysis and concrete substantial evidence" in order to uphold EIR conclusions that the impacts of a project are insignificant. This case is particularly relevant since two of the major Kings County Farm Bureau issues questioned were the impacts analyses related to groundwater and air quality impacts, two areas of the DEIR for the this general plan update which are inadequate, both with regard to impacts analysis and discussion of cumulative impacts. The CEQA requirements for discussion of regional cumulative impacts is thwarted by failure to discuss cumulative impacts of groundwater based development in Imperial and Riverside Counties where one groundwater basin from which water is pumped is located in Riverside County.

In addition to earlier referenced concerns about inadequate discussion of groundwater resource issues and impacts in this response, we cite these additional references to support the assertion that discussion of cumulative impacts resulting from the proposed general plan over and above the current impacts is required.

In two court cases specifically relating to water, courts found project EIRs to be inadequate when they failed to provide enough information to reasonably assess the project. In a long standing dispute regarding the efforts of the City of Los Angeles to increase its extraction and export of groundwater from the Owens Valley, the Court stated that: "An EIR may not define a purpose for a project and then remove from consideration those matters necessary to the assessment of whether the purpose can be achieved." (County of Inyo v. City of Los Angeles (1981) 124 C.A. 3d 1, 9; 177 C.R.479.)

The Santiago Court found an EIR inadequate, in part, because it failed to mention the construction of water delivery facilities, an essential infrastructure component, which were an integral part of the proposed project. "Because of this omission, some important ramifications of the proposed project remained hidden from view at the time the project was being discussed and approved. This frustrates one of the core goals of CEQA." (Santiago County Water District v. County of Orange (1981) 118 C.A.3d 818, 829-830,; 173 C.R. 602.) The Court continued:

"Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefits against the environmental cost, consider mitigation measures, assess the advantage of



terminating the proposal...and weigh other alternatives in the balance. An accurate, stable and finite project description is the sine que non of an informative and legally sufficient EIR." (County of Inyo v. City of Los Angeles, supra, 71 C.A.3d 185, 192-193; Santiago County Water District v. County of Orange (1981) 118 C.A.3d 818, 829-830.; 173 C.R. 602.)

In another decision related to water, the Santiago Court held that:

510 The EIR must contain facts and analysis, not just the bare conclusions of a public agency. An agency's opinion concerning matters within its expertise is of obvious value, but the public and decision-makers, for whom the EIR is prepared, should also have before them the basis for that opinion so as to enable them to make an independent, reasoned judgment.

Moreover, even if the Water District does have the ability to meet the water requirements of the project, the EIR is silent about the effect of the delivery of water service elsewhere in the District's jurisdiction.

It is the adequacy of the EIR with which we are concerned, not the propriety of the board of supervisors' decision to approve the project. "[W]hatever is required to be considered in an EIR must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report." (Environmental Defense Fund, Inc. v. Coastside County Water Dist. (1972) 27 C.A.3d 695, 706 [104 C.R. 197].) (Santiago County Water Dist., supra, at 831.)

511 7 Depletion of groundwater resources caused by larger than anticipated cones of depression created by the proposed project pumping resulting from increased residential, commercial recreational, agricultural, mining and/or industrial could lead to significant cumulative impacts: such as well interference, declining water levels, saline intrusion, increased costs, subsidence, and loss of storage capacity. These consequences are of concern both in the SW part of Imperial County and the groundwater basin in Riverside County from which CVWD supplies groundwater to communities along the Salton Sea. (Refer to the Appendix for more detail.)

The deeper the well, of course, the higher the energy costs per acrefoot of water become....Before an aquifer is totally depleted of water, the energy costs of pumping from it will become prohibitive. These steeply rising costs can lead to the abandonment of irrigated cropland. (Sheridan, CEQ, 1981, p. 51.)

12 8. We are aware that declining water tables have resulted in abandonment of both farmland and residential uses in both Arizona and New Mexico. Land subsidence is mentioned in the DEIR, but was

not analyzed in cumulative impacts discussions in relation to the anticipated increased pumpage for residential, urban, industrial, mining, agriculture, and landfill operations in areas where cumulative impacts may be anticipated, both in Imperial and Riverside Counties.

Land subsidence caused by groundwater overdraft has been accompanied by earth fissures and faults in central Arizona. These fissures vary in size, "but some fissures measure as much as 25 feet wide and 60 feet deep. More than 75 cracks in the earth have been found in central Arizona." (Sheridan, CEQ, 1981, p. 70)

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One of the long-term consequences of groundwater overdraft and subsidence that has not received much attention is the loss of water storage capacity. As an aquifer system compresses with the mining of its water, the amount of pore space within it shrinks. Because it is this very pore space that enables the system to store water, its storage capacity is therefore greatly diminished. (Sheridan, CEQ, 1981, p. 51.)

Aquifer systems that have subsided because of overdraft will never again be able to hold as much water as they did before overdraft began. In such cases, in other words, overuse results in the partial loss of a valuable nonrenewable resource. (Sheridan, CEQ, 1981 p. 52.)

9. General Plan provisions for increased groundwater based agriculture in the Recreation/Open Space land use category could pose major cumulative impacts and potential off-site impacts on sensitive species resulting from the use of agricultural chemicals and declining water tables. For deep rooted desert vegetation, a drop in the water level either rapidly or gradually to a depth below the root zone will cause loss of vegetative habitat. Urban and Recreational/Residential development will create additional impacts which cannot be ignored.

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Mesquite puts down a very deep taproot - 50 to 100 feet deep - so its success at the expense of shallow rooted species such as the cottonwood may signal a declining water table because of overdrafting. However, the pumping of groundwater can cause such a precipitous drop in the water table that even mesquite cannot survive. In the Santa Cruz Valley, south of Tucson, for example, about 2000 acres of mesquite forest have died because of a declining water table. (Sheridan, CEQ, 1981, p. 66)

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CUMULATIVE IMPACTS RE GROUNDWATER BASED AGRICULTURE ON GROUNDWATER QUALITY IS MISSING FROM DEIR



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In Imperial County, the agriculture based economy depends almost entirely on Colorado River water supplied by one of the irrigation districts. Very little agriculture is groundwater dependent. However, the text of the draft General Plan for the Recreation/Open Space land use category would specifically authorize agricultural usage in the groundwater dependent portions of the County that lie beyond the service area of the irrigation districts. Any such agricultural developments based on groundwater would inevitably create impacts from agriculture on the groundwater resource in addition to the impacts from other usage. The cumulative impacts on groundwater quantity and quality should be addressed in the DEIR.

The following list of cumulative impacts on groundwater from agriculture is derived from Hammer. It includes, but is not limited to salt build-up, runoff, infiltration, fertilizer and pesticide contamination, nitrate contamination, and the need for prevention, monitoring, and abatement of degradation. (See appendix for details.)

It is clear that many agricultural practices increase the rate of solute leaching from the soil, and thus provide a major source of pollutants. Many of these pollutants are carried downwards into the groundwater...(Briggs, p. 278.)

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Briggs, citing a 1982 study titled "Nitrate leaching to groundwater" states that the authors concluded that: the available evidence indicates a continuing increase in levels of nitrate in groundwaters, particularly from arable land, and they argue that this will result in 'the widespread need for alternative water supplies or water treatment facilities, or both, from the 1990s onwards'. Clearly, therefore, agricultural impacts upon groundwater quality remain an issue of considerable importance. (Briggs, p. 290.)

Briggs concludes that: "A need for the future is undoubtedly to make more explicit the links between agriculture and hydrology, and to evaluate modern farming practices in the light of their impact upon water resources." (Briggs, p. 281.)

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Such links in addition to the potential for declining water tables and reduced seepage into the San Sebastian Marsh and San Felipe Creek ACEC could have adverse impacts which should be evaluated in light of the BLM mandate to manage the ACEC as critical habitat for the endangered desert pupfish.

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Also the linkage between potential agricultural degradation of groundwater quality and impacts on residential domestic users downgradient should be evaluated in the cumulative impacts section, particularly on the east side of the County near Palo Verde and the

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Winterhaven/Bard area and could be applicable based on future locations of agriculture over groundwater basins.

DEIR DISCUSSION OF AGRICULTURAL AND RECREATIONAL IMPACTS ON SENSITIVE SPECIES IS INADEQUATE

1. The DEIR fails to provide adequate discussion of the location of and limitations of use near designated critical habitat for the endangered desert pupfish. The San Sebastian Marsh/San Felipe Creek Management Plan noted that:

Severe erosion (due to overgrazing), ... dewatering due to groundwater pumping, and the introduction of exotic predatory or competitive fish species, have severely reduced the distribution and numbers of desert pupfish in its native habitat. .... Approximately 11 miles of San Felipe Creek, Carrizo Wash and Fish Creek Wash have been designated as Critical Habitat for the desert pupfish by USFWS ... also includes a 100 foot riparian buffer zone. (BLM, 1986, p.5.)

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Agricultural impacts of groundwater based agriculture such as lowered groundwater table or reduced drainage to the San Sebastian Marsh or San Felipe Creek Critical Habitat for the desert pupfish can reduce available habitat, dry out the marsh or result in unfavorable summer temperatures for the endangered desert pupfish. (BLM, SSM/SFC (1986) p.5; Steinhart (1990) p.97.)

DEIR also fails to discuss the potential impacts of downgradient groundwater quality seeping into the San Sebastian Marsha and San Felipe Creek or degraded groundwater quality resulting from groundwater based agricultural operations and from urban/recreational growth and the potential resulting alterations on the ecosystem as required by CEQA Guidelines Sec. 15126(a). It fails to discuss these water quality/water level impacts on downgradient vegetation and wildlife resources that could result from changes induced in population distribution and concentration resulting from recreational developments within the Recreational/Open Space designation. Discussion of these impacts is required by CEQA Guidelines Sec. 15126(a). In Arizona when groundwater levels dropped below the root zones of vegetation, that vegetation died off, diminishing habitat quality and resulting in increased potential for erosion. (Sheridan, 1979.)

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2. The DEIR also fails to discuss the potential cumulative impacts of agricultural activity on the sensitive flat tailed horned lizard, a Category 1 candidate for federal listing as a threatened species (FTHL). The FTHL is included in the September 1992 Exhibit A (p. A-4) appended to the 12/15/92 Settlement Agreement in the court case The Fund for Animals v. Lujan Civ. No. 92-800 (GAC). It is understood that the FTHL is expected to be among those listed within the coming year (Watkins, 1993). The

following information represents the status and concerns related to the FTHL in Imperial County more accurately than the text of the DEIR (p. III-106, III-107):

The Flat-tailed horned lizard occurs on undeveloped desert. It is most abundant on sandy flats, but does not occur in sand dunes. There are five areas of optimal habitat where the species is known to be relatively well-represented, including four areas in Imperial County, California: the Yuha Desert, Superstition Mountain area, southern East Mesa, and the area around Benson Dry Lake;

The threats to this species have been documented in several status reports. About 40 to 25 percent of the historic habitat in California and Arizona, respectively, has been converted to agriculture, urban development, or was flooded by the filling of the Salton Sea. In California, an estimated 95 percent of the remaining optimal habitat is threatened by one or more activities.

.... Activities which adversely affect this species include conversion of desert lands to urban and agricultural uses, off-highway vehicle use, construction of roads and utility corridors, and other activities which disturb this animal's habitat. Some types of impacts, such as major highways and canals, form barriers to movement. These barriers create isolated populations that exhibit an increased probability of local extirpation. (Chambers, USFWS, 1992)

The following FTHL population issues potentially relevant in the East Mesa area and Yuha Desert of southern Imperial County were identified by BLM:

1. Direct Losses from Large Scale Surface Disturbances  
Large scale surface disturbances are causing direct losses of FTHLs both on and below the ground surface due to crushing. Examples are mineral material removal, geothermal development, and flooding (reservoirs).

2. Off Highway Vehicle (OHV) Impacts  
OHV travel is resulting in direct mortality of FTHLs both on and below the ground surface. Impacts occur both in concentrated areas (such as along race corridors) and in areas used occasionally by visitors.

3. Visitor Concentrations  
Visitor concentrations typically occur at camping areas. OHV play activities are associated with camping areas. Concentrated use results in FTHL mortality as outlined above.

4. Impacts of Pesticide Use  
Pesticide use may affect FTHL populations either directly through effects on lizards or indirectly through reductions in harvester ant (Veromessor pergandei and Pogonomyrmex spp.) populations which comprise the FTHL's prey base. Pesticides approved for use in the U.S. are

not persistent but still may have an impact. .... Drift may occur from local spraying. (BLM 1990, p. 10-11.)

519 Additionally, habitat fragmentation may result in genetic isolation. The DEIR discussion of habitat fragmentation fails to address the potential for vastly increased significant effects on sensitive species (FTHL) as a consequence of increased habitat fragmentation. Such fragmentation would occur with the development of agriculture and recreational/residential developments authorized by the expansion of the Recreation/Open Space designation within the habitat of FTHL. The DEIR further fails to address the habitat fragmentation of desert tortoise habitat that would result from increased mining or regional landfill activities proposed to be located within the proposed Chuckwalla Habitat Management Area.

520 3. The desert tortoise was listed as threatened by USFWS in 4/90. The existing BLM Chuckwalla Bench ACEC Management Plan and EA was prepared in 3/86 or 4 years before listing. BLM is presently preparing a Desert Tortoise Habitat Management Plan under NEPA. The Chuckwalla Bench ACEC Management Plan described human impacts on declining populations throughout its range such as vehicle use, shooting, collection, grazing and mining. The Plan noted that vehicle use off roads can damage burrows, kill tortoises or destroy nests. and that repeated use can damage vegetative cover resulting in reduced quality of the habitat and its carrying capacity ( BLM. 1986, CBACEC. p.9).

4. Among the habitat issues discussed, several are important considerations for the East Mesa area, West Mesa area, and Yuha Desert. Although the following is from a discussion of the FTHL, the issues are equally applicable to the desert tortoise.

521 1. Impacts of Large Scale Surface Disturbances

Large scale surface disturbances cause long term and often permanent loss of FTHL habitat. Examples of long term (but not necessarily permanent) habitat loss include mineral sale sites... Examples of long term permanent habitat loss include agricultural development. Impacts can also include habitat fragmentation due to roads or other linear constructions. This can reduce the species ability to move from one area to another. ....

2. Cumulative Impacts of Small Surface Disturbance

Land use actions (such as new roads or well pads) which disturb a small acreage of habitat can cause additional indirect impacts and be cumulatively significant, although the original individual disturbance is not significant. These small disturbances can create new public use patterns by creating access to previously unused areas.

3. Effectiveness of Mitigation Measures

Mitigation measures, which are project modifications or other actions designed to reduce an adverse impact of a proposed project, vary greatly in their effectiveness.

.... Even with mitigation, development within habitat of concern usually results in a temporary or permanent net loss of habitat.

5. Preserve Size and Effectiveness

6. OHV Impacts [see above] (BLM, 1990, p. 11-13)

5. Among the recommended actions and discussion contained in the DEIR re the Recreation/Open Space Land Use Category authorization of agriculture and commercial recreation including RV parks that may be incompatible with BLM policy requirements are the following BLM management directives:

13. Action: Reduce the effects of OHV use on the FTHL.

Discussion: OHV use directly affects FTHLs and their habitat, as shown by data gathered in the Yuha and West Mesa areas. Action should be taken to reduce the amount of Category 1 and 2 habitat affected.

Implementation: Through the route of travel review process, eliminate all routes not needed for access purposes. Reduce the number of redundant routes. Post and enforce closures.

Rationale: OHV use creates direct and indirect impacts to both FTHLs and their habitat. (BLM, 1990, p.21.)

14. Action: Discourage facilities and activities which concentrate visitors in and adjacent to Category 1 and 2 habitats.

Discussion: Concentrations of visitors directly impact FTHLs and habitat values. Local extirpations can occur.

Implementation: Attempt to relocate proposed facilities and activities to areas outside Category 1 and 2 habitat. Examples include race pitting areas, spectator areas, and camping areas.

Rationale: This action will reduce direct impacts leading to local extirpations. (BLM, 1990, p. 21-22)

F. Goal: Insure perpetuation of habitat supporting viable FTHL populations in all four habitat areas.

26. Action: Discourage land disposal or land exchange which would reduce the amount of public ownership in Category 1 and 2 habitats.

Implementation: Discourage the disposal of Category 1 habitat. ... (BLM, 1990, p. 26, 27)

A July 22, 1990 article by P.A. Rice in the Imperial Valley Press, entitled "It's Getting Closer: 'Death March' steps up pace in search for the flat-tailed horned lizard", echoed the concerns of the 1990 FTHL Management Plan and consequences of listing as an endangered species. The caption under the photo of the FTHL states: "Researchers believe Imperial County's flat-tailed horned lizard has begun the long slow march to extinction." The article indicated that "enough information will be gathered on the lizard

by the end of 1991 for consideration by the agency as an endangered species." The article went on:

522 The downside of listing a creature as endangered is it may hold up development in the habitat range. Even developers on private land, BLM's Watkins said, must file project descriptions and biological assessments and can be required to compensate for the loss. Endangered status for the lizard may cut down on recreational use in the Yuha, limit geothermal industry in the East Mesa, and cramp U.S. Border Patrol operations. (I.V. Press 7/22/90.)

6. In BLM's discussion of "management planned actions" in the East Mesa Wildlife Habitat Management Plan (1983, at p. 5), among the proposed actions is:

12. Initiate a land exchange/acquisition program for the private lands identified on Map 5, page 8-6. Land exchange is necessary to prevent habitat loss and to prevent possible impacts of pesticide use when inholdings are converted to agricultural use. .... (BLM (1983) EMWHMP, p.5.)

The included map appears to include all private parcels within the HMP boundary.

523 Earlier BLM documents referencing concerns about agricultural impacts on the FTHL proposed to "prohibit pesticide spraying unless and until a study proves that it has no negative impacts on the flat-tailed horned lizard or its prey base, the harvester ant." (BLM, 1981, p. 5, 20, 37.) The document discussed specific pesticide impacts.

The flat-tailed horned lizard, while never an abundant species, has become increasingly rare in recent years in some parts of its range (Turner et al, 1978; Turner et al, 1980). It has been postulated (Desert Planning Wildlife Staff, pers. comm.) that this decrease in abundance has, at least in some areas, been due to pesticide spraying in and adjacent to prime habitat areas. Lizard population levels also may be impacted indirectly by pesticide-related decreases in the abundance of harvester ants (the lizard's' primary food source). It is, therefore, necessary to study both the direct and indirect impacts of pesticide use. (BLM, 1981, p. 20)

524 INCREASED AGRICULTURE ALTERNATIVE IS NOT FEASIBLE BECAUSE IT IS INCOMPATIBLE WITH FEDERAL MANAGEMENT PLANS AND POLICIES/  
1973 PLAN ALSO NOT A FEASIBLE ALTERNATIVE

The language of the BLM East Mesa WHMP (1983) stands in sharp contrast to the text of the "Increased Agriculture Alternative" to the County's proposed Land Use Plan. BLM's Watkins and Kostol have indicated that the BLM policies related to East Mesa WHMP have not

524 changed. Therefore the language of DEIR IX-8 assertion specifically referencing the East Mesa area in the proposed Land Use Plan and stating "that agriculture would also be allowed in this area under the Recreation/Open Space designation", when in fact the "vast majority" of land in the East Mesa is "public land administered by the BLM." (DEIR, IX-8.) The DEIR erroneously asserts that: "The Agriculture designation would not conflict with the underlying BLM designations and, in fact, is consistent with the existing designation of this area as General Agriculture. Therefore, limited adverse land use effects are anticipated." (DEIR, IX-8.) The failure to review all applicable ACEC and wildlife habitat management plans available at the El Centro Resource Area office resulted in inclusion of an infeasible, unrealistic Increased Agriculture Alternative Plan totally inconsistent with publicly distributed BLM stated management actions.

Furthermore, the permitted uses as spelled out in the Draft General Plan Update for the Land Use Element, Recreation/Open Space land use category (GP, LUE, p. 45, 46) are inconsistent and incompatible with stated BLM policy. The General Plan discussion of the Recreation/Open Space Land Use Category includes the following misleading information:

525 Some areas designated Recreation/Open Space contain soils suitable for agriculture, such as the East and West Mesas and Pilot Knob Units of Imperial Irrigation District, which are predominantly owned by the Bureau of Land Management and not presently improved for agricultural cropland. Other areas designated Recreation/Open Space may be suitable for aquaculture, particularly where favorable groundwater conditions exist. Agricultural uses are, therefore permitted in the Recreation/Open Space category. (GP, LUE, p. 45.)

Under the Recreation/Open Space "Agricultural Land Use Standards" (GP, LUE, p. 46) is the statement that: "Agricultural uses are prohibited in areas designated by BLM as "Areas of Critical Environmental Concern." This statement is inconsistent with the text on the previous page, since the majority of the previously referenced East Mesa area is public land within the East Mesa ACEC.

526 The term ACEC or Area of Critical Environmental Concern is one with special reference to federal lands managed by BLM. The California Desert Conservation Area Plan citing the Federal Land Policy and Management ACT (FLPMA) Sec. 103(a) defines ACEC as: an area "... within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources, or other natural systems or processes, or to

protect life and safety from natural hazards."

The ACEC designation is more than a recognition program; it is a process for determining what special management certain important environmental resources or hazards require, and making a commitment to provide this management....The requirements are site-specific.... (BLM, 1980, p.123.)

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BLM ACEC designations apply to public lands and not to private lands because BLM planning authority is for federal lands only, and not private lands adjacent to or surrounded by BLM ACECs. Lands surrounded by public lands are considered to be "inholdings", often considered desirable for acquisition by BLM to facilitate management and reduce incompatible land uses on private lands, as noted in the East Mesa WHMP (p.5). BLM mapping efforts have historically been prepared to clearly delineate which lands are public lands subject to BLM management and which lands are private lands subject to County planning authority. Consequently the inclusion of an agricultural prohibition on BLM lands could serve to convey the impression that agriculture would be prohibited on private lands adjacent to or surrounded by BLM ACECs. If the intent had been to prohibit agriculture on private lands adjacent to or surrounded by a BLM ACEC, this clarification would have been made since both Harmon and BLM staff made that specific request for clarification and compatibility with existing BLM HMPs and policies.

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DEIR failure to address the potential impacts resulting from agricultural uses within the various land use categories adjacent to or overlapping BLM ACECs (managed in part for sensitive species) results in an EIR which must be considered inadequate when measured by CEQA and CEQA Guideline standards in addition to being inadequate and unacceptable when contrasted to relevant court decisions. Although DEIR Fig. 12 and 13 (DEIR, p. III-109, III-111) depict historic and current ranges of the FTHL, preparers of the DEIR apparently failed to review applicable BLM management text. That failure resulted in Draft General Plan text and DEIR discussion which fails to understand the importance of impacts from various activities and the associated cumulative impacts of agricultural activities when viewed together with impacts from geothermal activities and recreation/off highway vehicle activity in the vicinity of sensitive wildlife habitat.

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The DEIR discussion does "not reflect "a conscientious effort to provide public agencies and the general public with adequate and relevant information" about cumulative impacts." (San Franciscans for Reasonable Growth v. City and County of San Francisco (1984) 151 C.A. 3d 61, 79; 198 C.R. 634; cited in Remy, 231.) Further, the DEIR discussion of potential agricultural activities in the East Mesa and West Mesa areas indicate that the lead agency and its consultant did not use "reasonable efforts to discover, disclose, and discuss" related past, present, and future projects, including



528 those under review by other agencies. (CEQA Guidelines Discussion re Sec. 15130.) To fail to consider impacts on FTHL and FTHL habitat when the DEIR acknowledges that the FTHL is a Category 1 candidate for listing and press articles have indicated listing may come within the year and when BLM has prepared several HMPs specifically referencing the FTHL renders the DEIR inadequate. If the Program EIR is to be adequate for tiering of future projects a comprehensive, detailed, and complete analysis of impacts including cumulative impacts is essential. Failure to provide the CEQA required information about potential cumulative impacts on sensitive species such as the FTHL, desert tortoise, and desert pupfish could render a Program EIR inadequate and unacceptable for consideration of future projects.

#### DEIR DISCUSSION OF CUMULATIVE IMPACTS WHERE ENVIRONMENTAL PROBLEMS ALREADY EXIST IS INADEQUATE OR MISSING

1. The Kings County Farm Bureau Court stressed the duty of an EIR not to attempt to minimize the cumulative impacts of a project by limiting the discussion to the specific project rather than considering the combined "collectively significant" impacts of all related or relevant projects. The Court rejected the city's acceptance of an EIR which attempted to minimize cumulative impacts on groundwater and air quality, two issues inadequately discussed in Imperial County's General Plan Update DEIR.

529 The Kings County Farm Bureau decision noted that the with respect to discussion of cumulative impacts, the courts: must interpret the Guidelines to afford the fullest possible protection to the environment. (Friends of Mammoth v. Board of Supervisors (1972) 8 Cal. 3d 247, 259-260 [104 Cal. Rptr. 761, 502 P.2d 1049].) One commentator has addressed the purpose of the cumulative impacts analysis: "One of the most important environmental lessons evident from past experience is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant, assuming threatening dimensions only when considered in light of the other sources with which they interact. Perhaps the best example is air pollution where thousands of relatively small sources of pollution cause a serious environmental health problem. (Kings County Farm Bureau, supra, at 720)

"This judicial concern often is reinforced by the results of cumulative environmental analysis; the outcome may appear startling once the nature of the cumulative impact problem has been grasped." (Selmi, The Judicial Development of the California Environmental Quality Act (1984) 18 U.C. Davis L. Rev. 197, 244, fn. omitted.) (Kings County Farm Bureau, supra, at 720.)

We agree with the foregoing assessment of a cumulative

529 impacts analysis. We find the analysis used in the EIR and urged by GWF avoids analyzing the severity of the problem and allows the approved of projects which, when taken in isolation, appear insignificant, but when viewed together, appear startling. Under GWF's "ratio" theory, the greater the overall problem, the less significance a project has in a cumulative impacts analysis. We conclude the standard for cumulative impacts analysis is defined by the use of the term "collectively significant" in Guidelines section 15355 and the analysis must assess the collective or combined effect of ... [the project]. The EIR improperly focused upon the individual project's relative effects and omitted facts relevant to an analysis of the collective effect this and other sources will have on air quality. (Kings County Farm Bureau v. City of Hanford (1990) 221 C.A.3d 692, 720, 721; 270 C.R. 650.)

530 2. The Draft Program EIR for the General Plan Update similarly fails to analyze the potential for significant cumulative impacts on sensitive wildlife, groundwater resources, and air quality in addition to inadequate discussion of other cumulative impacts. Because the DEIR contains so little useful information about important BLM management plans and groundwater basins relied upon for present and future development, one cannot determine from the DEIR if the missing information (related to BLM management mandates, mining and landfill groundwater usage and wildlife impacts, domestic, agricultural, industrial, and commercial recreational usage of groundwater and wildlife and habitat impacts) would have revealed a more severe impact and more significant cumulative "collectively significant" impacts. One court case said it well:

Accordingly, the EIR [DEIR in this case] is inadequate. To conclude otherwise would place the burden of producing relevant environmental data on the public rather than the agency and would allow the agency to avoid an attack on the adequacy of the information contained in the report simply by excluding such information. (Kings County Farm Bureau v. City of Hanford (1990) 221 C.A.3d 692, 723; 270 C.R. 650.)

531 3. DEIR discussion of air quality impacts and cumulative impacts on air quality is inadequate. The DEIR statement in the discussion of Cumulative Impacts on air quality attempts to minimize the existing and future problems by stating that:

This impact would be mitigated to below a level of significance through implementation of the General Plan Air Quality Element and application of "Best Available Control Technologies" (BACT) as required by local air pollution control districts and State and federal agencies. (DEIR V-5)

Such statements are not reflective of the current requirements of

531 law. Furthermore, this discussion ignores the fact that the County does not have and, indeed, has not submitted a draft Air Quality Element for public review. Additionally the Cumulative impacts discussion fails to consider the regional air quality existing problems in the environmental analysis section which referenced air pollution in Mexicali, located in the same air basin, but just across the international border. Environmental impacts do not recognize international borders, and therefore must be fully considered for a legally sufficient and adequate EIR to be prepared. (See 3/17/93 Imperial Valley Press article on air quality enforcement and monitoring in Imperial County.)

532 4. Missing cumulative impacts relative to groundwater basins, with or without acknowledged environmental problems was noted in a previous comment.

DEIR FAILS TO INCLUDE ADEQUATE DISCUSSION OF THE ECONOMIC AND SOCIAL IMPACTS OF INCREASING DEVELOPMENT NEAR THE BORDER

533 1. "Where appropriate, a draft DEI should contain discussion of the economic and social impacts of a proposed project. .... Where an EIR does identify significant environmental effects, however, related economic and social impacts are not irrelevant." (Remy, 234.) Remy summarizes a number of considerations related to social and economic impacts of physical changes to the existing community. Increasing development to the east of the existing city of Calexico, the proposed new East Border Crossing, and requested commercial corridors will likely significantly alter the existing economic situation in the present downtown of Calexico in addition to altering traffic patterns in the area. "[T]he lead agency should consider the [potential] physical deterioration of downtown area to the extent that potential is demonstrated to be an indirect effect to the proposed" development of new commercial areas several miles to the east of the existing commercial areas. "The requirement to consider such secondary and indirect environmental effects is mandatory." (Remy, 234, citing CEQA Guidelines Sec. 15131 and Citizens for Sensible Development of Bishop Area v. County of Inyo (1985) 172 C.A.3d 151, 170; 217 C.R. 893.)

In the present DEIR, the brief discussion (in the section on growth inducement) of such potential socioeconomic impacts so close to the international border is sadly inadequate. Additionally, there is no discussion of the social and economic impacts on the urban centers of other cities further north of the border, even though there has been such discussion during public meetings.

534 2. DEIR discussion of cumulative impacts and growth inducing impacts of proposed new four lane roads and transit corridor from the international border going north is inadequate. The proposed road improvements will have environmental impacts in addition to both social and economic impacts on changing transportation,

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commercial, housing, and employment opportunities and patterns. The proposed Land Use Plan and the agriculture and development alternative plans for considerable development both east and north of Calexico in the area of the border. These changes will have impacts related not only to Calexico, but to the other cities of the County and to the nearby unincorporated community of Heber, all of which must be addressed in detail in the DEIR. Consequently the out-dated 1990 Housing Element (with its 1989-1994 horizon) which was not accepted by the State could not be consistent with the proposed changes, nor should it be referenced for relevant information on housing related to the Land Use Element of the General Plan Update. These circumstances necessitate an immediate revision of the Housing Element to assure internal consistency among the elements of the General Plan. Therefore both the Draft General Plan Update and DEIR are inadequate in attempts to relate growth inducing impacts of the General Plan Update to available and projected housing discussed in the Housing Element. Thus, no discussion of the potential cumulative impacts related to social and economic issues could be current or adequate as required by CEQA Guidelines.

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In the discussion following CEQA Guidelines Sec. 15131 is the following notation:

Under the interpretation provided in this section, effects on facilities or services are not automatically regarded as significant effects of a project. The changes must be related to or caused by physical changes. If the project causes a direct physical change in a facility by pumping ground water and causing ground settling under the facility, the resulting deterioration can easily be regarded as a significant effect. If the project causes physical changes that affect the use of the facility, the effects on the use may be considered a significant effect in the same way as increases in traffic are often treated as significant effects. (CEQA Guidelines Sec. 15131 Discussion.)

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In Citizens Association for Sensible Development of Bishop Area v. Inyo (1985) 172 Cal. App. 3d 151, the court held that "economic or social change may be used to determine that physical change shall be regarded as a significant effect of the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project. Alternatively, economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment." In this case, the Court held that an EIR for a proposed shopping center located away from the downtown shopping area must discuss the potential economic and social consequences of the project, if the proposed center would take business

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away from the downtown and thereby cause business closures and eventual physical deterioration. (CEQA Guidelines Sec. 15131 Discussion.)

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3. In portions of the County where present and future development will continue to rely on groundwater rather than surface water from the Colorado River, the groundwater basins could, and in some cases undoubtedly will, experience changes in groundwater levels and water quality as the inevitable consequence of increased pumping/groundwater extraction in this desert setting for use by industry, agriculture, residential, and commercial recreation. Degraded water quality, increased costs of pumping, subsidence and loss of storage capacity have all been the consequences of extractive groundwater pumping and have been experienced elsewhere in the Southwestern deserts. The resulting physical changes to the groundwater basin and water quality could have social and economic impacts for groundwater users and place ever more serious resource constraints on existing and projected groundwater based development in groundwater dependent areas of the County. These potential cumulative impacts are ones which must be considered in the discussion of growth inducement and cumulative impacts sections of the DEIR.

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4. Any discussion of cumulative impacts of groundwater based development should include discussion of the combined impacts of pumpage by groundwater users both in San Diego and Riverside Counties where development in Imperial County is dependent on groundwater from a shared basin which extends into the other county. This is particularly crucial with reference to Riverside County where wells supplying communities in Imperial County on either side of the Salton Sea rely on groundwater from wells located in Riverside County, communities where extraordinary population growth is discussed/projected by both old and new plans.

DEIR FAILS TO PROVIDE A RANGE OF FEASIBLE ALTERNATIVES AND ADEQUATELY ANALYZE THOSE ALTERNATIVES

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The Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 C.3d 376; 253 C.R.426 decision described what the California Supreme Court considers necessary for an adequate discussion of project alternative. The Court noted that the policy of this state is to require governmental agencies at all levels to consider alternatives to proposed actions affecting the environment (Pub. Res. Sec. 21001(g)). One of an EIR's major functions is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official. As a matter of logic, the EIR must be prepared before the decision to approve the project. Alternatives and mitigation measures have the same function --diminishing or avoiding adverse environmental effects. "Conclusory statements in support of environmental conclusions are generally inappropriate." The key issue is

whether the selection and discussion of alternatives favors informed decision-making and informed public participation. The EIR must contain facts and analysis, not just the agency's bare conclusions or opinions. An EIR must include detail sufficient to enable those who did not participate in its preparation to understand and consider meaningfully the issues raised by the proposed project. It is the project proponents' responsibility to provide adequate discussion of alternatives. (Laurel Heights, *supra* at 376-406 paraphrased. For more detail see the Appendix.)

The decision in Citizens of Goleta Valley v. Board of Supervisors (1990) 52 C.3d 553, 568; 276 C. R. 410 (Goleta II) further noted that "the duty of identifying and evaluating potentially feasible project alternatives lies with the proponent and the lead agency, not the public.

The Laurel Heights Court required the Regents to prepare a new EIR, but believing the existing activities would be mitigated, and that the nature of the ongoing medical research to be an important contribution to the state of medical knowledge, it believed that CEQA would not be thwarted by allowing UCSF to continue research activities while preparing a new EIR in compliance with CEQA. The Court did, however, note that UCSF might not expand existing operations or begin new operations while a new EIR was being prepared. But the Court was strict in the guidelines it laid down.

Having failed to comply with CEQA in the first instance, they [the Regents] cannot fairly complain of any burden in preparing a new EIR or a restriction on expansion might impose on them.

.... The Regents must begin anew the analytical process required under CEQA. (Laurel Heights, *supra*, at 425.)

Local governments must confront, evaluate, and resolve competing environmental, social and economic interests. The planning process necessarily compels cities and counties to consider alternative land-use goals, policies, and implementation measures. As explained in the Office of Planning and Research, General Plan Guidelines: "A general plan must address the issues associated with a jurisdiction's physical development. Such issues concern the general locations, appropriate mixtures, timing and extent of land uses and supporting infrastructure. They pertain to the physical nature of a jurisdiction's environment. The broad scope of physical development issues ranges from appropriate areas for building factories to open space for preserving scenic vistas." (Goleta II, *supra* at p. 571,)

In preparing its "range of reasonable alternatives to the project or to the location of the project, which could feasibly attain the basic objectives of the project, and evaluate the comparative merits of the alternatives" as required by CEQA

Guidelines Sec. 15126(d), the County and its consultant seem not to have focused on any "alternatives capable of eliminating any significant adverse environmental effects or reducing them to a level of insignificance." (CEQA Guidelines, Sec. 15126(d)(3), Pub. Res. Sec. 21002.)

539 CEQA Guidelines Sec. 15126(d)(1) suggests that: "If there is a specific proposed project or preferred alternative, [the DEIR must] explain why the other alternatives were rejected in favor of the proposal if they were considered in developing the proposal." It is apparent that the DEIR preferred project is the "Proposed Land Use Plan" which is discussed at length, but the DEIR never clearly explains the County's preference for the preferred General Plan Update's "Proposed Land Use Plan."

INCREASED AGRICULTURE ALTERNATIVE IS INFEASIBLE AND UNREALISTIC

540 The DEIR fails to consider recent trends and information prepared by another governmental agency and which it should have identified and considered in developing alternatives. In failing to review the BLM Plan Amendments and map changes adopted since the original California Desert Conservation Area Plan of 1980, and failing to review the adopted BLM management plans for the various ACECs, habitat management plans, and wildlife habitat management plans, the preparers of the Increased Agriculture Alternative have drafted an unrealistic, infeasible alternative that calls for removing land in the East Mesa area from the Recreation/Open Space land use designation and designating the area for "General Agriculture" (DEIR, IX-8). To ignore the pattern of land ownership with public lands administered by BLM and managed with special reference to a sensitive species, a Category 1 candidate for listing under the Endangered Species Act does not satisfy the CEQA Guidelines Sec. 15126(d)(3) requirement for discussion focusing on eliminating environmental impacts. The Increased Agriculture would significantly increase impacts on sensitive wildlife and proposed expansion of irrigated agriculture on lands not available for such uses, lands proposed for acquisition by BLM in its East Mesa WHMP.

DEIR Increased Agriculture Alternative is not feasible or reasonable because it is incompatible with adopted BLM ACEC and wildlife habitat management plans and adopted plan amendments. BLM lands in the East Mesa are not available for irrigated agriculture as set forth in the "Increased Agricultural Alternative", so the Increased Agriculture Alternative is not a feasible alternative as required by CEQA Guidelines. See CDCA Plan, map #17 which shows the East Mesa ACEC #70, and the legend which indicated that the East mesa ACEC is so listed as flat tailed horned lizard (FTHL) habitat.

The 1985 BLM Plan amendment #2 (Record of Decision (ROD) 1/87, p. 6-7) extended the prohibition of agriculture (other than

livestock grazing) to all BLM lands in the California Desert except on unclassified lands. The amendment states:

.... The Federal Land Policy and management Act of 1976 (FLPMA) sets forth the principle that public lands are to be retained in public ownership and managed for the public good. ....

The Desert Plan, in its zoning system, intended that retention lands which were in multiple use classes would be maintained in essential wildland character, except as authorized under specific lease, permit or grant. Agricultural use is not generally one of those kinds of authorized uses. Further, agricultural use contemplates disposal of land from Federal ownership.

There are no unclassified lands in ACECs (Watkins, 1993), consequently no federal lands are available for agriculture in the East Mesa.

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Further, the BLM has included proposed management actions for the acquisition of private lands within the ACEC to afford better FTHL habitat management. Among BLM's East Mesa Wildlife Habitat Management Plan (1983) management "planned actions" is a "land exchange/acquisition program" which states that: "Land exchange is necessary to prevent habitat loss and to prevent possible impacts of pesticide use when inholdings are converted to agricultural use." (East Mesa WHMP, 1983, p. 5.)

Consequently, the GP-C/OSE (p. 28) assertion that the lands "suitable for cultivation" in the East Mesa and West Mesa (also FTHL habitat) represent "potential irrigable lands [which] present a valuable future resource which should be protected" for potential future agriculture is incompatible with the pattern of federal ownership and BLM's proposed management actions for acquisition of private inholdings to manage for FTHL habitat.

#### INCREASED DEVELOPMENT ALTERNATIVE IS UNREALISTIC

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1 The Increased Development Alternative is unrealistic and proposes potential growth in the Ocotillo and Nomirage area overlying the limited groundwater resources where USGS data on water quality in one monitored well near the fault shows increasing chloride levels. The probable cause of the water quality changes has not yet been determined, but is presumed to be related to the large cone of depression created by existing residential and industrial pumpage dictated by the pattern of federal and private land ownership. Residents overlying the Ocotillo-Coyote Wells groundwater basin rely on this sole source aquifer with very limited recharge.

To suggest an alternative which includes increased intensity of residential development based on a groundwater resource with documented developmental constraints could hardly be considered



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prudent planning. Similarly, such a proposal would serve only to increase environmental impacts, causing social and economic impacts resulting from changes in water availability and water quality. None of the environmental impacts related to groundwater issues, issues which have been discussed in studies jointly funded by Imperial County, were even mentioned in the discussion of environmental impacts of the Increased Development Alternative. Because impacts are totally ignored in the discussion of alternatives does not mean they are not widely acknowledged by local residents and County officials. Such a superficial discussion of that proposed alternative renders the Increased Development Alternative unreasonable, and inadequate for the purposes of CEQA review.

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2. Additionally, the Increased Development alternative calls for increased acreage in the SW part of the County to be placed in the Recreation/Open Space land use category which would authorize more intensive commercial recreation and agricultural uses in areas near the Yuha Desert ACEC, areas containing critical habitat for the flat-tailed horned lizard. The listed authorized uses would have the potential for off-site impacts from agriculture, commercial recreation and off-highway vehicle use that pose threats to the FTHL and are incompatible with SLM management concerns. Likewise, both commercial recreation and agriculture based on groundwater would place additional impacts on the groundwater basin with existing resource constraints. These impacts, and indeed, the cumulative impacts have not been addressed in the DEIR. To the contrary, the single sentence devoted to discussion of environmental impacts related to water quality erroneously concludes: "The water quality impacts of the Increased Development Alternative would be virtually identical to the impacts described for the proposed Plan Update." (DEIR, IX-22.) How could increased groundwater based development relying on a basin with known resource constraints result in "virtually identical" impacts to those produced by a substantially reduced set of demands on the basin?

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3. There is inadequate discussion of the social and economic impacts on other cities created by the proposed increase in development near Calexico.

THE "NO PROJECT"/1973 PLAN IS INFEASIBLE AND UNREALISTIC

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1. The No Project Alternative (DEIR p. IX-22 et. seq.) is not a feasible alternative because it designates the federally managed lands of the East Mesa for intensive irrigated agriculture. This is not feasible for the same reason the Increased Agriculture Alternative is not feasible or realistic: incompatibility with federal management policy and patterns of landownership.

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2. Additionally, the 1973 Plan, the No Project is not realistic or feasible because the 1973 Land Use Plan (DEIR Fig. 3, p. III-5)

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shows planned urban centers and rural residential areas in locations where substantial amounts of the lands so designated as urban or residential are public lands, for example in the Ocotillo area, near the Fort Yuma Indian Reservation, east of the Salton Sea, and north of the Chocolate Mountains. It also maps additional unrealistic heavy industrial land use category including expansion of industrial activities onto federal lands in the Plaster City area, on public lands northwest of the mostly vacant lands of Felicity, and a large area used for irrigated agriculture north of Seeley along the New River. No additional heavy industry has moved into any of these sites since that plan was adopted in 1973. The 1973 plan also projects large areas of predominantly public lands to be used for "desert residential" use surrounding the Ocotillo townsite, adjacent to the Chocolate Mountains gunnery range, and west of irrigated agriculture to the west and northwest of Westmorland.

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3. In reality, the 1973 plan is one that calls for even more urban and industrial development than either of the proposed alternatives, but because the land proposed for such development is not privately owned such development in addition to the infeasible proposed agricultural expansion into the East Mesa make the No Project also a non-project, or infeasible alternative under CEQA.

CEQA Guidelines Sec. 15126(d)(5) provides an uncomplicated path to follow in selecting a range of reasonable alternatives to a proposed project, in this case, an alternative land use plan.

(5) the range of alternatives required in an EIR is governed by "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The key issue is whether the selection and discussion of alternatives fosters informed decision-making and informed public participation. An EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative. (CEQA Guidelines Sec. 15126(d)(5).)

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4. Using the criteria of the CEQA Guidelines Sec. 15126(d), the discussion of all three alternatives (including the "no project" 1973 plan) cannot be implemented either because of land ownership constraints, federal policy and management plans, and or groundwater resource constraints that prohibit the build-out development of each alternative. At issue is whether the proposed land use plan or any alternatives can accommodate growth associated with the implementation of the plan. In comparing alternatives, the DEIR compares end results of anticipated build-out under each alternative rather than comparing the anticipated development with the existing conditions on the ground and taking into consideration the various environmental impacts. In essence, the DEIR for the proposed General Plan Update focuses more on quantity of build-out, whereas CEQA mandates a greater emphasis on consideration for the quality of the environment. The Courts have held that: "The

Legislative history of [CEQA] also supports the view that environmental values are to be assigned greater weight than the needs of economic growth \*\*\* The act thus requires decision makers to assign greater priorities to environmental than economic needs." [Citations] (Remy, 9.)

One Court, in analyzing the impacts of a general plan amendment, found that the county:

should have used existing conditions on the ground as the starting point of its environmental analysis. The agency wrongly compared environmental conditions under build-out of the proposed new plan with conditions that eventually would exist under build-out of the existing plan. Under the Court's reasoning, the agency was wrong simply to conclude that the new plan was environmentally superior to the old one and that build-out under the new would be better than build-out under the old. Rather, the EIR should have analyzed how build-out under the new plan would affect the existing environment. (Remy, 224-225, citing Environmental Planning and Information Council v. County of El Dorado (1982) 131 C.A.3d 350, 354-355; 182 C.R. 317.)

#### REQUEST DEIR ANALYZE FEASIBLE NEW ALTERNATIVES

The Conservation Committee requests that a supplemental DEIR or a subsequent DEIR analyze a number of new alternatives including, but not limited to:

1. An alternative which would be based on policies that are the most protective of the environment, including no further degradation or further depletion of groundwater resources and no encroachment into critical habitat areas designated by other agencies. This alternative should avoid development in hazardous areas including steep slopes, floodways and floodplains, and landslide areas if and where applicable. The location, type, building intensity and population density of this alternative should follow careful mapping of resource, ownership, management directives for other agencies, and infrastructure constraints.

2. An alternative which better responds to the significant impacts identified in the supplemental DEIR or subsequent DEIR. We believe that there are additional significant impacts raised in this response to the DEIR that should be analyzed and addressed by this alternative. This alternative should define areas which have site-specific constraints to development, including, but not limited to: critical habitat for a sensitive, threatened or endangered species; hazardous areas such as floodways, floodplains, or proximity to tank farms; surface water features and marshlands, state parks and wildlife management areas, including BLM ACECs and designated habitat management areas; watershed and recharge areas;

9 groundwater resource constraints; water quality and water quantity limitations; drainage patterns; patterns of federal, state, Indian, and private ownership; infrastructure constraints. After this data base has been prepared using the most current information from all relevant sources, an environmentally superior and feasible alternative could be constructed.

0 3. An alternative which considers clustering and the evaluation of transit to determine what configuration of development would be consistent with transportation constraints while balancing housing and jobs within each community. This alternative should work with the existing cities which would be planned as centers for growth to the extent that urban growth can be accommodated without creating land use conflicts with adjoining agricultural lands and cross-community conflicts based on anticipated or hoped for growth.

PROPOSED MITIGATION MEASURE AND/OR ALTERNATIVE PLAN: RESTORE AND EXPAND PRESERVATION LAND USE DESIGNATION OF 1973 PLAN

1. The following should be considered by the Lead Agency as the basis for an alternative Plan or as a mitigation measure. The following proposed mitigation measure would provide a better way to avoid the significant environmental impacts associated with the Recreation/Open Space designation, and is in the spirit of CEQA Guidelines Sec. 15204(a). The DEIR fails to discuss the most appropriate and most feasible Mitigation Measure of all: the restoration of the Preservation land use designation deleted from the 1973 Plan. Not only should the Preservation designation be reinstated, but it should be expanded to include all private lands within designated BLM ACECs, Wilderness Study Areas, Habitat Management Areas, Wildlife refuges, and/or any other areas managed by state or federal agencies for wildlife habitat or other purposes spelled out by State or Federal law. It is recommended that the boundary of the reinstated Preservation designation extend 1/2 mile beyond the boundaries of the existing ACECs to serve as a buffer much in the same way as buffers are included to protect other land use designations from incompatible uses.

52 2. The expanded Preservation designation would ensure a greater degree of compatibility with adopted management plans of other agencies while ensuring that the natural resource protection goals and objectives of the various elements are more readily implemented with less misunderstanding on the part of the public and decision-makers. Within the Preservation designation, agriculture and intensive commercial, high density and high intensity recreational or residential uses shall be prohibited regardless of parcel size.

53 3. Residential development standards shall authorize one single family dwelling per forty (40) acres as minimum lot size for any new subdivisions. This density of residential development should be compatible with the BLM management programs for sensitive

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species, including listed threatened or endangered species, consistent with the lack of available infrastructure resources to most private inholdings, and acknowledges the reduced development potential or desirability of certain lands if the FTHL is listed in the near future as anticipated (DEIR, III-107).

DEIR FAILS TO PROVIDE DOCUMENTATION TO SUPPORT CONCLUSIONS THAT MITIGATION MEASURES COULD SUCCESSFULLY MITIGATE IMPACTS ...DEIR FAILS TO IDENTIFY ALL FEASIBLE MITIGATION MEASURES

The DEIR mitigation measures are inadequate for a number of reasons, including, but not limited to the following:

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1. It fails to identify feasible mitigation measures which could result in reducing significant or unavoidable impacts to insignificant. An example of this failure is the fact that the DEIR does not include a mitigation measure to prohibit development which would adversely impact or contribute to the cumulative impacts that will degrade the quantity or quality of the groundwater resources.

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2. The DEIR does not include a mitigation measure that would prohibit development of new irrigated agriculture on private lands adjacent to or surrounded by BLM ACECs or habitat management areas for sensitive species. This includes failure to restrict new or mitigate existing groundwater based agricultural development up-gradient of the sensitive San Sebastian Marsh/San Felipe Creek ACEC. All projects potentially impacting water in the San Sebastian Marsh and San Felipe Creek need to comply with the Endangered Species Act due to the listing of the desert pupfish and designation of critical habitat.

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3. The DEIR fails to restrict commercial recreational vehicle parks or mobile home parks on private lands adjacent to or surrounded by BLM ACECs and habitat management areas for the purpose of minimizing impacts to optimal habitat for sensitive species.

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4. The DEIR fails to state why population levels anticipated by build-out of the proposed plan in addition to other land use actions should not be limited by air quality impacts within the air basin which is subject to impacts from Mexicali and Riverside County development when pollutants already exceed State standards for ozone and PM10.

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5. A number of mitigation measures are described as being able to reduce significant impacts to a level of insignificance or to a level below significance. However, because of the lack of current, up-dated information and analyses, or the failure to discuss existing conditions at all, the efficacy of the stated mitigations, including those based on other planning documents not yet prepared, to eliminate or reduce the impacts of the general plan update are

58 doubtful at best. For example, mitigation measures related to "securing replacement Important Farmland" do not indicate where such private land is located nor the potential source of water for use. Another example is the basing of air quality mitigations on an Air Quality Element not yet prepared and/or on another plan which has policies inconsistent with those in the GP-LUE.

6. A number of mitigation measures mandate or suggest additional studies and plans which may or may not prove successful in reducing or eliminating the project-related impacts as describes in mitigation discussions of the DEIR. Mitigation measures calling for additional or continued studies lack follow-up actions and performance standards to ensure that measures will actually be able succeed in reducing potentially significant impacts. For example, the mitigation measure calling for continuation of the monitoring of groundwater conditions in the Ocotillo-Coyote Wells basin requires no further actions "to help extend the life of the groundwater basin." (DEIR, III-204.) How would monitoring the Ocotillo basin serve to eliminate or reduce impacts to groundwater resources in that or other unmentioned basins, particularly those shared with San Diego and Riverside Counties? Monitoring alone cannot reduce the potentially significant adverse impacts associated with projected build-out development of the proposed land use plan or any alternatives.

59 When a mitigation measure requiring continued monitoring for the Ocotillo-Coyote Wells basin is included, why do the DEIR and draft General Plan Update ignore the results of 15 years of USGS monitoring data and rely instead on the out-dated 1977 USGS study in the County's discussion of groundwater? That DEIR response (ignoring currently available monitoring data) supports concerns that mitigation measures calling for additional studies and/or monitoring may not result in successful elimination or reduction of project-related impacts. Why do the General Plan Update and DEIR ignore the existing monitoring data and studies revealing underlying geological formations and water quality problems in planning for the future development of such groundwater dependent areas? Successful planning calls for evaluation of current trends and then acting, not merely collecting data. Policies and implementation provisions are necessary ingredients in any mitigation program.

A later reference to groundwater based development taken from the inadequate Water Element gave a superficial reference to groundwater resources and resource constraints. Additionally, mitigation measures which contain language similar to: "Consider the addition of an Air Quality Element to the General Plan." are really non-measures.

7. DEIR listing of mitigation measures including "revegetation plans to fully compensate for the direct loss of sensitive biological habitat" (DEIR, III-130) ignore the results of expensive but failed attempts at revegetation in parts of the California

560 desert not as harsh as Imperial County. Mitigation measures relying on revegetation, including revegetation with native species, may not be successful. During 1978 CDCA Advisory Committee meeting discussion on revegetation in the desert Dr. Brum stated that: "the desert is indeed very slow to recover from disturbance, and even major attempts to return the vegetation to a natural state will be disappointingly unsuccessful." (BLM, 1978, p.45.) These comments on mitigation measures for revegetation also apply to DEIR discussion of revegetation mitigation measures and to habitat restoration plans discussed in DEIR (p. III-130-133).

561 8. Why does the DEIR propose mitigation measures which are based on the mixed land use and balanced housing and jobs strategies of the Air Quality Attainment Plan, when the implementation programs of the Draft GP Land Use Element are inconsistent with those strategies and would prohibit the implementation of such programs? How would incorporation of the Air Quality Attainment Plan strategies L-1, L-2, and L-3 be incorporated into the Land Use Element? Why hasn't this already been done along with the necessary changes in the development standards of the various land use designations if it is recommended in the DEIR? Why didn't the proposed General Plan Update resolve such external inconsistencies before it was released for public review?

What specific mitigation measures are proposed to reduce the amounts of air pollution related to agricultural operations as identified in this environmental analysis?

562 9. The DEIR fails to give any studies or information which would support the assumption that the proposed mitigation measures would in fact be successful to mitigate impacts on biological resources, particularly sensitive species, in the desert environment of Imperial County. How effective have open space easements been in a desert setting like Imperial County? Where in the County have mitigation measures such as "open space easements to preserve sensitive species" (DEIR, III-130, 131) been used, and with what success?

563 10. How relevant is the discussion of "fire buffer clearing" (DEIR, III-132) to the various biological resources in Imperial County? Other than in already developed areas of the County where do such fire buffer clearings occur?

564 11. Why shouldn't mitigation measures be included which would respond to the failures of the local APCD to implement measures related to monitoring and enforcement of air quality standards and discussed in the report of the State Air Resources Board as described in the I.V. Press article of 3/17/93? That report cites out-dated regulations, failure to do required inspections and monitoring, failure to conduct required annual tests, failure to enforce regulations by assessing penalties for violations, etc.. Why shouldn't the APCD officer be returned to the jurisdiction of

564 he Environmental Health Officer as it was originally? Wouldn't such an action remove the potential for conflict of interest that exists at present with the APCD residing in the Department with oversight and permitting related to the activities that represent the major sources of air pollution within the County?

Mitigation measures which should be included in the DEIR include, but are not limited to the following:

565 1. Prohibit any new development which degrades or depletes any of the groundwater basins or surface water within the County, with special reference to preservation of quality and availability of potable quality groundwater resources.

566 2. Reduce development in certain areas so that traffic patterns will not result in unacceptable traffic levels of use on connecting transportation corridors.

567 3. Reintroduce the Desert Residential Land Use category for areas with groundwater development resource constraints. For areas with known or anticipated groundwater resource constraints, prepare a new land use category (and zoning category) to accommodate larger minimum lot size (perhaps minimum 40 acre lot-size) based on rainfall patterns similar to the scheme used by San Diego County. Permitted uses are to be consistent with resource constraints.

568 4. Prepare a new land use category (and zoning category) for lands with known sensitive resource constraints. Minimum lot size and authorized uses should be consistent with resource constraints.

569 5. Reinstate the 1973 "Preservation" land use designation for lands within and adjacent to areas of restricted access such as Wilderness Study Areas and areas within and immediately adjacent to BLM ACECs and designated Wildlife Habitat Management Areas or areas designated as Critical Habitat for listed species under ESA and any other State or Federal areas designated for special habitat management. This would be consistent with the mitigation measure in DEIR III-132 referencing the Resource areas designated on Fig. 14. County development standards for private "inholdings" should be compatible with the management mandates of BLM related to protection of sensitive biological resources as evaluated by BLM staff.

570 6. The protection designation should restrict any intensive uses including agriculture, intensive or consumptive recreation, and high density or high intensity residential or recreational/tourist activities on private inholdings surrounded by or adjacent to BLM ACECs or CDFG Significant Natural Areas (SNAs) as shown on an updated and corrected Fig. 14.



## SPECIFIC QUESTIONS REGARDING GENERAL PLAN CONSISTENCY

571 CEQA requires that the EIR be sufficient to serve as an informational document and that it identify inconsistencies between the project and existing plans and regulations. The DEIR fails to address the inconsistencies within the draft General Plan Update, including the missing Housing Element. There are a number of areas of inconsistencies within the General Plan as discussed by the OPR General Plan Guidelines which, if left unaddressed and uncorrected, will result in an internally inconsistent general plan.

The following are some general questions related to important potential areas of inconsistencies.

- 572 1. How does the proposed land use plan conform with policies related to protection of significant biological resources and habitat areas? How does the general plan intend to correct conflicts between County authorized uses on private lands and BLM mandates for habitat management for sensitive species?
- 573 2. How are land uses configured to avoid impacts on significant cultural resources?
- 574 3. How do proposed general plan land use categories reflect specific resource constraint issues? How does the proposed land use plan correlate with the land use designations and perceived constraints of shared air and groundwater resources as expressed in the General Plans of the adjoining Riverside and San Diego Counties?
- 575 4. What criteria were used to designate a single parcel as being located in two different land use categories by drawing a line through rather than around the privately owned land at Sunrise Butte? Why do land use category lines follow parcel lines to indicate agricultural lands served by IID, but not follow parcel lines for lands which are all dependent upon the same groundwater resource for development in the southwestern portion of the county? Why shouldn't all land use category boundaries be mapped with the same precision? Why are areas surrounding the Ocotillo townsite referred to as being both in the Rural Residential designation and in the Ocotillo/Nomirage Community Area Plan?
- 576 5. In that area and any others with land use category lines dividing private parcels into two different land use categories, how would conflicts arising from interpretations related to which land use category applies to the parcel as a whole be resolved? Why wouldn't the more prudent planning decision be to resolve rather than create any problems of interpretation prior to the adoption of the General Plan by precisely drafting land use categories to eliminate confusion about the land use designation for specific parcels?

77 6. Describe how the land use and circulation elements are correlated. Please describe how the housing element (with its 1989-1994 time frame and which was not accepted by the state) is correlated with and consistent with the land use, especially the SPAs, and other elements.

78 7. Why were detailed descriptions of the 12 Urban Area Plans and their associated maps and the detailed descriptions of the Community Area Plans and their associated maps omitted from Appendix A of the GP Land Use Element? How can the role of these missing Area Plans and their relationship to and consistency with the overall General Plan be determined when Plans are not included in the Draft General Plan Update?

Specific Comments in Response to Review of  
Draft Program Environmental Impact Report for the  
County of Imperial General Plan Update (SCH #93011023)

THE FOLLOWING IS PARTIALLY CHRONOLOGICAL BASED ON THE DEIR AND  
COVERS DEIR ISSUES NOT DISCUSSED PREVIOUSLY

The following comments were prepared as the Draft General Plan Update (GP) and Draft Program EIR (DEIR) were reviewed, section by section. Because the DEIR is based on the text and maps of the Draft General Plan Update, many comments will be cross referenced back to the corresponding pages of the GP. It should be noted that considerable text in the DEIR was taken verbatim from the text or appendices of the GP.

I. INTRODUCTION

579 To be used as a "reference guide for the preparation of environmental documentation for future projects" (DEIR, I-2) the DEIR should be based on current data, reports, and reflect the current available planning and management information reflecting mandated programs on adjoining federal and state lands. Reliance on an outdated (1985) overview and outdated USGS (1977) study while ignoring current monitoring data is not adequate.

II. PROJECT DESCRIPTION

B. PROPOSED GENERAL PLAN

580 5. AGRICULTURAL ELEMENT (GP-AE)

The criticism of GP-AE discussion in the project description is that it is too brief to tell much about the proposed project. However, inadequacies of DEIR project description for this element are similar to the discussion of the Land Use Element as related to agricultural uses. as for the GP-S/PSE.

6. CONSERVATION AND OPEN SPACE ELEMENT

581 The discussion of this element is so superficial as to be inadequate as a component of the proposed project, General Plan Update.

III. ENVIRONMENTAL ANALYSIS

A. LAND USE

582 How is it possible for the public to evaluate any analysis of the: "Compatibility of the Urban Area designations in the proposed General Plan Update with the spheres of influence of the various municipalities within the County" (DEIR, III-1) when none of the 12 Urban Area Plans and none of the associated Urban Area Plan maps was included in Appendix A of the GP-LUE as indicated in the GP-LUE (p.3)?

583 DEIR , III-1 fails to address a category of impacts on adjacent federal lands even though in discussion of "existing conditions" on that same page, the DEIR states that "approximately 50 % of the County lands are largely undeveloped and under federal ownership." Although the "developed area where the County's incorporated cities, unincorporated communities, and supporting facilities are situated comprise less than one percent [1%] of the land" (DEIR, III-1), the potential for serious adverse impacts on federal lands exists because several land use designations authorize uses which are incompatible with the management mandates of federal and state agencies. Land use designations which authorize or contemplate one or more uses incompatible with federal management mandates are: Recreation/Open Space, Agriculture, Industry, Specific Plan Area, Special Purpose Facility, Urban, and even possibly Community Areas (plans for which are not yet available). What is the basis for such continuing disregard of federal management mandates?

1. Existing Conditions

584 Where are the population figures and number of housing units for the following communities not included in the list of unincorporated communities in Table 2 (DEIR, III-3): Bombay Beach, Hot Mineral Spa, Salton Sea Beach, Desert Shores, and Palo Verde? For those communities that have substantially different population numbers in winter and summer, what are the figures for winter and summer populations?

585 What criteria were used for calculating "population density" for the incorporated cities and for unincorporated communities? Based on the information in Table 2 (DEIR, III-3) there should be considerable differences in population densities in communities such as Westmoreland, West Shores, Salton City, Ocotillo, Heber or Calexico. The number of persons per household varies from 1.1 in

85 Ocotillo to 4.28 in Heber, based on Table 2 (DEIR, III-3). What are the criteria for determining whether or not, or when or if a community is designated as an Urban Area? Winterhaven is a proposed Urban Area of 70 acres, while West Shores/Salton City area is a Proposed Urban Area of 31,840 acres. According to Table 2, the winterhaven Bard area had approximately 1200 more residents than the much larger acreage of West Shores/Salton City.

a. Existing General Plan/Ultimate Land Use Plan (1973)

86 There is no reference anywhere else in the DEIR or in any element of the Draft General Plan Update which would indicate that the areas surrounding Westmoreland and Niland designated as Rural Residential in the 1973 Plan "overlay available ground water resources" (DEIR, III-7). What is the source of this information and why is it not reflected in the text of the GP-WE?

87 The DEIR (III-8) discussion of the areas for Heavy Industry in the 1973 Plan provides no information about how many industries have located in each of these industrial areas since the adoption of the 1973 Plan. Why? Information on when each industry moved to the industrial areas near Niland, north of Seeley along the New River, east of Plaster City and the railway corridor northwest of Winterhaven, and the success of each industry could be instructive in determining how realistic the 1973 Plan was/is. Have any industries located at these sites? Isn't such information necessary for establishing trend lines and/or growth patterns?

b. Proposed General Plan Update (GP)

88 Why were no Urban Area plans and maps and no Community Area Plans and maps included in Appendix A of the Draft General Plan Update? Without being able to review these documents, how can their environmental impacts be evaluated? How can their relationship to the other elements of the General Plan be evaluated?

89 DEIR summary of the land use designation for "Industry" in the GP-LUE is inadequate. Plaster City is the only area designated for "Industry" in the County. The DEIR (III-10) ignores the development standards for solid and liquid waste facilities, including hazardous waste treatment, incineration, etc., which may be sited in this designation (GP-LUE, p.45). Hazardous waste treatment and incineration types of industrial uses would pose very different environmental impacts and issues of compatibility with nearby uses including a new state prison.

89 DEIR (III-10,13) summary of Recreation/Open Space category suggests a much lower intensity of development than reflected in the development standards in GP-LUE, p.45-46). Why doesn't the discussion include mention of all the federal and state management areas within the Recreation/Open Space category? These areas

590 include portions of Anza Borrego Desert State Park and the special management required by those state and federal agencies for critical habitat for the desert pupfish, habitat management for other wildlife species, special management plans for the ACECs, and wilderness study areas. Why does the Recreation/Open Space category fail to mention the federal policy for non-conversion of classified federal lands to private ownership for agriculture?

591 Given the DEIR (III-13) discussion of Specific Plan Areas, why have no SPAs been proposed for protection of natural resources and for historic preservation? Why were the designations for preservation omitted when so much of the area of the County is indeed federal or state lands not available for development? What criteria were used to determine whether or not the proposals for a specific parcel and project would be designated/mapped as a potential SPA?

592 Why aren't the proposed regional landfills discussed under the Special Purpose Facility designation since they are identified by name on DEIR III-150 and the Mesquite Landfill is shown on GP-LUE, Fig.3, and the project proponent assisted with the financing of the General Plan Update (Imperial Valley Press articles.)?

## 2. Environmental Impacts

### ..Industry

593 Why was the 1973 Heavy Industry designation deleted from the Mesquite Lake area and changed to a SPA designation (DEIR, III-17)? In the proposed plan update the only area designated as "industry" is at Plaster City. The uses which may be permitted in the proposed GP-LUE (P.45) designation for Industry are more inclusive and include uses related to hazardous waste treatment and incineration. Since these uses do not currently exist at Plaster City, has this site been evaluated and designated as the only site within the County as suitable for such hazardous waste treatment facilities even though Class I and II facilities are located elsewhere at present, and incineration facilities are located at Mesquite Lake? Why does the Plaster City site to the west of the new State prison have what appear to be less stringent requirements for these Locally Undesirable Land Uses (LULUs)?

594 The DEIR fails to provide meaningful discussion of impacts on the proposed development at Felicity of 8,960 acres in an area where only a few structures exist at present. Much of the land designated for the "New Town" at Felicity (DEIR, III-17) is publicly owned and managed by BLM. CEQA requires that environmental review consider the environmental impacts on the existing conditions on the ground at present (Environmental Planning and Information Council, at 354.) and not compare the impacts to what might have been expected at build-out under the 1973 Plan. The DEIR fails to make the correct impacts analysis of

594 the changed land use designation. The DEIR concludes that the proposed change to SPA designation "is not viewed as a change resulting in adverse land use effects" because "it avoids the range of potential problems associated with the development of a large industrial area distant from established population centers" (DEIR, III-17). This reasoning ignores the requirements for impacts analysis under CEQA. Similarly, the requirements for impacts analysis of changed designations at Mesquite Lake and Niland must address the changed potential uses and the impacts on existing conditions.

..Government/Special Public

595 The Proposed Land Use Plan Fig.4 shows out-dated boundaries for the lands managed for military withdrawal. The General Plan Update does not reflect the Cooperative Agreement between the Navy and BLM resulting from the 1985 Plan Amendment. How will discrepancies of this magnitude be corrected?

b. Land Use Issues of the Plan Update

..Land Use Impacts associated with the Specific Plan Area Designations

596 Mid paragraph it should be noted that the SPAs create the potential for significant "conflicts" as well as significant land uses. The DEIR impermissibly ignores discussing the identified potential for significant land use conflicts including "incompatible adjacent land uses" being "exacerbated by the fact that SPAs will typically develop in phases over a somewhat extended period of time" (DEIR, III-19). Because each proposed SPA has an already intended land use, often in much greater detail than for other land use designations, the impacts analysis discussing the impacts of each proposed SPA on the existing conditions present for each area must be addressed by the DEIR. The Impacts analysis must go beyond DEIR discussion of conflicts between adjoining land use designations.

Mesquite Lake SPA

597 DEIR III-20 identifies Mesquite Lake as an area of "poor agricultural land, while III-51 identifies the same area as one with Important Farmland, and GP-AE (p.16) says the same site is "alkali". Which, if any, is the correct assessment of current conditions existing at that site? Where is the discussion of the impacts of anticipated uses upon the area as it currently exists? The comparison of impacts of uses to the 1973 Plan is inadequate under CEQA and ignores potential impacts of development on the vacant land in the area.

Interstate 8/State Route 111 SPA

598 The proposed uses are inconsistent. DEIR states that residential uses are prohibited, but yet would consider permitting an RV park which would likely be residential or long-term visitor use. (DEIR, III-20.) Why the inconsistency? Is there a RV park

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598 already at the site and the language included to grandfather in rather than create a non-conforming use?

599 Why wouldn't the permitting of separate Specific Plans for north and south of I-8 have the effect of impermissible piecemealing the impacts by dividing the SPA into small projects in an attempt to separately focus on parts of the whole of the project? (Remy, 47) The impacts of the anticipated identified development on the existing conditions on the ground at present have been ignored by the DEIR.

#### Felicity SPA

600 DEIR fails to acknowledge that a substantial amount of the area depicted on Fig.4 for the Felicity SPA includes public lands managed by BLM. Because there are only a few structures present in the area today, and because some very specific uses are detailed by DEIR (III-21), the DEIR erroneously presumes that the policies for development in addition to the future preparation of an EIR "would avoid the occurrence of adverse land use impacts in association with the Felicity SPA designation" (DEIR, III-21). Such reasoning overlooks purpose of the CEQA required analysis of impacts of the proposed land use designation on the existing conditions at the site today.

#### Glamis SPA

601 At the 2/10/93 Planning Commission meeting, consultant Mooney stated that SPAs would require a minimum parcel size of 640 acres. Consequently this proposed 160 acre Glamis SPA and the mentioned SPAs for 160 acre parcels in the Recreation/Open Space designation are in conflict with public statements. A visit to the site of the proposed Glamis SPA should be enough to convince anyone that even with the proposed development policies mentioned in DEIR (III-22) the proposed commercial activities, including motel and RV and mobile-home parks and community facilities will result in serious environmental impacts and result in uses that conflict with the surrounding uses on BLM lands. The presence of community facilities implies a permanent or semi-permanent population, most likely retirees because of the distance from any employment. The noise, dust, and air pollution resulting from the existing ORV activity in the area would make the proposed uses incompatible with existing uses. The creation of a new residential community at the Glamis SPA would be singularly inappropriate.

#### Holtville Air Strip SPA

602 The DEIR conclusion that significant land use impacts would not result (DEIR, III-23) from the various manufacturing and or "wayport" uses (DEIR, III-22) contemplated for this SPA in a location described as having "no facilities, and is seldom used" (DEIR, III-22) is absurd and based on the erroneous interpretation of the CEQA required impacts analysis discussed for other SPAs. Policy statements alone cannot suffice for discussion of impacts that would result from development of land without existing

602 facilities.

East Border Crossing SPA

603 Why does the DEIR(III-23) indicate that this SPA contains 1,500 acres, while the GP-LUE (p.11) states that is approximately 2,000 acres? Regardless of what policies or implementation measures are stated there will be significant impacts on the existing land if the planned industrial, commercial and residential development occurs on lands that are presently devoted to agriculture. The preparation of a future EIR for the detailed proposed developments identified for this SPA (DEIR, III-23, 24) cannot substitute for discussion of the impacts of changing the existing agricultural designation to the proposed very intensive land uses which will crowd out existing agriculture and preclude future agricultural development.

Tamarack Canyon Ranch SPA

604 This proposed SPA would allow leapfrogging of recreational and residential uses into agricultural lands in contrast to Goal 2 and its objectives to prohibit leapfrogging of non-agricultural development into agricultural lands. (GP-AE,p.30-31.) The requirement for a future environmental impact report for a proposed project already well defined, results in piecemealing the General Plan Review process and is inadequate as a substitute for an analysis of the impacts of changing the land use designation from agriculture to a new residential and recreation community away from the existing urban centers. Impacts analysis must include discussion of impacts of the proposed uses compared to the existing agricultural uses.

Bravo Ranch SPA

605 Comments for the DEIR's inadequate impacts analysis for this SPA are the same as for the East Border Crossing SPA.

...Land Use Conflicts associated with Special Purpose Facility designation

606 The first paragraph notes that Class I, II, and III solid and liquid waste facilities, correctional facilities and general aviation airports have "physical or operational characteristics incompatible with most other land use categories." (DEIR, III-25.) With that preliminary assumption, how then does the DEIR justify the assertion that the development of standards and the requirement of a CUP could be "considered sufficient to preclude the occurrence of land use impacts" (DEIR, III-23.) If the existence of an existing landfill within a Community Area "represents a significant adverse land use impact" (DEIR, III-25), how is it possible that a much larger facility located in the midst of some other land use designation would not represent an even greater significant adverse land use impact?

607 3. Mitigation Measures

The DEIR inappropriately analyzed the "differences between the



607 1973 Ultimate Land Use Plan and the Plan Update" (DEIR, III-26) rather than using the existing conditions "on the ground" as the basis for its environmental analysis of the impacts of the general plan update's changed land use designations (Environmental Planning and Information Council, at 354-355). Accordingly, the DEIR "did not identify any adverse land use effects." (DEIR, III-26.) Based on its flawed environmental analysis, the DEIR erroneously concluded that "no mitigation measures are required." (DEIR, III-26.) How will this error be rectified?

608 Land Use Issues of the Plan Update  
Passing LAFCO amendments will not alone be sufficient to mitigate the impacts and land use conflicts that result from the gradual migration of urban uses into existing agricultural lands. This is another "necessary but not sufficient" proposition.

609 Land Use impacts re Specific Plan Area designations  
How does the inclusion of a land use compatibility study for each SPA mitigate any impacts? In reviewing the SPA policies included with the GP-LUE, it was found that no GP-LUE SPA policies (GP-LUE, p.11-19) required a land use compatibility study. Such studies do not occur in policy discussions of the DEIR impacts section as asserted by DEIR (III-26).

610 Land Use Conflicts re Special Purpose Facilities  
How could the environmental review mitigate potential impacts of the SPF to "below a level of significance" (DEIR, III-27)? What data would support this conclusion, what studies at what other locations? Perhaps it would be true if the "sensitive receptors" were all blind, deaf, and had lost their sense of smell.

611 The DEIR fails to address any land use impacts in Riverside County that would result from increased population densities at the north end of the County and adjacent to the Riverside County line, as requested by the Riverside County Planning Department in its 9/30/92 letter included in the DEIR Appendix. Why? DEIR fails to discuss potential impacts on available water resources to support the proposed changes in land use designations.

612 In considering the adequacy of EIRs used by a county in adopting two area plans as amendments to the county general plan, the court found that the requirements of CEQA were not satisfied when the EIRs compared the environmental impacts of the proposed general plan amendments to the existing plan itself rather than to the existing environment. Further the requirements of CEQA were not satisfied by comparing projected population and development of the existing plan and the proposed plan, when the proposed amended plan would actually result in substantial increases in population in each area rather than the "illusory decreases" indicated by comparing the proposed plan to the existing plan. (Environmental Planning and Information Council v. County of El Dorado (1982) 131 C.A. 3d 350, 351; 182 C.R. 317.)

CEQA nowhere calls for evaluation of the impacts of a proposed project on an existing general plan; it concerns itself with the impacts of the project on the environment, defined as the existing physical conditions in the affected area. The legislation evinces no interest in the effects of proposed general plan amendments on an existing general plan, but instead has clearly expressed concern with the effects of projects on the actual environment upon which the proposal will operate. (Environmental Planning and Information Council v. County of El Dorado (1982) 131 C.A. 3d 350, 354; 182 C.R. 317.)

Judicial intervention is appropriate [with respect to EIRs] only where there has been an abuse of discretion, which will be established if the county has not proceeded in a manner required by law or where the county's decision is not supported by substantial evidence. (Pub. Resources Code Sec. 21168.5; No Oil, Inc. v. City of Los Angeles (1974) 13 C. 3d 68,74; 118 C.R. 34.) Of course, if the EIRs in this case fail to report on the potential environmental impacts of the ...area plans on the existing environment, then the county has not proceeded in a manner required by law. (Environmental Planning and Information Council v. County of El Dorado (1982) 131 C.A. 3d 350, 355; 182 C.R. 317.)

After evaluating the manner in which the environmental impacts of the area plan amendments to the county general plan had been compared to the build-out potential of the existing county general plan, the Court concluded that the examples of EIR analysis reviewed were:

not all inclusive but are merely illustrative of the manner in which the EIRs were prepared. It is true that the reports do discuss certain physical impacts upon the existing environment, but such information must be painstakingly ferreted out of the reports. The comparisons, we have seen, are always between the existing general plan and proposed amendments. (Environmental Planning and Information Council v. County of El Dorado (1982) 131 C.A. 3d 350, 357; 182 C.R. 317.)

The deficiency of the EIRs is manifest when the existing environment is compared to the general plan. .... The proposed plans actually call for substantial increases in population in each area rather than the illusory decreases from the general plan.

The comparisons utilized in the EIRs can only mislead the public as to the reality of the impacts and subvert full consideration of the actual environmental impacts which would result. There are no extensive, detailed evaluations of the impacts of the proposed plans on the environment in its current state. Accordingly, the EIRs

480 systems"? Is this a reference to proposed expansion of irrigated agriculture onto lands now managed by BLM in the East Mesa with special reference to habitat for the flat-tailed horned lizard? If so, the statement that: "The Agriculture designation would not conflict with underlying BLM designations and is in fact consistent with the designation of this area [East Mesa] as General Agriculture" stands in sharp contrast with stated BLM policy regarding its management of resources in the East Mesa area. BLM East Mesa ACEC HMP includes a management action for acquisition of private lands within the ACEC boundaries to afford better management and reduced land use conflicts in FTHL habitat. (See additional discussion elsewhere in this response.)

481 11. DEIR fails to explain why the designated SPAs for Tamarisk, East Border Crossing, Holtville Airstrip, and potential development along existing state roads and highway intersections would or could avoid urban/agricultural land use conflicts that would be created by permitting leapfrog residential development as discussed in the agricultural impacts sections.

12. Why does discussion of the groundwater basin in the Ocotillo/Nomirage community area get such inadequate discussion? Isn't the largest user of groundwater from that basin the wallboard plant at Plaster City? Doesn't it import all of its water from the Ocotillo basin?

The DEIR fails to discuss the impacts of industry at Plaster City using groundwater imported from the Ocotillo basin. U.S. Gypsum's wallboard plant at Plaster City is located in the only area of unincorporated Imperial County designated as "Industry" in the Proposed Land Use Plan. If it is anticipated that continuing increased growth in the western US may be expected, should not this cause concomitant expansion at U.S. Gypsum?

482 What would be the impacts to the Ocotillo-Coyote Wells groundwater basin if Plaster City continues pumping and exporting groundwater from its existing water wells located between the communities of Ocotillo and Nomirage at the present rate for the 100 year expected life of the gypsum deposit (General Plan Update, Conservation and Open Space Element, Appendix p. A-6)? How would the projected long term industrial use of groundwater impact future residential development in terms of both groundwater quality and availability given the patterns of federal/private land ownership? What would be the social and economic impacts of degraded groundwater quality on residential uses overlying the groundwater basin? What are the projected environmental impacts of long-term or increased industrial groundwater usage on down-gradient plant communities such as mesquite hummocks, ironwoods following drainage channels, and crucifixion thorn stands as sensitive unusual plant assemblages on BLM managed lands? How would impacts on vegetation and vegetative cover impact wildlife?

13. What is the anticipated source of water for development of other industrial activities in the Industry Land Use Category in the Plaster City area? If groundwater, will it be non-potable groundwater pumped from wells underlying the Industry land use category? If not, from where, and what are the environmental impacts of use at the proposed site and down-gradient?

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The DEIR should contain detailed discussion relative to expansion of industrial activities which may be permitted at the Plaster City Industry area. If Colorado River water is anticipated, the DEIR should discuss the procedures necessary to extend Imperial Irrigation service to the area, including, but not limited to exchange of water development rights within the IID service area, BLM rights of way or easements required, potential location of such right of way or easement, availability of supply from IID, and other development related criteria.

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14. DEIR should discuss the groundwater impacts and water requirements for each of the different cyanide-heap leach mining operations and any other gold or mineral mining operations discussed in the Conservation/Open Space Appendix A of the General Plan Update. What volumes of water are used for each operation? What are the localized impacts and what are the cumulative impacts for all operations relying on the same groundwater resource? Has groundwater extraction and transport resulted in any reversal of direction of flow or gradient related to the Colorado River? If so, what are the environmental impacts on riparian vegetation in washes and along runoff channels? How have changes in the microphyllous vegetative cover impacted the threatened desert tortoise and/or other sensitive wildlife species in the area?

How much water used for mining operations is surface water from the Colorado River? How is such surface water transported to the mining sites?

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15. Projected expansion of sand and gravel operations on BLM lands in the locations of such deposits are not adequately discussed in the DEIR. What are the projected lives of the reserves at each of the presently operating pits, both County operated pits and private pits? What mitigations are proposed to reduce the impacts of sand and gravel transport through residential communities such as Ocotillo? What are the local social and economic impacts of such operations on the communities closest to the sand and gravel pits? How will future increased conflicts be resolved if sand and gravel operations are expanded closer to residential communities?

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16. DEIR fails to provide adequate discussion of the potential infrastructure, water delivery, social and economic impacts of the December 1992 EPA decision related to the supplying of raw canal water from the Colorado River to rural residential users of IID water scattered throughout the irrigated agricultural areas. This is a major issue related to urban development beyond the service

486 boundaries of existing water service districts. DEIR should address plans or problems associated with expansion of infrastructure for providing potable water to such existing and future residences.

487 17. The DEIR fails to provide adequate discussion of land use conflicts, growth inducing impacts, and infrastructure impacts of State prisons both existing and under construction.

18. DEIR fails to adequately address the conflicts created between County land uses and Federal management plans and policies created by deleting "Preservation" designation of the 1973 Plan.

PRESERVATION VS. RECREATION/OPEN SPACE  
DEIR ERRONEOUSLY CONCLUDES REPLACING 1973 PRESERVATION  
LAND USE DESIGNATION TO RECREATION/OPEN SPACE TO INCLUDE  
AGRICULTURAL USES WILL NOT CONFLICT WITH BLM DESIGNATIONS

The DEIR discussion about the impacts of deleting the Preservation Land Use Category of the 1973 Plan and placing lands so designated into the Recreation/Open Space category (DEIR, III-17) is either intentionally misleading or very naive. The location of lands designated as preservation under the 1973 Land Use Plan (DEIR, III-5) was compared to the BLM maps (DAGs 20, 21, and 22), Fig. 11, "GPA Sensitive Plants, Wildlife Areas and Unusual Plant Assemblages" (DEIR, III-93), Fig. 14, "Resource Areas" (DEIR, III-115, and BLM Plan Amendments, including the 1985 plan amendment.

488 While it is true that the vast majority of these lands are federal lands managed by BLM, the changes would also include more than twenty (20) square miles of privately owned lands, most of them being inholdings surrounded by BLM lands. More than 20 square miles of lands on which agriculture would now be authorized according to the text of GP-LUE and DEIR (III-13, 17). (20 square miles is 12,800 acres.)

The majority of these private lands which would be removed from the 1973 Preservation designation are lands located within or adjacent to BLM areas which require special management plans, in part, to protect wildlife habitat for sensitive or endangered species. Consequently, the use of agriculture on these lands would conflict with the underlying BLM designations and adopted management plans and adopted BLM policy regarding irrigated agriculture.

Of the more than 20 square miles of private lands to be removed from preservation and opened up to agriculture are approximately 10 square miles which are either surrounded by or adjacent to BLM's Yuha Basin ACEC which is managed in part for optimal flat-tailed lizard habitat. Several more square miles are within the drainage/recharge area for the San Sebastian Marsh/San Felipe Creek ACEC which is managed, in part, for critical habitat

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for the endangered desert pupfish. Approximately 9 square miles appears to be adjacent to or surrounded by the Imperial San Dunes including 1 square mile surrounded by or immediately adjacent to the Algodones dunes Outstanding Natural Area.

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The DEIR states that changing the land use designation from preservation to Recreation/Open Space would allow "potentially impactive uses such as agriculture. (DEIR, III-17.) Both Fig. 11 and 14 must be updated to reflect mapping changes that have occurred since the adoption of the 1980 BLM CDCA Plan, but they still point out the conflicts created by the deletion of the Preservation designation and authorizing agricultural uses on those lands. By comparing Fig. 3, the 1973 Land Use Plan map (DEIR, III-5) with the locations of sensitive biological resources on Figs. 11 and 14 (DEIR III-93 and 115), it is apparent that the original designation of preservation closely corresponds to federal lands requiring special management programs. Therefore the DEIR reached an insupportable conclusion that: "The designation proposed by the Plan Update would not conflict with the underlying BLM designations, and therefore no adverse land use effects are anticipated." Nothing could be further from the facts or from the discussion of biological resources within Areas of Critical Environmental Concern and wildlife habitat management areas in the section on environmental analysis for biological resources (DEIR, III-117,118 and elsewhere throughout that section). Opening to agriculture these lands adjacent to or surrounded by these federal lands with special management plans is to create authorized significant impacts on federal lands and thereby set the stage for conflicting uses.

DEIR INAPPROPRIATELY COMPARES ENVIRONMENTAL IMPACTS OF PROPOSED GENERAL PLAN UPDATE TO EXISTING 1973 PLAN RATHER THAN TO EXISTING CONDITIONS ON THE GROUND

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The typical "draft EIR must discuss any inconsistencies between the proposed project and existing general plans and regional plans" (CEQA Guidelines 15125(b), in Remy, 190.) In discussing the environmental impacts of the proposed General Plan Update project, the authors of the DEIR noted that: "There are differences between the land use designations of the 1973 Plan and the Plan Update." (DEIR, III-14.) Assuming that the General Plan Update could be treated as any other project for DEIR review, they proceeded to evaluate the "impacts associated with these differences" (DEIR, III-14).

What the drafters of the DEIR failed to understand is that the DEIR for the General Plan Update must evaluate environmental impacts differently than would be required for other project DEIRs.

Where a proposed project is an agency decision changing planning or zoning designations, its potential impacts should not be compared only with those that would

ultimately occur under an existing plan. Rather, such an analysis should focus on "existing physical conditions" before comparing the eventual future conditions that would result under build-out pursuant to both the existing and contemplated plan. (CEQA Guidelines, Sec. 15125(c) and discussion; citations, in Remy, 191)

In Environmental Planning and Information Council v. County of El Dorado (1982) 131 C.A. 3d 350, 354; 182 C.R. 317, the Court found a general plan amendment project EIR inadequate because it failed to analyze the plan amendment's physical effects in terms of the "existing physical conditions" in the "actual environment upon which the proposal will operate." (Id, at 354.) The Court found that the EIR "should have compared build-out under the proposed amendment to the relatively rural, undeveloped situation on the ground." (Remy, 191.)

490 Thus, following CEQA Guidelines Sec. 15125 and Discussion and the decision of the Court in Environmental Planning and Information Council v. County of El Dorado (1982) 131 C.A. 3d 350; 182 C.R. 317, the DEIR discussion of environmental impacts must be measured against the stated "existing conditions on the ground" noted in DEIR III-1 rather than comparing impacts of the proposed GP land use designations to build-out under the 1973 Plan (DEIR, III-14) (as was done in the existing DEIR).

The existing conditions which must form the basis against which impacts are measured are ones in which the developed area of the County with its cities, unincorporated communities, and support facilities "comprise less than one percent of the land (Table 1)." (DEIR, III-1.)

The DEIR analysis of environmental impacts that would result from adoption and implementation of the proposed General Plan as described in the text of the General Plan Update and the Proposed Land Use Plan (DEIR, Fig. 4, III-11) is fatally flawed because the analysis of potential environmental impacts of proposed land uses was not compared to existing conditions on the ground today. Even the subheading "Contrasts with the 1973 Plan" confirms that the DEIR impacts analysis was improperly prepared and of necessity will be inadequate under CEQA. How will this serious discrepancy be corrected?

#### ..Urban and Residential Development

491 Discussion of impacts resulting from urban and residential development begins on the wrong foot and from an inappropriate understanding of impacts analysis. The text compares acreage figures for areas designated as urban in the 1973 Plan (122,026 acres) and in the proposed 1993 plan (78,240 acres). (DEIR, III-14.) It then provides out-dated 1985 information that 18,028 acres were developed within both incorporated and unincorporated areas of the County. (DEIR, III-14.) In claiming that the "reduction in the total acres designated for urban land uses is not regarded as an

491 adverse impact..." (DEIR, III-14), the DEIR's authors exhibit their failure to comprehend the kind of impacts analysis required by CEQA and the courts in interpreting CEQA. The DEIR fails to analyze the environmental impacts that would result from the conversion of more than 60,000 acres of land from their present agricultural uses or existing undeveloped condition.

492 Additionally the changing of thousands of acres to Recreation/Open Space designation as described in the GP-LUE (p.45-46) would authorize intensive irrigated agriculture or intensive recreational residential or commercial recreational uses on large parcels (over 160 acres) of private lands throughout the County, in places where such uses would not have been permitted previously, and where land is vacant desert land today. The environmental impacts resulting from this kind of development on vacant desert lands, often as isolated inholdings or in a checkerboard pattern of private/federal ownership has not been evaluated. Is an unstated policy objective implied by this change? If so, please identify.

493 The environmental impacts analysis turns CEQA upside-down when it states that: "The reduction in the allocation of land for urban levels of land use intensity, as well as the reduction in areas designated for lesser intensity residential development on the periphery of urban areas, is not viewed as an adverse land use impact." (DEIR, III-15.) While that conclusion may be correct, the statement circumvents the analysis of impacts that must be considered as the result of converting agricultural lands or undisturbed desert lands to urban uses.

494 Why was the Desert Residential land use designation dropped from the proposed update? What policy objective is being furthered by such change?

495 ..Designation of Specific Plan Areas  
The DEIR does acknowledge that there will be environmental impacts associated with the development of the eight designated SPAs. (DEIR, III-15, 16.) The total acreage of 7 of the 8 SPAs for which acreage is given is 16,300 acres, or just a small fraction of the 60,000 acres which could be urbanized in the future. Why doesn't the DEIR discuss any potential for environmental impacts of future urbanization?

How do preparing site specific environmental studies, establishing standards and criteria for approval, and making findings serve to mitigate potential land use impacts? There is no reference to mandatory physical mitigations. What happens if environmental impacts cannot be mitigated adequately?

496 ..Agricultural Land  
"The Plan Update proposes an agricultural designation for 588, 417 acres." (DEIR, III-16.) This is considerably more than the 559,435 acres used for agriculture in 1990 (GP-AE, p.30). What is



496 the location of the additional 30,000 acres intended for expanded agricultural operations over and above the amount of land already used for agriculture? The DEIR must provide an environmental analysis of the impacts associated with bringing new land into agricultural uses. If these lands are scattered about the desert on private inholdings surrounded by federal or state lands with adopted policies and management plans, there will be additional off-site land use impacts that must be addressed because of the federal and state management mandates with respect to sensitive or listed wildlife and its habitat.

From the brief discussion of environmental impacts related to agricultural land use designation changes, it is obvious that here too, the DEIR fails to comprehend the requirement to evaluate impacts based on changes from the existing conditions. Why has the logic of this requirement eluded the preparers of the DEIR?

DEIR FAILS TO ADEQUATELY ANALYZE CUMULATIVE IMPACTS

497 The above referenced discussion of impacts cited individual impacts and additionally often referenced specific issues related to cumulative impacts of existing or proposed uses related to the General Plan update (project). The DEIR discussion of cumulative impacts is inadequate and does not meet the requirements of CEQA Guidelines for discussing future impacts in part because the analysis of individual impacts is inadequate. CEQA Guidelines Section 15130 is specific when discussing cumulative impacts. (Refer to Appendix for more detail.)

The DEIR for the Imperial County General Plan Update does not meet the criteria set forth under CEQA Guidelines Section 15130(b)(1)(A) or (B) for comprising an "adequate discussion of cumulative impacts." The Guidelines discussion of Section 15130 contains the following unambiguous explanation of what must be included among the cumulative impacts of a project. (Refer to Appendix for more detail.)

If the DEIR concludes that cumulative impacts are not significant, it should explain why. (Remy, 192) Inadequate discussion of cumulative impacts includes but is not limited to the following:

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1. The DEIR has failed to meet the criteria of CEQA Guidelines Sec. 15130, in part because it has failed to discuss, as required, the projects of other agencies with land use responsibilities within the County borders, Bureau of Reclamation, U.S. Fish and Wildlife Service, Bureau of Land Management, Anza Borrego State Park, and military uses.

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2. As listed earlier, the BLM El Centro Resource Area has adopted numerous management plans for its designated Areas of Critical

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Environmental Concern (ACECs), habitat management plans, and recreation area management plans in addition to numerous plan amendments which have changed boundaries of lands used for military activities, changed boundaries of ACECs, increased size of ACECs, deleted portions of ACECs, and added a new ACEC in the West Mesa of Imperial County. Additionally, BLM is now in the process of preparing a desert tortoise habitat management plan, including the proposed Chuckwalla habitat management area (BLM map attached). The DEIR fails to adequately describe the implications of these planning documents of BLM, an agency which must be considered as among the "other relevant public agencies". (See References section for list of adopted BLM Management Plans and Plan Amendments.)

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3. The DEIR fails to consider any significant projects, including current adopted General Plans of San Diego and Riverside Counties for adjacent lands where a resource (such as groundwater or air) is shared and where transportation/infrastructure components cross county lines. Such consideration was requested by the Riverside County Planning Department. (See DEIR Appendix.)

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4. DEIR cumulative impacts discussion related to two proposed regional landfills and gold mining operations is missing. Cumulative impacts discussion of solid waste facilities is clearly inadequate and misleading. Cumulative Impacts (DEIR p. V-4) states that: "Adequate landfill facilities and sites exist within the County to meet projected solid waste demands in the region." To completely ignore the discussion of solid waste under the Environmental Analysis for Public Services/Safety (DEIR p. III-150) is inexcusable and fails to comply with CEQA Guidelines Sec. 15130. The environmental analysis discussion of the DEIR stated:

There are currently two proposed large-scale privately-owned landfill projects in the County. These projects are the Mesquite Regional Landfill and the Chocolate Mountain Regional Landfill. The County of Imperial has required that these projects be designed to accommodate local solid waste as well as out-of-area solid waste. Additionally, the Bureau of Land Management (BLM) has requested that the existing landfills in Imperial County that are located on BLM land be closed. (DEIR, III-150.)

Why is this discussion included in the section on existing conditions when the environmental review documents have not yet been released for public review?

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5. Six of the County operated landfills are located on BLM land and would be subject to closure. The potential cumulative impact of closure of six local landfills and long-haul of locally generated solid waste will have additional impacts on transportation, air quality, social and economic impacts to the local communities and to the county that must be addressed. The social and economic consequences that may result from the County being identified as a dump site, with all the associated negative

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images should also be evaluated. The potential existence of two nearby trash by rail dump sites may well stigmatize the County and should be addressed. The cumulative impact of two proposed large-scale dump sites located within the boundaries of the BLM proposed Chuckwalla Desert Tortoise Habitat Management Area must be addressed. The cumulative impacts of the proposed landfills in addition to the existing mining operations also located within the Chuckwalla Desert Tortoise Habitat Management area must also be addressed.

6. The County should be aware of the proposed Chuckwalla Desert Tortoise Habitat Management planning area because Randy Rister, a County department head, was present at the BLM scoping meeting. In addition, Robert Filler of Arid Operations, the landfill project applicant, was also present at the meeting in Yuma.

Further, any discussion of off-site cumulative impacts resulting from both large-scale proposed landfills and existing cyanide heap-leach gold mining operations, must include a recognition that all plans for such uses in the area included in the BLM desert tortoise habitat management plan will displace wildlife and that such displacement will be felt off-site. The attraction of predators, especially ravens attracted to the landfill sites, could have a detrimental impact on the desert tortoise in this vicinity. BLM's "Chuckwalla Bench ACEC and Management Plan and E.A." noted that:

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The biology of the desert tortoise makes it vulnerable to a wide variety of human activities. The tortoise is long lived, some probably living over 80 years, and sexual maturity is not reached until the animal is nearly twenty. This means that the loss of even a single mature female can have a very significant effect on the ability of a local population to maintain itself. (BLM, chuckwalla, 1986, p. 8)

The sensitivity of desert organisms is widely recognized and has been discussed in other documents:

Desert organisms, like those in the arctic tundra, exist on the fringes of the earth's life support systems by virtue of their tolerance of extreme conditions. To survive and reproduce, patience and luck are required as well. Minor disturbances by man leave almost permanent scars on the habitat and major projects can be catastrophic. (Ginsberg, p. 5.)

Once a natural area is destroyed or significantly altered by man, it is likely that the animal species living there will also vanish. To only a very limited extent can animals change habitats because surrounding areas often are fully occupied, and the displaced animals, wandering on unfamiliar crowded ground, will usually die of predation, starvation, harassment, or

climatic extremes. Additionally, many animal populations are readily susceptible to disruption and extinction because they exist in discontinuous and isolated populations. (Ginsberg, et al, p. 15.)

The sensitivity of desert organisms is in part attributable to the relative newness of the desert as discussed by Dr. Daniel Axelrod of U.C, Davis during the 1978 BLM CDCA advisory committee meeting:

503 The desert is itself brand new. It is no older than 10,000 years, and probably even younger than that. It has taken some 70 million years to develop many of these taxa which are...living together in a very precarious relation. There is very little water. They are perfectly adjusted to the present conditions, but think of the desert in another sense. This is really just like a brand new baby. It just got here. We have to take care of it if we are going to have it. (BLM, 1978, p.7.)

7. The courts have required an analysis of environmental effects, including cumulative impacts of:

504 future expansion or operation if there is credible and substantial evidence that (1) it is a reasonably foreseeable consequence of the initial project and (2) the future expansion or operation will likely change the scope or nature of the initial project or its environmental effects. (47 C.3d 376, 396-398; Kings County Farm Bureau v. City of Hanford (1990) 221 C.A.3d 692, 738; 270 C.R. 650.)

504 Using these criteria combined with the fact that the Environmental Analysis discussing "existing conditions" under the subheading for Solid Waste the DEIR included discussion of the two large privately-owned regional landfills, the DEIR must then discuss cumulative impacts of the proposed regional landfills on the east side of the County in addition to the impacts of the mining operations. Again, there is the very serious question of why the DEIR includes details of the "proposed" regional landfills in its discussion of existing conditions. What is the explanation?

#### CUMULATIVE IMPACTS DISCUSSION RE FUTURE WATER AVAILABILITY FOR DEVELOPMENT BASED ON GROUNDWATER RESOURCES IS MISSING

505 1. In addition to the above failure to discuss landfill related cumulative impacts, the DEIR fails to discuss the cumulative impacts, both short-term and long-term of water usage for dust control at two potential large scale landfills located to the east of the IID service area. Since groundwater is used at the existing Mesquite gold mine for mining operations, should one presume that water for dust control and construction at the proposed Mesquite Landfill would also be groundwater? If so, would the groundwater

505 be from wells drilled in close proximity to the project site, or would the landfill operations rely on groundwater supplied by pipeline from the same wells supplying the gold mine? The DEIR should include discussion of the cumulative impacts of this proposed landfill, since the DEIR/DEIS is scheduled for public release sometime during the spring of 1993.

2. What is the proposed source of water for use at the proposed Chocolate Mountain Regional Landfill? If from groundwater, would it be from the same groundwater basin? If so, the DEIR should include a discussion of the individual impacts and the cumulative impacts of both landfills and the mining operations on the groundwater basin. If the preparers of the DEIR assert that there is insufficient data or that information was not readily assessable because of time or budget constraints, a 1987 decision by the 9th Circuit Court of Appeals clarifies the position a government agency must take when there is an insufficiency of data provided:

506 If a government agency has difficulty obtaining adequate information upon which to make a reasoned assessment of the environmental impacts of a course of action, it may not simply negate the existence of these impacts. Rather, it has an obligation to engage in what is called a "worst-case" analysis. (Methow Valley Citizens Council v. Regional Forester (9th Cir. 1987) 833 F. 2d 810, 817.)

It is not the responsibility of other governmental agencies or members of the public to supply information and analyses that should have been included in the informational document called the DEIR for the General Plan Update. In Environmental Planning and Information Council v. County of El Dorado (1982) (131 C.A.3d 350, 354; 182 C.R. 317) the Court faulted the lead agency for failing to concern itself adequately with the proposed project's effects on "the existing physical conditions" in the "actual environment upon which the project will operate". The Court noted that the EIR forced the reader to "painstakingly ferret out" information regarding actual "physical impacts upon the existing environment". (Id. 357)

507 3. Do the mining operations use groundwater from the same basins that are relied on for domestic purposes by any RV parks, existing communities, future planned communities or scattered residential uses? What are the cumulative impacts anticipated for the remaining useful life of the mining operations? Discussion should also include social and economic impacts of mining/ industrial use of groundwater on other human uses anticipated at full build-out of the General Plan for lands relying on the same groundwater basin. What are the cumulative impacts of groundwater use by mining in addition to the proposed regional landfill(s) and other uses including commercial recreation.

508 4. The DEIR fails to identify and focus on the possible  
DEIR, Imperial County General Plan

significant impacts of the proposed project and the cumulative impacts related to groundwater based development throughout the County as described by CEQA and its guidelines. (CEQA Guidelines Sec. 15126(a), 15130(b) and discussion; Pub. Res. Sec. 21000(a).) (Refer to the Appendix for more detail.)

508 The greatest emphasis should be placed on those impacts that are the most significant and most likely to occur. The analysis should clearly identify both direct and indirect impacts, as they will occur both in the short-term and long-term. It should also discuss the environmental specifics of the affected area; the resources involved; anticipated physical changes and any potential related health and safety problems; anticipated alterations to ecological systems; and probable resulting changes in population distribution and concentration, the human use of the land (including commercial and residential development), and other aspects of the resource base such as water, scenic quality, and public services. (CEQA Guidelines, Sec. 15126 (a), 15143.) (Remy, 191)

A draft EIR must discuss any significant "cumulative impacts." (CEQA Guidelines Sec. 15130.) Where the document concludes that cumulative impacts are not significant, it should explain the basis for that conclusion. (Citizens to Preserve the Ojai v. County of Ventura (2d Dist. 1985) 176 Cal. App. 3d 421, 432 [222 Cal Rptr. 247]. (Remy, 192)

509 5. During the 11/30-12/2/78 meeting of the California Desert Conservation Area Advisory Committee, Bureau of Land Management, in Riverside California, a panel of scientists provided information on physical attributes of the Mohave and Sonoran deserts, an area including Imperial County. Dr. Richard Jahns noted that "10,000 to 30,000 years ago the area was covered with a great chain of connected lakes. As recently as 17,000 years ago glaciation was at a maximum. Most of the groundwater in the desert today is from 10,000 to 100,000 years old and is not water that enters the region now." (BLM, 1978, p. 7) Dr. Richard Vogl added that "most of these desert aquifers have fossil water, meaning it was laid down during the ice age." (BLM, 1978, p. 28.)

510 6. The DEIR for the General Plan Update fails to provide any current information on any of the groundwater basins upon which various development projects including residential development would depend. The one basin mentioned at any length referenced only out-dated information and ignored subsequent monitoring data collected by the agency (USGS) that prepared the original report and subsequent reports prepared by the County's consultant, Dr. Huntley. Consequently, the DEIR fails to provide any meaningful discussion of impacts or cumulative impacts that would result before or at build-out based on the proposed Land Use Plan. Thus, for major portions of the County subject to the General Plan

Update, there is an avoidance of all discussion of impacts on groundwater both locally or regionally. This failure results from the failure to provide any specific information about other groundwater basins.

The decision in King's County Farm Bureau v. City of Hanford (1990) 221 C.A.3d 692; 270 C.R. 650 suggests that where projected impacts questioned are not minor or trivial, the court will require "rigorous analysis and concrete substantial evidence" in order to uphold EIR conclusions that the impacts of a project are insignificant. This case is particularly relevant since two of the major Kings County Farm Bureau issues questioned were the impacts analyses related to groundwater and air quality impacts, two areas of the DEIR for the this general plan update which are inadequate, both with regard to impacts analysis and discussion of cumulative impacts. The CEQA requirements for discussion of regional cumulative impacts is thwarted by failure to discuss cumulative impacts of groundwater based development in Imperial and Riverside Counties where one groundwater basin from which water is pumped is located in Riverside County.

In addition to earlier referenced concerns about inadequate discussion of groundwater resource issues and impacts in this response, we cite these additional references to support the assertion that discussion of cumulative impacts resulting from the proposed general plan over and above the current impacts is required.

In two court cases specifically relating to water, courts found project EIRs to be inadequate when they failed to provide enough information to reasonably assess the project. In a long standing dispute regarding the efforts of the City of Los Angeles to increase its extraction and export of groundwater from the Owens Valley, the Court stated that: "An EIR may not define a purpose for a project and then remove from consideration those matters necessary to the assessment of whether the purpose can be achieved." (County of Inyo v. City of Los Angeles (1981) 124 C.A. 3d 1, 9; 177 C.R.479.)

The Santiago Court found an EIR inadequate, in part, because it failed to mention the construction of water delivery facilities, an essential infrastructure component, which were an integral part of the proposed project. "Because of this omission, some important ramifications of the proposed project remained hidden from view at the time the project was being discussed and approved. This frustrates one of the core goals of CEQA." (Santiago County Water District v. County of Orange (1981) 118 C.A.3d 818, 829-830,; 173 C.R. 602.) The Court continued:

"Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefits against the environmental cost, consider mitigation measures, assess the advantage of





terminating the proposal...and weigh other alternatives in the balance. An accurate, stable and finite project description is the sine que non of an informative and legally sufficient EIR." (County of Inyo v. City of Los Angeles, supra, 71 C.A.3d 185, 192-193; Santiago County Water District v. County of Orange (1981) 118 C.A.3d 818, 829-830.; 173 C.R. 602.)

In another decision related to water, the Santiago Court held that:

510 The EIR must contain facts and analysis, not just the bare conclusions of a public agency. An agency's opinion concerning matters within its expertise is of obvious value, but the public and decision-makers, for whom the EIR is prepared, should also have before them the basis for that opinion so as to enable them to make an independent, reasoned judgment.

Moreover, even if the Water District does have the ability to meet the water requirements of the project, the EIR is silent about the effect of the delivery of water service elsewhere in the District's jurisdiction.

It is the adequacy of the EIR with which we are concerned, not the propriety of the board of supervisors' decision to approve the project. "[W]hatever is required to be considered in an EIR must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report." (Environmental Defense Fund, Inc. v. Coastside County Water Dist. (1972) 27 C.A.3d 695, 706 [104 C.R. 197].) (Santiago County Water Dist., supra, at 831.)

7 Depletion of groundwater resources caused by larger than anticipated cones of depression created by the proposed project pumping resulting from increased residential, commercial recreational, agricultural, mining and/or industrial could lead to significant cumulative impacts: such as well interference, declining water levels, saline intrusion, increased costs, subsidence, and loss of storage capacity. These consequences are of concern both in the SW part of Imperial County and the groundwater basin in Riverside County from which CVWD supplies groundwater to communities along the Salton Sea. (Refer to the Appendix for more detail.)

511 The deeper the well, of course, the higher the energy costs per acrefoot of water become...Before an aquifer is totally depleted of water, the energy costs of pumping from it will become prohibitive. These steeply rising costs can lead to the abandonment of irrigated cropland. (Sheridan, CEQ, 1981, p. 51.)

12 8. We are aware that declining water tables have resulted in abandonment of both farmland and residential uses in both Arizona and New Mexico. Land subsidence is mentioned in the DEIR, but was

not analyzed in cumulative impacts discussions in relation to the anticipated increased pumpage for residential, urban, industrial, mining, agriculture, and landfill operations in areas where cumulative impacts may be anticipated, both in Imperial and Riverside Counties.

Land subsidence caused by groundwater overdraft has been accompanied by earth fissures and faults in central Arizona. These fissures vary in size, "but some fissures measure as much as 25 feet wide and 60 feet deep. More than 75 cracks in the earth have been found in central Arizona." (Sheridan , CEQ, 1981, p. 70)

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One of the long-term consequences of groundwater overdraft and subsidence that has not received much attention is the loss of water storage capacity. As an aquifer system compresses with the mining of its water, the amount of pore space within it shrinks. Because it is this very pore space that enables the system to store water, its storage capacity is therefore greatly diminished. (Sheridan, CEQ, 1981, p. 51.)

Aquifer systems that have subsided because of overdraft will never again be able to hold as much water as they did before overdraft began. In such cases, in other words, overuse results in the partial loss of a valuable nonrenewable resource. (Sheridan, CEQ, 1981 p. 52.)

9. General Plan provisions for increased groundwater based agriculture in the Recreation/Open Space land use category could pose major cumulative impacts and potential off-site impacts on sensitive species resulting from the use of agricultural chemicals and declining water tables. For deep rooted desert vegetation, a drop in the water level either rapidly or gradually to a depth below the root zone will cause loss of vegetative habitat. Urban and Recreational/Residential development will create additional impacts which cannot be ignored.

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Mesquite puts down a very deep taproot - 50 to 100 feet deep - so its success at the expense of shallow rooted species such as the cottonwood may signal a declining water table because of overdrafting. However, the pumping of groundwater can cause such a precipitous drop in the water table that even mesquite cannot survive. In the Santa Cruz Valley, south of Tucson, for example, about 2000 acres of mesquite forest have died because of a declining water table. (Sheridan, CEQ, 1981, p. 66)

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CUMULATIVE IMPACTS RE GROUNDWATER BASED AGRICULTURE ON GROUNDWATER QUALITY IS MISSING FROM DEIR

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In Imperial County, the agriculture based economy depends almost entirely on Colorado River water supplied by one of the irrigation districts. Very little agriculture is groundwater dependent. However, the text of the draft General Plan for the Recreation/Open Space land use category would specifically authorize agricultural usage in the groundwater dependent portions of the County that lie beyond the service area of the irrigation districts. Any such agricultural developments based on groundwater would inevitably create impacts from agriculture on the groundwater resource in addition to the impacts from other usage. The cumulative impacts on groundwater quantity and quality should be addressed in the DEIR.

The following list of cumulative impacts on groundwater from agriculture is derived from Hammer. It includes, but is not limited to salt build-up, runoff, infiltration, fertilizer and pesticide contamination, nitrate contamination, and the need for prevention, monitoring, and abatement of degradation. (See appendix for details.)

It is clear that many agricultural practices increase the rate of solute leaching from the soil, and thus provide a major source of pollutants. Many of these pollutants are carried downwards into the groundwater...(Briggs, p. 278.)

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Briggs, citing a 1982 study titled "Nitrate leaching to groundwater" states that the authors concluded that: the available evidence indicates a continuing increase in levels of nitrate in groundwaters, particularly from arable land, and they argue that this will result in 'the widespread need for alternative water supplies or water treatment facilities, or both, from the 1990s onwards'. Clearly, therefore, agricultural impacts upon groundwater quality remain an issue of considerable importance. (Briggs, p. 290.)

Briggs concludes that: "A need for the future is undoubtedly to make more explicit the links between agriculture and hydrology, and to evaluate modern farming practices in the light of their impact upon water resources." (Briggs, p. 281.)

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Such links in addition to the potential for declining water tables and reduced seepage into the San Sebastian Marsh and San Felipe Creek ACEC could have adverse impacts which should be evaluated in light of the BLM mandate to manage the ACEC as critical habitat for the endangered desert pupfish.

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Also the linkage between potential agricultural degradation of groundwater quality and impacts on residential domestic users downgradient should be evaluated in the cumulative impacts section, particularly on the east side of the County near Palo Verde and the

517 Winterhaven/Bard area and could be applicable based on future locations of agriculture over groundwater basins.

DEIR DISCUSSION OF AGRICULTURAL AND RECREATIONAL IMPACTS ON SENSITIVE SPECIES IS INADEQUATE

1. The DEIR fails to provide adequate discussion of the location of and limitations of use near designated critical habitat for the endangered desert pupfish. The San Sebastian Marsh/San Felipe Creek Management Plan noted that:

Severe erosion (due to overgrazing), ... dewatering due to groundwater pumping, and the introduction of exotic predatory or competitive fish species, have severely reduced the distribution and numbers of desert pupfish in its native habitat. .... Approximately 11 miles of San Felipe Creek, Carrizo Wash and Fish Creek Wash have been designated as Critical Habitat for the desert pupfish by USFWS ... also includes a 100 foot riparian buffer zone. (BLM, 1986, p.5.)

518 Agricultural impacts of groundwater based agriculture such as lowered groundwater table or reduced drainage to the San Sebastian Marsh or San Felipe Creek Critical Habitat for the desert pupfish can reduce available habitat, dry out the marsh or result in unfavorable summer temperatures for the endangered desert pupfish. (BLM, SSM/SFC (1986) p.5; Steinhart (1990) p.97.)

DEIR also fails to discuss the potential impacts of downgradient groundwater quality seeping into the San Sebastian Marsh and San Felipe Creek or degraded groundwater quality resulting from groundwater based agricultural operations and from urban/recreational growth and the potential resulting alterations on the ecosystem as required by CEQA Guidelines Sec. 15126(a). It fails to discuss these water quality/water level impacts on downgradient vegetation and wildlife resources that could result from changes induced in population distribution and concentration resulting from recreational developments within the Recreational/Open Space designation. Discussion of these impacts is required by CEQA Guidelines Sec. 15126(a). In Arizona when groundwater levels dropped below the root zones of vegetation, that vegetation died off, diminishing habitat quality and resulting in increased potential for erosion. (Sheridan, 1979.)

519 2. The DEIR also fails to discuss the potential cumulative impacts of agricultural activity on the sensitive flat tailed horned lizard, a Category 1 candidate for federal listing as a threatened species (FTHL). The FTHL is included in the September 1992 Exhibit A (p. A-4) appended to the 12/15/92 Settlement Agreement in the court case The Fund for Animals v. Lujan Civ. No. 92-800 (GAC). It is understood that the FTHL is expected to be among those listed within the coming year (Watkins, 1993). The

following information represents the status and concerns related to the FTHL in Imperial County more accurately than the text of the DEIR (p. III-106, III-107):

The Flat-tailed horned lizard occurs on undeveloped desert. It is most abundant on sandy flats, but does not occur in sand dunes. There are five areas of optimal habitat where the species is known to be relatively well-represented, including four areas in Imperial County, California: the Yuha Desert, Superstition Mountain area, southern East Mesa, and the area around Benson Dry Lake;

The threats to this species have been documented in several status reports. About 40 to 25 percent of the historic habitat in California and Arizona, respectively, has been converted to agriculture, urban development, or was flooded by the filling of the Salton Sea. In California, an estimated 95 percent of the remaining optimal habitat is threatened by one or more activities.

.... Activities which adversely affect this species include conversion of desert lands to urban and agricultural uses, off-highway vehicle use, construction of roads and utility corridors, and other activities which disturb this animal's habitat. Some types of impacts, such as major highways and canals, form barriers to movement. These barriers create isolated populations that exhibit an increased probability of local extirpation. (Chambers, USFWS, 1992)

The following FTHL population issues potentially relevant in the East Mesa area and Yuha Desert of southern Imperial County were identified by BLM:

1. Direct Losses from Large Scale Surface Disturbances  
Large scale surface disturbances are causing direct losses of FTHLs both on and below the ground surface due to crushing. Examples are mineral material removal, geothermal development, and flooding (reservoirs).

2. Off Highway Vehicle (OHV) Impacts  
OHV travel is resulting in direct mortality of FTHLs both on and below the ground surface. Impacts occur both in concentrated areas (such as along race corridors) and in areas used occasionally by visitors.

3. Visitor Concentrations  
Visitor concentrations typically occur at camping areas. OHV play activities are associated with camping areas. Concentrated use results in FTHL mortality as outlined above.

4. Impacts of Pesticide Use  
Pesticide use may affect FTHL populations either directly through effects on lizards or indirectly through reductions in harvester ant (Veromessor pergandei and Pogonomyrmex spp.) populations which comprise the FTHL's prey base. Pesticides approved for use in the U.S. are

not persistent but still may have an impact. .... Drift may occur from local spraying. (BLM 1990, p. 10-11.)

519 Additionally, habitat fragmentation may result in genetic isolation. The DEIR discussion of habitat fragmentation fails to address the potential for vastly increased significant effects on sensitive species (FTHL) as a consequence of increased habitat fragmentation. Such fragmentation would occur with the development of agriculture and recreational/residential developments authorized by the expansion of the Recreation/Open Space designation within the habitat of FTHL. The DEIR further fails to address the habitat fragmentation of desert tortoise habitat that would result from increased mining or regional landfill activities proposed to be located within the proposed Chuckwalla Habitat Management Area.

520 3. The desert tortoise was listed as threatened by USFWS in 4/90. The existing BLM Chuckwalla Bench ACEC Management Plan and EA was prepared in 3/86 or 4 years before listing. BLM is presently preparing a Desert Tortoise Habitat Management Plan under NEPA. The Chuckwalla Bench ACEC Management Plan described human impacts on declining populations throughout its range such as vehicle use, shooting, collection, grazing and mining. The Plan noted that vehicle use off roads can damage burrows, kill tortoises or destroy nests. and that repeated use can damage vegetative cover resulting in reduced quality of the habitat and its carrying capacity ( BLM. 1986, CBACEC. p.9).

4. Among the habitat issues discussed, several are important considerations for the East Mesa area, West Mesa area, and Yuha Desert. Although the following is from a discussion of the FTHL, the issues are equally applicable to the desert tortoise.

521 1. Impacts of Large Scale Surface Disturbances

Large scale surface disturbances cause long term and often permanent loss of FTHL habitat. Examples of long term (but not necessarily permanent) habitat loss include mineral sale sites... Examples of long term permanent habitat loss include agricultural development. Impacts can also include habitat fragmentation due to roads or other linear constructions. This can reduce the species ability to move from one area to another. ....

2. Cumulative Impacts of Small Surface Disturbance

Land use actions (such as new roads or well pads) which disturb a small acreage of habitat can cause additional indirect impacts and be cumulatively significant, although the original individual disturbance is not significant. These small disturbances can create new public use patterns by creating access to previously unused areas.

3. Effectiveness of Mitigation Measures

Mitigation measures, which are project modifications or other actions designed to reduce an adverse impact of a proposed project, vary greatly in their effectiveness.

.... Even with mitigation, development within habitat of concern usually results in a temporary or permanent net loss of habitat.

5. Preserve Size and Effectiveness

6. OHV Impacts [see above] (BLM, 1990, p. 11-13)

5. Among the recommended actions and discussion contained in the DEIR re the Recreation/Open Space Land Use Category authorization of agriculture and commercial recreation including RV parks that may be incompatible with BLM policy requirements are the following BLM management directives:

13. Action: Reduce the effects of OHV use on the FTHL.

Discussion: OHV use directly affects FTHLs and their habitat, as shown by data gathered in the Yuha and West Mesa areas. Action should be taken to reduce the amount of Category 1 and 2 habitat affected.

Implementation: Through the route of travel review process, eliminate all routes not needed for access purposes. Reduce the number of redundant routes. Post and enforce closures.

Rationale: OHV use creates direct and indirect impacts to both FTHLs and their habitat. (BLM, 1990, p.21.)

14. Action: Discourage facilities and activities which concentrate visitors in and adjacent to Category 1 and 2 habitats.

Discussion: Concentrations of visitors directly impact FTHLs and habitat values. Local extirpations can occur.

Implementation: Attempt to relocate proposed facilities and activities to areas outside Category 1 and 2 habitat. Examples include race pitting areas, spectator areas, and camping areas.

Rationale: This action will reduce direct impacts leading to local extirpations. (BLM, 1990, p. 21-22)

F. Goal: Insure perpetuation of habitat supporting viable FTHL populations in all four habitat areas.

26. Action: Discourage land disposal or land exchange which would reduce the amount of public ownership in Category 1 and 2 habitats.

Implementation: Discourage the disposal of Category 1 habitat. ... (BLM, 1990, p. 26, 27)

A July 22, 1990 article by P.A. Rice in the Imperial Valley Press, entitled "It's Getting Closer: 'Death March' steps up pace in search for the flat-tailed horned lizard", echoed the concerns of the 1990 FTHL Management Plan and consequences of listing as an endangered species. The caption under the photo of the FTHL states: "Researchers believe Imperial County's flat-tailed horned lizard has begun the long slow march to extinction." The article indicated that "enough information will be gathered on the lizard

by the end of 1991 for consideration by the agency as an endangered species." The article went on:

522 The downside of listing a creature as endangered is it may hold up development in the habitat range. Even developers on private land, BLM's Watkins said, must file project descriptions and biological assessments and can be required to compensate for the loss. Endangered status for the lizard may cut down on recreational use in the Yuha, limit geothermal industry in the East Mesa, and cramp U.S. Border Patrol operations. (I.V. Press 7/22/90.)

6. In BLM's discussion of "management planned actions" in the East Mesa Wildlife Habitat Management Plan (1983, at p. 5), among the proposed actions is:

12. Initiate a land exchange/acquisition program for the private lands identified on Map 5, page 8-6. Land exchange is necessary to prevent habitat loss and to prevent possible impacts of pesticide use when inholdings are converted to agricultural use. .... (BLM (1983) EMWHMP, p.5.)

The included map appears to include all private parcels within the HMP boundary.

523 Earlier BLM documents referencing concerns about agricultural impacts on the FTHL proposed to "prohibit pesticide spraying unless and until a study proves that it has no negative impacts on the flat-tailed horned lizard or its prey base, the harvester ant." (BLM, 1981, p. 5, 20, 37.) The document discussed specific pesticide impacts.

The flat-tailed horned lizard, while never an abundant species, has become increasingly rare in recent years in some parts of its range (Turner et al, 1978; Turner et al, 1980). It has been postulated (Desert Planning Wildlife Staff, pers. comm.) that this decrease in abundance has, at least in some areas, been due to pesticide spraying in and adjacent to prime habitat areas. Lizard population levels also may be impacted indirectly by pesticide-related decreases in the abundance of harvester ants (the lizard's' primary food source). It is, therefore, necessary to study both the direct and indirect impacts of pesticide use. (BLM, 1981, p. 20)

524 INCREASED AGRICULTURE ALTERNATIVE IS NOT FEASIBLE BECAUSE IT IS INCOMPATIBLE WITH FEDERAL MANAGEMENT PLANS AND POLICIES/  
1973 PLAN ALSO NOT A FEASIBLE ALTERNATIVE

The language of the BLM East Mesa WHMP (1983) stands in sharp contrast to the text of the "Increased Agriculture Alternative" to the County's proposed Land Use Plan. BLM's Watkins and Kostol have indicated that the BLM policies related to East Mesa WHMP have not



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changed. Therefore the language of DEIR IX-8 assertion specifically referencing the East Mesa area in the proposed Land Use Plan and stating "that agriculture would also be allowed in this area under the Recreation/Open Space designation", when in fact the "vast majority" of land in the East Mesa is "public land administered by the BLM." (DEIR, IX-8.) The DEIR erroneously asserts that: "The Agriculture designation would not conflict with the underlying BLM designations and, in fact, is consistent with the existing designation of this area as General Agriculture. Therefore, limited adverse land use effects are anticipated." (DEIR, IX-8.) The failure to review all applicable ACEC and wildlife habitat management plans available at the El Centro Resource Area office resulted in inclusion of an infeasible, unrealistic Increased Agriculture Alternative Plan totally inconsistent with publicly distributed BLM stated management actions.

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Furthermore, the permitted uses as spelled out in the Draft General Plan Update for the Land Use Element, Recreation/Open Space land use category (GP, LUE, p. 45, 46) are inconsistent and incompatible with stated BLM policy. The General Plan discussion of the Recreation/Open Space Land Use Category includes the following misleading information:

Some areas designated Recreation/Open Space contain soils suitable for agriculture, such as the East and West Mesas and Pilot Knob Units of Imperial Irrigation District, which are predominantly owned by the Bureau of Land Management and not presently improved for agricultural cropland. Other areas designated Recreation/Open Space may be suitable for aquaculture, particularly where favorable groundwater conditions exist. Agricultural uses are, therefore permitted in the Recreation/Open Space category. (GP, LUE, p. 45.)

Under the Recreation/Open Space "Agricultural Land Use Standards" (GP, LUE, p. 46) is the statement that: "Agricultural uses are prohibited in areas designated by BLM as "Areas of Critical Environmental Concern." This statement is inconsistent with the text on the previous page, since the majority of the previously referenced East Mesa area is public land within the East Mesa ACEC.

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The term ACEC or Area of Critical Environmental Concern is one with special reference to federal lands managed by BLM. The California Desert Conservation Area Plan citing the Federal Land Policy and Management ACT (FLPMA) Sec. 103(a) defines ACEC as: an area "... within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources, or other natural systems or processes, or to

protect life and safety from natural hazards."

The ACEC designation is more than a recognition program; it is a process for determining what special management certain important environmental resources or hazards require, and making a commitment to provide this management....The requirements are site-specific.... (BLM, 1980, p.123.)

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BLM ACEC designations apply to public lands and not to private lands because BLM planning authority is for federal lands only, and not private lands adjacent to or surrounded by BLM ACECs. Lands surrounded by public lands are considered to be "inholdings", often considered desirable for acquisition by BLM to facilitate management and reduce incompatible land uses on private lands, as noted in the East Mesa WHMP (p.5). BLM mapping efforts have historically been prepared to clearly delineate which lands are public lands subject to BLM management and which lands are private lands subject to County planning authority. Consequently the inclusion of an agricultural prohibition on BLM lands could serve to convey the impression that agriculture would be prohibited on private lands adjacent to or surrounded by BLM ACECs. If the intent had been to prohibit agriculture on private lands adjacent to or surrounded by a BLM ACEC, this clarification would have been made since both Harmon and BLM staff made that specific request for clarification and compatibility with existing BLM HMPs and policies.

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DEIR failure to address the potential impacts resulting from agricultural uses within the various land use categories adjacent to or overlapping BLM ACECs (managed in part for sensitive species) results in an EIR which must be considered inadequate when measured by CEQA and CEQA Guideline standards in addition to being inadequate and unacceptable when contrasted to relevant court decisions. Although DEIR Fig. 12 and 13 (DEIR, p. III-109, III-111) depict historic and current ranges of the FTHL, preparers of the DEIR apparently failed to review applicable BLM management text. That failure resulted in Draft General Plan text and DEIR discussion which fails to understand the importance of impacts from various activities and the associated cumulative impacts of agricultural activities when viewed together with impacts from geothermal activities and recreation/off highway vehicle activity in the vicinity of sensitive wildlife habitat.

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The DEIR discussion does "not reflect "a conscientious effort to provide public agencies and the general public with adequate and relevant information" about cumulative impacts." (San Franciscans for Reasonable Growth v. City and County of San Francisco (1984) 151 C.A. 3d 61, 79; 198 C.R. 634; cited in Remy, 231.) Further, the DEIR discussion of potential agricultural activities in the East Mesa and West Mesa areas indicate that the lead agency and its consultant did not use "reasonable efforts to discover, disclose, and discuss" related past, present, and future projects, including

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those under review by other agencies. (CEQA Guidelines Discussion re Sec. 15130.) To fail to consider impacts on FTHL and FTHL habitat when the DEIR acknowledges that the FTHL is a Category 1 candidate for listing and press articles have indicated listing may come within the year and when BLM has prepared several HMPs specifically referencing the FTHL renders the DEIR inadequate. If the Program EIR is to be adequate for tiering of future projects a comprehensive, detailed, and complete analysis of impacts including cumulative impacts is essential. Failure to provide the CEQA required information about potential cumulative impacts on sensitive species such as the FTHL, desert tortoise, and desert pupfish could render a Program EIR inadequate and unacceptable for consideration of future projects.

#### DEIR DISCUSSION OF CUMULATIVE IMPACTS WHERE ENVIRONMENTAL PROBLEMS ALREADY EXIST IS INADEQUATE OR MISSING

1. The Kings County Farm Bureau Court stressed the duty of an EIR not to attempt to minimize the cumulative impacts of a project by limiting the discussion to the specific project rather than considering the combined "collectively significant" impacts of all related or relevant projects. The Court rejected the city's acceptance of an EIR which attempted to minimize cumulative impacts on groundwater and air quality, two issues inadequately discussed in Imperial County's General Plan Update DEIR.

The Kings County Farm Bureau decision noted that the with respect to discussion of cumulative impacts, the courts: must interpret the Guidelines to afford the fullest possible protection to the environment. (Friends of Mammoth v. Board of Supervisors (1972) 8 Cal. 3d 247, 259-260 [104 Cal. Rptr. 761, 502 P.2d 1049].) One commentator has addressed the purpose of the cumulative impacts analysis: "One of the most important environmental lessons evident from past experience is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant, assuming threatening dimensions only when considered in light of the other sources with which they interact. Perhaps the best example is air pollution where thousands of relatively small sources of pollution cause a serious environmental health problem. (Kings County Farm Bureau, supra, at 720)

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"This judicial concern often is reinforced by the results of cumulative environmental analysis; the outcome may appear startling once the nature of the cumulative impact problem has been grasped." (Selmi, The Judicial Development of the California Environmental Quality Act (1984) 18 U.C. Davis L. Rev. 197, 244, fn. omitted.) (Kings County Farm Bureau, supra, at 720.)

We agree with the foregoing assessment of a cumulative

529 impacts analysis. We find the analysis used in the EIR and urged by GWF avoids analyzing the severity of the problem and allows the approved of projects which, when taken in isolation, appear insignificant, but when viewed together, appear startling. Under GWF's "ratio" theory, the greater the overall problem, the less significance a project has in a cumulative impacts analysis. We conclude the standard for cumulative impacts analysis is defined by the use of the term "collectively significant" in Guidelines section 15355 and the analysis must assess the collective or combined effect of ... [the project]. The EIR improperly focused upon the individual project's relative effects and omitted facts relevant to an analysis of the collective effect this and other sources will have on air quality. (Kings County Farm Bureau v. City of Hanford (1990) 221 C.A.3d 692, 720, 721; 270 C.R. 650.)

530 2. The Draft Program EIR for the General Plan Update similarly fails to analyze the potential for significant cumulative impacts on sensitive wildlife, groundwater resources, and air quality in addition to inadequate discussion of other cumulative impacts. Because the DEIR contains so little useful information about important BLM management plans and groundwater basins relied upon for present and future development, one cannot determine from the DEIR if the missing information (related to BLM management mandates, mining and landfill groundwater usage and wildlife impacts, domestic, agricultural, industrial, and commercial recreational usage of groundwater and wildlife and habitat impacts) would have revealed a more severe impact and more significant cumulative "collectively significant" impacts. One court case said it well:

Accordingly, the EIR [DEIR in this case] is inadequate. To conclude otherwise would place the burden of producing relevant environmental data on the public rather than the agency and would allow the agency to avoid an attack on the adequacy of the information contained in the report simply by excluding such information. (Kings County Farm Bureau v. City of Hanford (1990) 221 C.A.3d 692, 723; 270 C.R. 650.)

531 3. DEIR discussion of air quality impacts and cumulative impacts on air quality is inadequate. The DEIR statement in the discussion of Cumulative Impacts on air quality attempts to minimize the existing and future problems by stating that:

This impact would be mitigated to below a level of significance through implementation of the General Plan Air Quality Element and application of "Best Available Control Technologies" (BACT) as required by local air pollution control districts and State and federal agencies. (DEIR V-5)

Such statements are not reflective of the current requirements of

531 law. Furthermore, this discussion ignores the fact that the County does not have and, indeed, has not submitted a draft Air Quality Element for public review. Additionally the Cumulative impacts discussion fails to consider the regional air quality existing problems in the environmental analysis section which referenced air pollution in Mexicali, located in the same air basin, but just across the international border. Environmental impacts do not recognize international borders, and therefore must be fully considered for a legally sufficient and adequate EIR to be prepared. (See 3/17/93 Imperial Valley Press article on air quality enforcement and monitoring in Imperial County.)

532 4. Missing cumulative impacts relative to groundwater basins, with or without acknowledged environmental problems was noted in a previous comment.

DEIR FAILS TO INCLUDE ADEQUATE DISCUSSION OF THE ECONOMIC AND SOCIAL IMPACTS OF INCREASING DEVELOPMENT NEAR THE BORDER

533 1. "Where appropriate, a draft DEI should contain discussion of the economic and social impacts of a proposed project. .... Where an EIR does identify significant environmental effects, however, related economic and social impacts are not irrelevant." (Remy, 234.) Remy summarizes a number of considerations related to social and economic impacts of physical changes to the existing community. Increasing development to the east of the existing city of Calexico, the proposed new East Border Crossing, and requested commercial corridors will likely significantly alter the existing economic situation in the present downtown of Calexico in addition to altering traffic patterns in the area. "[T]he lead agency should consider the [potential] physical deterioration of downtown area to the extent that potential is demonstrated to be an indirect effect to the proposed" development of new commercial areas several miles to the east of the existing commercial areas. "The requirement to consider such secondary and indirect environmental effects is mandatory." (Remy, 234, citing CEQA Guidelines Sec. 15131 and Citizens for Sensible Development of Bishop Area v. County of Inyo (1985) 172 C.A.3d 151, 170; 217 C.R. 893.)

In the present DEIR, the brief discussion (in the section on growth inducement) of such potential socioeconomic impacts so close to the international border is sadly inadequate. Additionally, there is no discussion of the social and economic impacts on the urban centers of other cities further north of the border, even though there has been such discussion during public meetings.

534 2. DEIR discussion of cumulative impacts and growth inducing impacts of proposed new four lane roads and transit corridor from the international border going north is inadequate. The proposed road improvements will have environmental impacts in addition to both social and economic impacts on changing transportation,

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commercial, housing, and employment opportunities and patterns. The proposed Land Use Plan and the agriculture and development alternative plans for considerable development both east and north of Calexico in the area of the border. These changes will have impacts related not only to Calexico, but to the other cities of the County and to the nearby unincorporated community of Heber, all of which must be addressed in detail in the DEIR. Consequently the out-dated 1990 Housing Element (with its 1989-1994 horizon) which was not accepted by the State could not be consistent with the proposed changes, nor should it be referenced for relevant information on housing related to the Land Use Element of the General Plan Update. These circumstances necessitate an immediate revision of the Housing Element to assure internal consistency among the elements of the General Plan. Therefore both the Draft General Plan Update and DEIR are inadequate in attempts to relate growth inducing impacts of the General Plan Update to available and projected housing discussed in the Housing Element. Thus, no discussion of the potential cumulative impacts related to social and economic issues could be current or adequate as required by CEQA Guidelines.

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In the discussion following CEQA Guidelines Sec. 15131 is the following notation:

Under the interpretation provided in this section, effects on facilities or services are not automatically regarded as significant effects of a project. The changes must be related to or caused by physical changes. If the project causes a direct physical change in a facility by pumping ground water and causing ground settling under the facility, the resulting deterioration can easily be regarded as a significant effect. If the project causes physical changes that affect the use of the facility, the effects on the use may be considered a significant effect in the same way as increases in traffic are often treated as significant effects. (CEQA Guidelines Sec. 15131 Discussion.)

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In Citizens Association for Sensible Development of Bishop Area v. Inyo (1985) 172 Cal. App. 3d 151, the court held that "economic or social change may be used to determine that physical change shall be regarded as a significant effect of the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project. Alternatively, economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment." In this case, the Court held that an EIR for a proposed shopping center located away from the downtown shopping area must discuss the potential economic and social consequences of the project, if the proposed center would take business

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away from the downtown and thereby cause business closures and eventual physical deterioration. (CEQA Guidelines Sec. 15131 Discussion.)

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3. In portions of the County where present and future development will continue to rely on groundwater rather than surface water from the Colorado River, the groundwater basins could, and in some cases undoubtedly will, experience changes in groundwater levels and water quality as the inevitable consequence of increased pumping/groundwater extraction in this desert setting for use by industry, agriculture, residential, and commercial recreation. Degraded water quality, increased costs of pumping, subsidence and loss of storage capacity have all been the consequences of extractive groundwater pumping and have been experienced elsewhere in the Southwestern deserts. The resulting physical changes to the groundwater basin and water quality could have social and economic impacts for groundwater users and place ever more serious resource constraints on existing and projected groundwater based development in groundwater dependent areas of the County. These potential cumulative impacts are ones which must be considered in the discussion of growth inducement and cumulative impacts sections of the DEIR.

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4. Any discussion of cumulative impacts of groundwater based development should include discussion of the combined impacts of pumpage by groundwater users both in San Diego and Riverside Counties where development in Imperial County is dependent on groundwater from a shared basin which extends into the other county. This is particularly crucial with reference to Riverside County where wells supplying communities in Imperial County on either side of the Salton Sea rely on groundwater from wells located in Riverside County, communities where extraordinary population growth is discussed/projected by both old and new plans.

DEIR FAILS TO PROVIDE A RANGE OF FEASIBLE ALTERNATIVES AND ADEQUATELY ANALYZE THOSE ALTERNATIVES

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The Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 C.3d 376; 253 C.R.426 decision described what the California Supreme Court considers necessary for an adequate discussion of project alternative. The Court noted that the policy of this state is to require governmental agencies at all levels to consider alternatives to proposed actions affecting the environment (Pub. Res. Sec. 21001(g)). One of an EIR's major functions is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official. As a matter of logic, the EIR must be prepared before the decision to approve the project. Alternatives and mitigation measures have the same function --diminishing or avoiding adverse environmental effects. "Conclusory statements in support of environmental conclusions are generally inappropriate." The key issue is

whether the selection and discussion of alternatives favors informed decision-making and informed public participation. The EIR must contain facts and analysis, not just the agency's bare conclusions or opinions. An EIR must include detail sufficient to enable those who did not participate in its preparation to understand and consider meaningfully the issues raised by the proposed project. It is the project proponents' responsibility to provide adequate discussion of alternatives. (Laurel Heights, *supra* at 376-406 paraphrased. For more detail see the Appendix.)

The decision in Citizens of Goleta Valley v. Board of Supervisors (1990) 52 C.3d 553, 568; 276 C. R. 410 (Goleta II) further noted that "the duty of identifying and evaluating potentially feasible project alternatives lies with the proponent and the lead agency, not the public.

The Laurel Heights Court required the Regents to prepare a new EIR, but believing the existing activities would be mitigated, and that the nature of the ongoing medical research to be an important contribution to the state of medical knowledge, it believed that CEQA would not be thwarted by allowing UCSF to continue research activities while preparing a new EIR in compliance with CEQA. The Court did, however, note that UCSF might not expand existing operations or begin new operations while a new EIR was being prepared. But the Court was strict in the guidelines it laid down.

539 Having failed to comply with CEQA in the first instance, they [the Regents] cannot fairly complain of any burden in preparing a new EIR or a restriction on expansion might impose on them.

.... The Regents must begin anew the analytical process required under CEQA. (Laurel Heights, *supra*, at 425.)

Local governments must confront, evaluate, and resolve competing environmental, social and economic interests. The planning process necessarily compels cities and counties to consider alternative land-use goals, policies, and implementation measures. As explained in the Office of Planning and Research, General Plan Guidelines: "A general plan must address the issues associated with a jurisdiction's physical development. Such issues concern the general locations, appropriate mixtures, timing and extent of land uses and supporting infrastructure. They pertain to the physical nature of a jurisdiction's environment. The broad scope of physical development issues ranges from appropriate areas for building factories to open space for preserving scenic vistas." (Goleta II, *supra* at p. 571,)

In preparing its "range of reasonable alternatives to the project or to the location of the project, which could feasibly attain the basic objectives of the project, and evaluate the comparative merits of the alternatives" as required by CEQA



Guidelines Sec. 15126(d), the County and its consultant seem not to have focused on any "alternatives capable of eliminating any significant adverse environmental effects or reducing them to a level of insignificance." (CEQA Guidelines, Sec. 15126(d)(3), Pub. Res. Sec. 21002.)

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CEQA Guidelines Sec. 15126(d)(1) suggests that: "If there is a specific proposed project or preferred alternative, [the DEIR must] explain why the other alternatives were rejected in favor of the proposal if they were considered in developing the proposal." It is apparent that the DEIR preferred project is the "Proposed Land Use Plan" which is discussed at length, but the DEIR never clearly explains the County's preference for the preferred General Plan Update's "Proposed Land Use Plan."

INCREASED AGRICULTURE ALTERNATIVE IS INFEASIBLE AND UNREALISTIC

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The DEIR fails to consider recent trends and information prepared by another governmental agency and which it should have identified and considered in developing alternatives. In failing to review the BLM Plan Amendments and map changes adopted since the original California Desert Conservation Area Plan of 1980, and failing to review the adopted BLM management plans for the various ACECs, habitat management plans, and wildlife habitat management plans, the preparers of the Increased Agriculture Alternative have drafted an unrealistic, infeasible alternative that calls for removing land in the East Mesa area from the Recreation/Open Space land use designation and designating the area for "General Agriculture" (DEIR, IX-8). To ignore the pattern of land ownership with public lands administered by BLM and managed with special reference to a sensitive species, a Category 1 candidate for listing under the Endangered Species Act does not satisfy the CEQA Guidelines Sec. 15126(d)(3) requirement for discussion focusing on eliminating environmental impacts. The Increased Agriculture would significantly increase impacts on sensitive wildlife and proposed expansion of irrigated agriculture on lands not available for such uses, lands proposed for acquisition by BLM in its East Mesa WHMP.

DEIR Increased Agriculture Alternative is not feasible or reasonable because it is incompatible with adopted BLM ACEC and wildlife habitat management plans and adopted plan amendments. BLM lands in the East Mesa are not available for irrigated agriculture as set forth in the "Increased Agricultural Alternative", so the Increased Agriculture Alternative is not a feasible alternative as required by CEQA Guidelines. See CDCA Plan, map #17 which shows the East Mesa ACEC #70, and the legend which indicated that the East mesa ACEC is so listed as flat tailed horned lizard (FTHL) habitat.

The 1985 BLM Plan amendment #2 (Record of Decision (ROD) 1/87, p. 6-7) extended the prohibition of agriculture (other than

livestock grazing) to all BLM lands in the California Desert except on unclassified lands. The amendment states:

.... The Federal Land Policy and management Act of 1976 (FLPMA) sets forth the principle that public lands are to be retained in public ownership and managed for the public good. ....

The Desert Plan, in its zoning system, intended that retention lands which were in multiple use classes would be maintained in essential wildland character, except as authorized under specific lease, permit or grant. Agricultural use is not generally one of those kinds of authorized uses. Further, agricultural use contemplates disposal of land from Federal ownership.

There are no unclassified lands in ACECs (Watkins, 1993), consequently no federal lands are available for agriculture in the East Mesa.

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Further, the BLM has included proposed management actions for the acquisition of private lands within the ACEC to afford better FTHL habitat management. Among BLM's East Mesa Wildlife Habitat Management Plan (1983) management "planned actions" is a "land exchange/acquisition program" which states that: "Land exchange is necessary to prevent habitat loss and to prevent possible impacts of pesticide use when inholdings are converted to agricultural use." (East Mesa WHMP, 1983, p. 5.)

Consequently, the GP-C/OSE (p. 28) assertion that the lands "suitable for cultivation" in the East Mesa and West Mesa (also FTHL habitat) represent "potential irrigable lands [which] present a valuable future resource which should be protected" for potential future agriculture is incompatible with the pattern of federal ownership and BLM's proposed management actions for acquisition of private inholdings to manage for FTHL habitat.

#### INCREASED DEVELOPMENT ALTERNATIVE IS UNREALISTIC

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1 The Increased Development Alternative is unrealistic and proposes potential growth in the Ocotillo and Nomirage area overlying the limited groundwater resources where USGS data on water quality in one monitored well near the fault shows increasing chloride levels. The probable cause of the water quality changes has not yet been determined, but is presumed to be related to the large cone of depression created by existing residential and industrial pumpage dictated by the pattern of federal and private land ownership. Residents overlying the Ocotillo-Coyote Wells groundwater basin rely on this sole source aquifer with very limited recharge.

To suggest an alternative which includes increased intensity of residential development based on a groundwater resource with documented developmental constraints could hardly be considered

541 prudent planning. Similarly, such a proposal would serve only to increase environmental impacts, causing social and economic impacts resulting from changes in water availability and water quality. None of the environmental impacts related to groundwater issues, issues which have been discussed in studies jointly funded by Imperial County, were even mentioned in the discussion of environmental impacts of the Increased Development Alternative. Because impacts are totally ignored in the discussion of alternatives does not mean they are not widely acknowledged by local residents and County officials. Such a superficial discussion of that proposed alternative renders the Increased Development Alternative unreasonable, and inadequate for the purposes of CEQA review.

2. Additionally, the Increased Development alternative calls for increased acreage in the SW part of the County to be placed in the Recreation/Open Space land use category which would authorize more intensive commercial recreation and agricultural uses in areas near the Yuha Desert ACEC, areas containing critical habitat for the flat-tailed horned lizard. The listed authorized uses would have the potential for off-site impacts from agriculture, commercial recreation and off-highway vehicle use that pose threats to the FTHL and are incompatible with BLM management concerns. Likewise, both commercial recreation and agriculture based on groundwater would place additional impacts on the groundwater basin with existing resource constraints. These impacts, and indeed, the cumulative impacts have not been addressed in the DEIR. To the contrary, the single sentence devoted to discussion of environmental impacts related to water quality erroneously concludes: "The water quality impacts of the Increased Development Alternative would be virtually identical to the impacts described for the proposed Plan Update." (DEIR, IX-22.) How could increased groundwater based development relying on a basin with known resource constraints result in "virtually identical" impacts to those produced by a substantially reduced set of demands on the basin?

543 3. There is inadequate discussion of the social and economic impacts on other cities created by the proposed increase in development near Calexico.

THE "NO PROJECT"/1973 PLAN IS INFEASIBLE AND UNREALISTIC

544 1. The No Project Alternative (DEIR p. IX-22 et. seq.) is not a feasible alternative because it designates the federally managed lands of the East Mesa for intensive irrigated agriculture. This is not feasible for the same reason the Increased Agriculture Alternative is not feasible or realistic: incompatibility with federal management policy and patterns of landownership.

5 2. Additionally, the 1973 Plan, the No Project is not realistic or feasible because the 1973 Land Use Plan (DEIR Fig. 3, p. III-5)

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shows planned urban centers and rural residential areas in locations where substantial amounts of the lands so designated as urban or residential are public lands, for example in the Ocotillo area, near the Fort Yuma Indian Reservation, east of the Salton Sea, and north of the Chocolate Mountains. It also maps additional unrealistic heavy industrial land use category including expansion of industrial activities onto federal lands in the Plaster City area, on public lands northwest of the mostly vacant lands of Felicity, and a large area used for irrigated agriculture north of Seeley along the New River. No additional heavy industry has moved into any of these sites since that plan was adopted in 1973. The 1973 plan also projects large areas of predominantly public lands to be used for "desert residential" use surrounding the Ocotillo townsite, adjacent to the Chocolate Mountains gunnery range, and west of irrigated agriculture to the west and northwest of Westmorland.

3. In reality, the 1973 plan is one that calls for even more urban and industrial development than either of the proposed alternatives, but because the land proposed for such development is not privately owned such development in addition to the infeasible proposed agricultural expansion into the East Mesa make the No Project also a non-project, or infeasible alternative under CEQA.

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CEQA Guidelines Sec. 15126(d)(5) provides an uncomplicated path to follow in selecting a range of reasonable alternatives to a proposed project, in this case, an alternative land use plan.

(5) the range of alternatives required in an EIR is governed by "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The key issue is whether the selection and discussion of alternatives fosters informed decision-making and informed public participation. An EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative. (CEQA Guidelines Sec. 15126(d)(5).)

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4. Using the criteria of the CEQA Guidelines Sec. 15126(d), the discussion of all three alternatives (including the "no project" 1973 plan) cannot be implemented either because of land ownership constraints, federal policy and management plans, and or groundwater resource constraints that prohibit the build-out development of each alternative. At issue is whether the proposed land use plan or any alternatives can accommodate growth associated with the implementation of the plan. In comparing alternatives, the DEIR compares end results of anticipated build-out under each alternative rather than comparing the anticipated development with the existing conditions on the ground and taking into consideration the various environmental impacts. In essence, the DEIR for the proposed General Plan Update focuses more on quantity of build-out, whereas CEQA mandates a greater emphasis on consideration for the quality of the environment. The Courts have held that: "The

Legislative history of [CEQA] also supports the view that environmental values are to be assigned greater weight than the needs of economic growth \*\*\* The act thus requires decision makers to assign greater priorities to environmental than economic needs." [Citations] (Remy, 9.)

One Court, in analyzing the impacts of a general plan amendment, found that the county:

should have used existing conditions on the ground as the starting point of its environmental analysis. The agency wrongly compared environmental conditions under build-out of the proposed new plan with conditions that eventually would exist under build-out of the existing plan. Under the Court's reasoning, the agency was wrong simply to conclude that the new plan was environmentally superior to the old one and that build-out under the new would be better than build-out under the old. Rather, the EIR should have analyzed how build-out under the new plan would affect the existing environment. (Remy, 224-225, citing Environmental Planning and Information Council v. County of El Dorado (1982) 131 C.A.3d 350, 354-355; 182 C.R. 317.)

#### REQUEST DEIR ANALYZE FEASIBLE NEW ALTERNATIVES

The Conservation Committee requests that a supplemental DEIR or a subsequent DEIR analyze a number of new alternatives including, but not limited to:

1. An alternative which would be based on policies that are the most protective of the environment, including no further degradation or further depletion of groundwater resources and no encroachment into critical habitat areas designated by other agencies. This alternative should avoid development in hazardous areas including steep slopes, floodways and floodplains, and landslide areas if and where applicable. The location, type, building intensity and population density of this alternative should follow careful mapping of resource, ownership, management directives for other agencies, and infrastructure constraints.

2. An alternative which better responds to the significant impacts identified in the supplemental DEIR or subsequent DEIR. We believe that there are additional significant impacts raised in this response to the DEIR that should be analyzed and addressed by this alternative. This alternative should define areas which have site-specific constraints to development, including, but not limited to: critical habitat for a sensitive, threatened or endangered species; hazardous areas such as floodways, floodplains, or proximity to tank farms; surface water features and marshlands, state parks and wildlife management areas, including BLM ACECs and designated habitat management areas; watershed and recharge areas;

9 groundwater resource constraints; water quality and water quantity limitations; drainage patterns; patterns of federal, state, Indian, and private ownership; infrastructure constraints. After this data base has been prepared using the most current information from all relevant sources, an environmentally superior and feasible alternative could be constructed.

0 3. An alternative which considers clustering and the evaluation of transit to determine what configuration of development would be consistent with transportation constraints while balancing housing and jobs within each community. This alternative should work with the existing cities which would be planned as centers for growth to the extent that urban growth can be accommodated without creating land use conflicts with adjoining agricultural lands and cross-community conflicts based on anticipated or hoped for growth.

PROPOSED MITIGATION MEASURE AND/OR ALTERNATIVE PLAN: RESTORE AND EXPAND PRESERVATION LAND USE DESIGNATION OF 1973 PLAN

51 1. The following should be considered by the Lead Agency as the basis for an alternative Plan or as a mitigation measure. The following proposed mitigation measure would provide a better way to avoid the significant environmental impacts associated with the Recreation/Open Space designation, and is in the spirit of CEQA Guidelines Sec. 15204(a). The DEIR fails to discuss the most appropriate and most feasible Mitigation Measure of all: the restoration of the Preservation land use designation deleted from the 1973 Plan. Not only should the Preservation designation be reinstated, but it should be expanded to include all private lands within designated BLM ACECs, Wilderness Study Areas, Habitat Management Areas, Wildlife refuges, and/or any other areas managed by state or federal agencies for wildlife habitat or other purposes spelled out by State or Federal law. It is recommended that the boundary of the reinstated Preservation designation extend 1/2 mile beyond the boundaries of the existing ACECs to serve as a buffer much in the same way as buffers are included to protect other land use designations from incompatible uses.

52 2. The expanded Preservation designation would ensure a greater degree of compatibility with adopted management plans of other agencies while ensuring that the natural resource protection goals and objectives of the various elements are more readily implemented with less misunderstanding on the part of the public and decision-makers. Within the Preservation designation, agriculture and intensive commercial, high density and high intensity recreational or residential uses shall be prohibited regardless of parcel size.

53 3. Residential development standards shall authorize one single family dwelling per forty (40) acres as minimum lot size for any new subdivisions. This density of residential development should be compatible with the BLM management programs for sensitive

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species, including listed threatened or endangered species, consistent with the lack of available infrastructure resources to most private inholdings, and acknowledges the reduced development potential or desirability of certain lands if the FTHL is listed in the near future as anticipated (DEIR, III-107).

DEIR FAILS TO PROVIDE DOCUMENTATION TO SUPPORT CONCLUSIONS THAT MITIGATION MEASURES COULD SUCCESSFULLY MITIGATE IMPACTS ...DEIR FAILS TO IDENTIFY ALL FEASIBLE MITIGATION MEASURES

The DEIR mitigation measures are inadequate for a number of reasons, including, but not limited to the following:

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1. It fails to identify feasible mitigation measures which could result in reducing significant or unavoidable impacts to insignificant. An example of this failure is the fact that the DEIR does not include a mitigation measure to prohibit development which would adversely impact or contribute to the cumulative impacts that will degrade the quantity or quality of the groundwater resources.

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2. The DEIR does not include a mitigation measure that would prohibit development of new irrigated agriculture on private lands adjacent to or surrounded by BLM ACECs or habitat management areas for sensitive species. This includes failure to restrict new or mitigate existing groundwater based agricultural development up-gradient of the sensitive San Sebastian Marsh/San Felipe Creek ACEC. All projects potentially impacting water in the San Sebastian Marsh and San Felipe Creek need to comply with the Endangered Species Act due to the listing of the desert pupfish and designation of critical habitat.

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3. The DEIR fails to restrict commercial recreational vehicle parks or mobile home parks on private lands adjacent to or surrounded by BLM ACECs and habitat management areas for the purpose of minimizing impacts to optimal habitat for sensitive species.

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4. The DEIR fails to state why population levels anticipated by build-out of the proposed plan in addition to other land use actions should not be limited by air quality impacts within the air basin which is subject to impacts from Mexicali and Riverside County development when pollutants already exceed State standards for ozone and PM10.

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5. A number of mitigation measures are described as being able to reduce significant impacts to a level of insignificance or to a level below significance. However, because of the lack of current, up-dated information and analyses, or the failure to discuss existing conditions at all, the efficacy of the stated mitigations, including those based on other planning documents not yet prepared, to eliminate or reduce the impacts of the general plan update are

58 doubtful at best. For example, mitigation measures related to "securing replacement Important Farmland" do not indicate where such private land is located nor the potential source of water for use. Another example is the basing of air quality mitigations on an Air Quality Element not yet prepared and/or on another plan which has policies inconsistent with those in the GP-LUE.

6. A number of mitigation measures mandate or suggest additional studies and plans which may or may not prove successful in reducing or eliminating the project-related impacts as describes in mitigation discussions of the DEIR. Mitigation measures calling for additional or continued studies lack follow-up actions and performance standards to ensure that measures will actually be able succeed in reducing potentially significant impacts. For example, the mitigation measure calling for continuation of the monitoring of groundwater conditions in the Ocotillo-Coyote Wells basin requires no further actions "to help extend the life of the groundwater basin." (DEIR, III-204.) How would monitoring the Ocotillo basin serve to eliminate or reduce impacts to groundwater resources in that or other unmentioned basins, particularly those shared with San Diego and Riverside Counties? Monitoring alone cannot reduce the potentially significant adverse impacts associated with projected build-out development of the proposed land use plan or any alternatives.

559 When a mitigation measure requiring continued monitoring for the Ocotillo-Coyote Wells basin is included, why do the DEIR and draft General Plan Update ignore the results of 15 years of USGS monitoring data and rely instead on the out-dated 1977 USGS study in the County's discussion of groundwater? That DEIR response (ignoring currently available monitoring data) supports concerns that mitigation measures calling for additional studies and/or monitoring may not result in successful elimination or reduction of project-related impacts. Why do the General Plan Update and DEIR ignore the existing monitoring data and studies revealing underlying geological formations and water quality problems in planning for the future development of such groundwater dependent areas? Successful planning calls for evaluation of current trends and then acting, not merely collecting data. Policies and implementation provisions are necessary ingredients in any mitigation program.

A later reference to groundwater based development taken from the inadequate Water Element gave a superficial reference to groundwater resources and resource constraints. Additionally, mitigation measures which contain language similar to: "Consider the addition of an Air Quality Element to the General Plan." are really non-measures.

560 7. DEIR listing of mitigation measures including "revegetation plans to fully compensate for the direct loss of sensitive biological habitat" (DEIR, III-130) ignore the results of expensive but failed attempts at revegetation in parts of the California



desert not as harsh as Imperial County. Mitigation measures relying on revegetation, including revegetation with native species, may not be successful. During 1978 CDCA Advisory Committee meeting discussion on revegetation in the desert Dr. Brum stated that: "the desert is indeed very slow to recover from disturbance, and even major attempts to return the vegetation to a natural state will be disappointingly unsuccessful." (BLM, 1978, p.45.) These comments on mitigation measures for revegetation also apply to DEIR discussion of revegetation mitigation measures and to habitat restoration plans discussed in DEIR (p. III-130-133).

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8. Why does the DEIR propose mitigation measures which are based on the mixed land use and balanced housing and jobs strategies of the Air Quality Attainment Plan, when the implementation programs of the Draft GP Land Use Element are inconsistent with those strategies and would prohibit the implementation of such programs? How would incorporation of the Air Quality Attainment Plan strategies L-1, L-2, and L-3 be incorporated into the Land Use Element? Why hasn't this already been done along with the necessary changes in the development standards of the various land use designations if it is recommended in the DEIR? Why didn't the proposed General Plan Update resolve such external inconsistencies before it was released for public review?

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What specific mitigation measures are proposed to reduce the amounts of air pollution related to agricultural operations as identified in this environmental analysis?

9. The DEIR fails to give any studies or information which would support the assumption that the proposed mitigation measures would in fact be successful to mitigate impacts on biological resources, particularly sensitive species, in the desert environment of Imperial County. How effective have open space easements been in a desert setting like Imperial County? Where in the County have mitigation measures such as "open space easements to preserve sensitive species" (DEIR, III-130, 131) been used, and with what success?

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10. How relevant is the discussion of "fire buffer clearing" (DEIR, III-132) to the various biological resources in Imperial County? Other than in already developed areas of the County where do such fire buffer clearings occur?

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11. Why shouldn't mitigation measures be included which would respond to the failures of the local APCD to implement measures related to monitoring and enforcement of air quality standards and discussed in the report of the State Air Resources Board as described in the I.V. Press article of 3/17/93? That report cites out-dated regulations, failure to do required inspections and monitoring, failure to conduct required annual tests, failure to enforce regulations by assessing penalties for violations, etc.. Why shouldn't the APCD officer be returned to the jurisdiction of

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564 he Environmental Health Officer as it was originally? Wouldn't such an action remove the potential for conflict of interest that exists at present with the APCD residing in the Department with oversight and permitting related to the activities that represent the major sources of air pollution within the County?

Mitigation measures which should be included in the DEIR include, but are not limited to the following:

565 1. Prohibit any new development which degrades or depletes any of the groundwater basins or surface water within the County, with special reference to preservation of quality and availability of potable quality groundwater resources.

566 2. Reduce development in certain areas so that traffic patterns will not result in unacceptable traffic levels of use on connecting transportation corridors.

567 3. Reintroduce the Desert Residential Land Use category for areas with groundwater development resource constraints. For areas with known or anticipated groundwater resource constraints, prepare a new land use category (and zoning category) to accommodate larger minimum lot size (perhaps minimum 40 acre lot-size) based on rainfall patterns similar to the scheme used by San Diego County. Permitted uses are to be consistent with resource constraints.

568 4. Prepare a new land use category (and zoning category) for lands with known sensitive resource constraints. Minimum lot size and authorized uses should be consistent with resource constraints.

569 5. Reinstate the 1973 "Preservation" land use designation for lands within and adjacent to areas of restricted access such as Wilderness Study Areas and areas within and immediately adjacent to BLM ACECs and designated Wildlife Habitat Management Areas or areas designated as Critical Habitat for listed species under ESA and any other State or Federal areas designated for special habitat management. This would be consistent with the mitigation measure in DEIR III-132 referencing the Resource areas designated on Fig. 14. County development standards for private "inholdings" should be compatible with the management mandates of BLM related to protection of sensitive biological resources as evaluated by BLM staff.

570 6. The protection designation should restrict any intensive uses including agriculture, intensive or consumptive recreation, and high density or high intensity residential or recreational/tourist activities on private inholdings surrounded by or adjacent to BLM ACECs or CDFG Significant Natural Areas (SNAs) as shown on an updated and corrected Fig. 14.

SPECIFIC QUESTIONS REGARDING GENERAL PLAN CONSISTENCY

571 CEQA requires that the EIR be sufficient to serve as an informational document and that it identify inconsistencies between the project and existing plans and regulations. The DEIR fails to address the inconsistencies within the draft General Plan Update, including the missing Housing Element. There are a number of areas of inconsistencies within the General Plan as discussed by the OPR General Plan Guidelines which, if left unaddressed and uncorrected, will result in an internally inconsistent general plan.

The following are some general questions related to important potential areas of inconsistencies.

572 1. How does the proposed land use plan conform with policies related to protection of significant biological resources and habitat areas? How does the general plan intend to correct conflicts between County authorized uses on private lands and BLM mandates for habitat management for sensitive species?

573 2. How are land uses configured to avoid impacts on significant cultural resources?

574 3. How do proposed general plan land use categories reflect specific resource constraint issues? How does the proposed land use plan correlate with the land use designations and perceived constraints of shared air and groundwater resources as expressed in the General Plans of the adjoining Riverside and San Diego Counties?

575 4. What criteria were used to designate a single parcel as being located in two different land use categories by drawing a line through rather than around the privately owned land at Sunrise Butte? Why do land use category lines follow parcel lines to indicate agricultural lands served by IID, but not follow parcel lines for lands which are all dependent upon the same groundwater resource for development in the southwestern portion of the county? Why shouldn't all land use category boundaries be mapped with the same precision? Why are areas surrounding the Ocotillo townsite referred to as being both in the Rural Residential designation and in the Ocotillo/Nomirage Community Area Plan?

576 5. In that area and any others with land use category lines dividing private parcels into two different land use categories, how would conflicts arising from interpretations related to which land use category applies to the parcel as a whole be resolved? Why wouldn't the more prudent planning decision be to resolve rather than create any problems of interpretation prior to the adoption of the General Plan by precisely drafting land use categories to eliminate confusion about the land use designation for specific parcels?

77 6. Describe how the land use and circulation elements are correlated. Please describe how the housing element (with its 1989-1994 time frame and which was not accepted by the state) is correlated with and consistent with the land use, especially the SPAs, and other elements.

78 7. Why were detailed descriptions of the 12 Urban Area Plans and their associated maps and the detailed descriptions of the Community Area Plans and their associated maps omitted from Appendix A of the GP Land Use Element? How can the role of these missing Area Plans and their relationship to and consistency with the overall General Plan be determined when Plans are not included in the Draft General Plan Update?

Specific Comments in Response to Review of  
Draft Program Environmental Impact Report for the  
County of Imperial General Plan Update (SCH #93011023)

THE FOLLOWING IS PARTIALLY CHRONOLOGICAL BASED ON THE DEIR AND  
COVERS DEIR ISSUES NOT DISCUSSED PREVIOUSLY

The following comments were prepared as the Draft General Plan Update (GP) and Draft Program EIR (DEIR) were reviewed, section by section. Because the DEIR is based on the text and maps of the Draft General Plan Update, many comments will be cross referenced back to the corresponding pages of the GP. It should be noted that considerable text in the DEIR was taken verbatim from the text or appendices of the GP.

I. INTRODUCTION

579 To be used as a "reference guide for the preparation of environmental documentation for future projects" (DEIR, I-2) the DEIR should be based on current data, reports, and reflect the current available planning and management information reflecting mandated programs on adjoining federal and state lands. Reliance on an outdated (1985) overview and outdated USGS (1977) study while ignoring current monitoring data is not adequate.

II. PROJECT DESCRIPTION

B. PROPOSED GENERAL PLAN

580 5. AGRICULTURAL ELEMENT (GP-AE)

The criticism of GP-AE discussion in the project description is that it is too brief to tell much about the proposed project. However, inadequacies of DEIR project description for this element are similar to the discussion of the Land Use Element as related to agricultural uses. as for the GP-S/PSE.

6. CONSERVATION AND OPEN SPACE ELEMENT

581 The discussion of this element is so superficial as to be inadequate as a component of the proposed project, General Plan Update.

III. ENVIRONMENTAL ANALYSIS

A. LAND USE

582 How is it possible for the public to evaluate any analysis of the: "Compatibility of the Urban Area designations in the proposed General Plan Update with the spheres of influence of the various municipalities within the County" (DEIR, III-1) when none of the 12 Urban Area Plans and none of the associated Urban Area Plan maps was included in Appendix A of the GP-LUE as indicated in the GP-LUE (p.3)?

583 DEIR , III-1 fails to address a category of impacts on adjacent federal lands even though in discussion of "existing conditions" on that same page, the DEIR states that "approximately 50 % of the County lands are largely undeveloped and under federal ownership." Although the "developed" area where the County's incorporated cities, unincorporated communities, and supporting facilities are situated comprise less than one percent [1%] of the land" (DEIR, III-1), the potential for serious adverse impacts on federal lands exists because several land use designations authorize uses which are incompatible with the management mandates of federal and state agencies. Land use designations which authorize or contemplate one or more uses incompatible with federal management mandates are: Recreation/Open Space, Agriculture, Industry, Specific Plan Area, Special Purpose Facility, Urban, and even possibly Community Areas (plans for which are not yet available). What is the basis for such continuing disregard of federal management mandates?

1. Existing Conditions

584 Where are the population figures and number of housing units for the following communities not included in the list of unincorporated communities in Table 2 (DEIR, III-3): Bombay Beach, Hot Mineral Spa, Salton Sea Beach, Desert Shores, and Palo Verde? For those communities that have substantially different population numbers in winter and summer, what are the figures for winter and summer populations?

585 What criteria were used for calculating "population density" for the incorporated cities and for unincorporated communities? Based on the information in Table 2 (DEIR, III-3) there should be considerable differences in population densities in communities such as Westmoreland, West Shores, Salton City, Ocotillo, Heber or Calexico. The number of persons per household varies from 1.1 in

85 Ocotillo to 4.28 in Heber, based on Table 2 (DEIR, III-3). What are the criteria for determining whether or not, or when or if a community is designated as an Urban Area? Winterhaven is a proposed Urban Area of 70 acres, while West Shores/Salton City area is a Proposed Urban Area of 31,840 acres. According to Table 2, the winterhaven Bard area had approximately 1200 more residents than the much larger acreage of West Shores/Salton City.

a. Existing General Plan/Ultimate Land Use Plan (1973)

86 There is no reference anywhere else in the DEIR or in any element of the Draft General Plan Update which would indicate that the areas surrounding Westmoreland and Niland designated as Rural Residential in the 1973 Plan "overlay available ground water resources" (DEIR, III-7). What is the source of this information and why is it not reflected in the text of the GP-WE?

87 The DEIR (III-8) discussion of the areas for Heavy Industry in the 1973 Plan provides no information about how many industries have located in each of these industrial areas since the adoption of the 1973 Plan. Why? Information on when each industry moved to the industrial areas near Niland, north of Seeley along the New River, east of Plaster City and the railway corridor northwest of Winterhaven, and the success of each industry could be instructive in determining how realistic the 1973 Plan was/is. Have any industries located at these sites? Isn't such information necessary for establishing trend lines and/or growth patterns?

b. Proposed General Plan Update (GP)

88 Why were no Urban Area plans and maps and no Community Area Plans and maps included in Appendix A of the Draft General Plan Update? Without being able to review these documents, how can their environmental Impacts be evaluated? How can their relationship to the other elements of the General Plan be evaluated?

89 DEIR summary of the land use designation for "Industry" in the GP-LUE is inadequate. Plaster City is the only area designated for "Industry" in the County. The DEIR (III-10) ignores the development standards for solid and liquid waste facilities, including hazardous waste treatment, incineration, etc., which may be sited in this designation (GP-LUE, p.45). Hazardous waste treatment and incineration types of industrial uses would pose very different environmental impacts and issues of compatibility with nearby uses including a new state prison.

89 DEIR (III-10,13) summary of Recreation/Open Space category suggests a much lower intensity of development than reflected in the development standards in GP-LUE, p.45-46). Why doesn't the discussion include mention of all the federal and state management areas within the Recreation/Open Space category? These areas

590 include portions of Anza Borrego Desert State Park and the special management required by those state and federal agencies for critical habitat for the desert pupfish, habitat management for other wildlife species, special management plans for the ACECs, and wilderness study areas. Why does the Recreation/Open Space category fail to mention the federal policy for non-conversion of classified federal lands to private ownership for agriculture?

591 Given the DEIR (III-13) discussion of Specific Plan Areas, why have no SPAs been proposed for protection of natural resources and for historic preservation? Why were the designations for preservation omitted when so much of the area of the County is indeed federal or state lands not available for development? What criteria were used to determine whether or not the proposals for a specific parcel and project would be designated/mapped as a potential SPA?

592 Why aren't the proposed regional landfills discussed under the Special Purpose Facility designation since they are identified by name on DEIR III-150 and the Mesquite Landfill is shown on GP-LUE, Fig.3, and the project proponent assisted with the financing of the General Plan Update (Imperial Valley Press articles.)?

## 2. Environmental Impacts

### ..Industry

593 Why was the 1973 Heavy Industry designation deleted from the Mesquite Lake area and changed to a SPA designation (DEIR, III-17)? In the proposed plan update the only area designated as "industry" is at Plaster City. The uses which may be permitted in the proposed GP-LUE (P.45) designation for Industry are more inclusive and include uses related to hazardous waste treatment and incineration. Since these uses do not currently exist at Plaster City, has this site been evaluated and designated as the only site within the County as suitable for such hazardous waste treatment facilities even though Class I and II facilities are located elsewhere at present, and incineration facilities are located at Mesquite Lake? Why does the Plaster City site to the west of the new State prison have what appear to be less stringent requirements for these Locally Undesirable Land Uses (LULUs)?

594 The DEIR fails to provide meaningful discussion of impacts on the proposed development at Felicity of 8,960 acres in an area where only a few structures exist at present. Much of the land designated for the "New Town" at Felicity (DEIR, III-17) is publicly owned and managed by BLM. CEQA requires that environmental review consider the environmental impacts on the existing conditions on the ground at present (Environmental Planning and Information Council, at 354.) and not compare the impacts to what might have been expected at build-out under the 1973 Plan. The DEIR fails to make the correct impacts analysis of

594 the changed land use designation. The DEIR concludes that the proposed change to SPA designation "is not viewed as a change resulting in adverse land use effects" because "it avoids the range of potential problems associated with the development of a large industrial area distant from established population centers" (DEIR, III-17). This reasoning ignores the requirements for impacts analysis under CEQA. Similarly, the requirements for impacts analysis of changed designations at Mesquite Lake and Niland must address the changed potential uses and the impacts on existing conditions.

595 ..Government/Special Public

The Proposed Land Use Plan Fig.4 shows out-dated boundaries for the lands managed for military withdrawal. The General Plan Update does not reflect the Cooperative Agreement between the Navy and BLM resulting from the 1985 Plan Amendment. How will discrepancies of this magnitude be corrected?

b. Land Use Issues of the Plan Update

596 ..Land Use Impacts associated with the Specific Plan Area Designations

Mid paragraph it should be noted that the SPAs create the potential for significant "conflicts" as well as significant land uses. The DEIR impermissibly ignores discussing the identified potential for significant land use conflicts including "incompatible adjacent land uses" being "exacerbated by the fact that SPAs will typically develop in phases over a somewhat extended period of time" (DEIR, III-19). Because each proposed SPA has an already intended land use, often in much greater detail than for other land use designations, the impacts analysis discussing the impacts of each proposed SPA on the existing conditions present for each area must be addressed by the DEIR. The Impacts analysis must go beyond DEIR discussion of conflicts between adjoining land use designations.

597 Mesquite Lake SPA

DEIR III-20 identifies Mesquite Lake as an area of "poor agricultural land, while III-51 identifies the same area as one with Important Farmland, and GP-AE (p.16) says the same site is "alkali". Which, if any, is the correct assessment of current conditions existing at that site? Where is the discussion of the impacts of anticipated uses upon the area as it currently exists? The comparison of impacts of uses to the 1973 Plan is inadequate under CEQA and ignores potential impacts of development on the vacant land in the area.

598 Interstate 8/State Route 111 SPA

The proposed uses are inconsistent. DEIR states that residential uses are prohibited, but yet would consider permitting an RV park which would likely be residential or long-term visitor use. (DEIR, III-20.) Why the inconsistency? Is there a RV park



598 already at the site and the language included to grandfather in rather than create a non-conforming use?

599 Why wouldn't the permitting of separate Specific Plans for north and south of I-8 have the effect of impermissible piecemealing the impacts by dividing the SPA into small projects in an attempt to separately focus on parts of the whole of the project? (Remy, 47) The impacts of the anticipated identified development on the existing conditions on the ground at present have been ignored by the DEIR.

#### Felicity SPA

600 DEIR fails to acknowledge that a substantial amount of the area depicted on Fig.4 for the Felicity SPA includes public lands managed by BLM. Because there are only a few structures present in the area today, and because some very specific uses are detailed by DEIR (III-21), the DEIR erroneously presumes that the policies for development in addition to the future preparation of an EIR "would avoid the occurrence of adverse land use impacts in association with the Felicity SPA designation" (DEIR, III-21). Such reasoning overlooks purpose of the CEQA required analysis of impacts of the proposed land use designation on the existing conditions at the site today.

#### Glamis SPA

601 At the 2/10/93 Planning Commission meeting, consultant Mooney stated that SPAs would require a minimum parcel size of 640 acres. Consequently this proposed 160 acre Glamis SPA and the mentioned SPAs for 160 acre parcels in the Recreation/Open Space designation are in conflict with public statements. A visit to the site of the proposed Glamis SPA should be enough to convince anyone that even with the proposed development policies mentioned in DEIR (III-22) the proposed commercial activities, including motel and RV and mobile-home parks and community facilities will result in serious environmental impacts and result in uses that conflict with the surrounding uses on BLM lands. The presence of community facilities implies a permanent or semi-permanent population, most likely retirees because of the distance from any employment. The noise, dust, and air pollution resulting from the existing ORV activity in the area would make the proposed uses incompatible with existing uses. The creation of a new residential community at the Glamis SPA would be singularly inappropriate.

#### Holtville Air Strip SPA

602 The DEIR conclusion that significant land use impacts would not result (DEIR, III-23) from the various manufacturing and or "wayport" uses (DEIR, III-22) contemplated for this SPA in a location described as having "no facilities, and is seldom used" (DEIR, III-22) is absurd and based on the erroneous interpretation of the CEQA required impacts analysis discussed for other SPAs. Policy statements alone cannot suffice for discussion of impacts that would result from development of land without existing

602 facilities.

#### East Border Crossing SPA

603 Why does the DEIR(III-23) indicate that this SPA contains 1,500 acres, while the GP-LUE (p.11) states that is approximately 2,000 acres? Regardless of what policies or implementation measures are stated there will be significant impacts on the existing land if the planned industrial, commercial and residential development occurs on lands that are presently devoted to agriculture. The preparation of a future EIR for the detailed proposed developments identified for this SPA (DEIR, III-23, 24) cannot substitute for discussion of the impacts of changing the existing agricultural designation to the proposed very intensive land uses which will crowd out existing agriculture and preclude future agricultural development.

#### Tamarack Canyon Ranch SPA

604 This proposed SPA would allow leapfrogging of recreational and residential uses into agricultural lands in contrast to Goal 2 and its objectives to prohibit leapfrogging of non-agricultural development into agricultural lands. (GP-AE,p.30-31.) The requirement for a future environmental impact report for a proposed project already well defined, results in piecemealing the General Plan Review process and is inadequate as a substitute for an analysis of the impacts of changing the land use designation from agriculture to a new residential and recreation community away from the existing urban centers. Impacts analysis must include discussion of impacts of the proposed uses compared to the existing agricultural uses.

#### Bravo Ranch SPA

605 Comments for the DEIR's inadequate impacts analysis for this SPA are the same as for the East Border Crossing SPA.

#### ...Land Use Conflicts associated with Special Purpose Facility designation

606 The first paragraph notes that Class I, II, and III solid and liquid waste facilities, correctional facilities and general aviation airports have "physical or operational characteristics incompatible with most other land use categories." (DEIR, III-25.) With that preliminary assumption, how then does the DEIR justify the assertion that the development of standards and the requirement of a CUP could be "considered sufficient to preclude the occurrence of land use impacts" (DEIR, III-23.) If the existence of an existing landfill within a Community Area "represents a significant adverse land use impact" (DEIR, III-25), how is it possible that a much larger facility located in the midst of some other land use designation would not represent an even greater significant adverse land use impact?

#### 3. Mitigation Measures

607 The DEIR inappropriately analyzed the "differences between the

607 1973 Ultimate Land Use Plan and the Plan Update" (DEIR, III-26) rather than using the existing conditions "on the ground" as the basis for its environmental analysis of the impacts of the general plan update's changed land use designations (Environmental Planning and Information Council, at 354-355). Accordingly, the DEIR "did not identify any adverse land use effects." (DEIR, III-26.) Based on its flawed environmental analysis, the DEIR erroneously concluded that "no mitigation measures are required." (DEIR, III-26.) How will this error be rectified?

608 Land Use Issues of the Plan Update  
Passing LAFCO amendments will not alone be sufficient to mitigate the impacts and land use conflicts that result from the gradual migration of urban uses into existing agricultural lands. This is another "necessary but not sufficient" proposition.

609 Land Use impacts re Specific Plan Area designations  
How does the inclusion of a land use compatibility study for each SPA mitigate any impacts? In reviewing the SPA policies included with the GP-LUE, it was found that no GP-LUE SPA policies (GP-LUE, p.11-19) required a land use compatibility study. Such studies do not occur in policy discussions of the DEIR impacts section as asserted by DEIR (III-26).

610 Land Use Conflicts re Special Purpose Facilities  
How could the environmental review mitigate potential impacts of the SPF to "below a level of significance" (DEIR, III-27)? What data would support this conclusion, what studies at what other locations? Perhaps it would be true if the "sensitive receptors" were all blind, deaf, and had lost their sense of smell.

611 The DEIR fails to address any land use impacts in Riverside County that would result from increased population densities at the north end of the County and adjacent to the Riverside County line, as requested by the Riverside County Planning Department in its 9/30/92 letter included in the DEIR Appendix. Why? DEIR fails to discuss potential impacts on available water resources to support the proposed changes in land use designations.

612 In considering the adequacy of EIRs used by a county in adopting two area plans as amendments to the county general plan, the court found that the requirements of CEQA were not satisfied when the EIRs compared the environmental impacts of the proposed general plan amendments to the existing plan itself rather than to the existing environment. Further the requirements of CEQA were not satisfied by comparing projected population and development of the existing plan and the proposed plan, when the proposed amended plan would actually result in substantial increases in population in each area rather than the "illusory decreases" indicated by comparing the proposed plan to the existing plan. (Environmental Planning and Information Council v. County of El Dorado (1982) 131 C.A. 3d 350, 351; 182 C.R. 317.)

CEQA nowhere calls for evaluation of the impacts of a proposed project on an existing general plan; it concerns itself with the impacts of the project on the environment, defined as the existing physical conditions in the affected area. The legislation evinces no interest in the effects of proposed general plan amendments on an existing general plan, but instead has clearly expressed concern with the effects of projects on the actual environment upon which the proposal will operate. (Environmental Planning and Information Council v. County of El Dorado (1982) 131 C.A. 3d 350, 354; 182 C.R. 317.)

Judicial intervention is appropriate [with respect to EIRs] only where there has been an abuse of discretion, which will be established if the county has not proceeded in a manner required by law or where the county's decision is not supported by substantial evidence. (Pub. Resources Code Sec. 21168.5; No Oil, Inc. v. City of Los Angeles (1974) 13 C. 3d 68,74; 118 C.R. 34.) Of course, if the EIRs in this case fail to report on the potential environmental impacts of the ...area plans on the existing environment, then the county has not proceeded in a manner required by law. (Environmental Planning and Information Council v. County of El Dorado (1982) 131 C.A. 3d 350, 355; 182 C.R. 317.)

After evaluating the manner in which the environmental impacts of the area plan amendments to the county general plan had been compared to the build-out potential of the existing county general plan, the Court concluded that the examples of EIR analysis reviewed were:

not all inclusive but are merely illustrative of the manner in which the EIRs were prepared. It is true that the reports do discuss certain physical impacts upon the existing environment, but such information must be painstakingly ferreted out of the reports. The comparisons, we have seen, are always between the existing general plan and proposed amendments. (Environmental Planning and Information Council v. County of El Dorado (1982) 131 C.A. 3d 350, 357; 182 C.R. 317.)

The deficiency of the EIRs is manifest when the existing environment is compared to the general plan. .... The proposed plans actually call for substantial increases in population in each area rather than the illusory decreases from the general plan.

The comparisons utilized in the EIRs can only mislead the public as to the reality of the impacts and subvert full consideration of the actual environmental impacts which would result. There are no extensive, detailed evaluations of the impacts of the proposed plans on the environment in its current state. Accordingly, the EIRs

612 fail as informative documents. (Environmental Planning and Information Council v. County of El Dorado (1982) 131 C.A. 3d 350, 357-358; 182 C.R. 317.)

E. BIOLOGICAL RESOURCES ENVIRONMENTAL ANALYSIS

613 Comments on DEIR adequacy of the biological resources analysis "Existing Conditions" is covered elsewhere in this response.

2. ENVIRONMENTAL IMPACTS...BIOLOGICAL RESOURCES EA

614 The DEIR for the General Plan Update states that it will defer discussion of impacts to biological resources (shown on Fig. 14) to the future. At that time, impacts will be addressed in "focused biological studies [which] will be required as a part of subsequent environmental review for future development projects" (DEIR, III-124). To defer discussion of the potential impacts that would result from "build-out" or development of the uses permitted under the changed land use designations of the proposed Plan is to ignore the requirements of CEQA Guidelines 15126. The result is that DEIR provides inadequate discussion of the physical changes and alterations to the ecosystem that would result from induced changes in population distribution and concentration resulting from changed land use designations.

a. Plants and Vegetative habitat

615 This discussion is totally inadequate in light of the authorization of agricultural uses and intensive recreational uses within the Recreation/Open Space designation. Off-road vehicle activity results in compaction of soils at the root zone, direct impacts crush or destroy germinating seedlings or can damage mature plants and thereby affect potential future generations, and disturbance of the fragile surface of desert soils subjects them to increasing wind and water erosion which affects the ability of seeds to germinate and seedlings to survive. DEIR provides inadequate discussion of the potential direct and indirect significant effects resulting from changed human uses of the land resulting from changing the land use designation from preservation (1973 Plan) to Recreation/Open Space in the proposed Plan as required by CEQA Guidelines Sec. 15126(a).

b. Sensitive Species and Habitats

Agriculture/Pesticide Spraying

616 Why does the DEIR fail to address the obvious issue that the cultivation and irrigation of agricultural lands totally destroys the habitat of sensitive species such as the flat-tailed horned lizard and desert tortoise and/or can result in habitat fragmentation including loss of an important part of an individual's home range and/or the ability of the species to move from one area to another. (BLM FTHL (1990), p.10-11; BLM CB (1986) p.8-9; Steinhart (1990) p.89) Discussion of the potential direct

616 and indirect significant impacts resulting from changes human uses of the land is required by CEQA Guidelines 15126(a).

617 The negative effects of pesticide spraying on insectivorous bats is well documented and cited earlier.

618 **Water Quality**  
DEIR fails to address the impacts of biologically contaminated waters in the canals serving rural residential users, and the potential impacts from exposure to raw canal water and addressed by the EPA order to IID (12/92). It also fails to discuss the potential for algal or vegetative blooms in stagnant waters.

619 **Urban and Recreational Development**  
The discussion of "establishment of fire buffers between developed and natural areas" (DEIR, III-126) suggests that this section was copied from an EIR prepared for some other project in some other jurisdiction. What is meant by the "continual maintenance of fuel management zones" (DEIR, III-126)? Does the discussion of urban impacts and urban roads (DEIR, III-126) within the areas where there are sensitive species (such as BLM ACECs) reflect the authorization for high density commercial recreation contemplated on large parcels within the Recreation/Open Space designation (DEIR, III-121, 122)?

620 The DEIR fails to provide adequate discussion of the potential significant impacts of recreational development on the existing environment as required by CEQA Guidelines Sec. 15126, particularly with respect to high density and high intensity of recreational/residential uses and ORV activities in areas adjacent to or surrounded by BLM ACECs. The BLM identified adverse impacts of ORV activity on FTHL habitat has not been acknowledged by the DEIR, even though one study was cited.

621 **Roads and Power Transmission Lines**  
DEIR gives general information about the impacts of roads and transmission lines but fails to address the specifics of such developments in Imperial County where it has been documented in BLM ACEC management plans for both the Yuha Basin and the East Mesa ACEC. Why?

622 **Off-Highway Vehicles**  
Why does the DEIR (III-129) fail to correlate the discussion of the documented impacts of ORV or OHV activity on sensitive wildlife populations within the areas which were originally preservation but now recreation/Open Space such as the Yuha Basin ACEC which is managed for FTHL habitat values? The failure to relate general text to any specific areas and creation of potential significant effects violated the requirements of CEQA Guidelines Sec. 15126(a). DEIR acknowledges the: "Loss of vegetation due to OHVs" which results in reduced amounts of "cover and forage material available (DEIR, III-129) but never relates the

622 significance of these impacts to a category 1 species such as FTHL. The DEIR discussion understates the significant ORV and camping impacts described in BLM Yuha Management Plan (p.24-25) and Sheridan (1979, p.50). Why doesn't the DEIR acknowledge the serious nature of ORV impacts in a manner consistent with BLM documents?

623 Geothermal  
Because the DEIR fails to mention the geothermal lease areas and geothermal development within the East Mesa ACEC (GP-GE, Fig.1), it has avoided discussion of potential significant impacts of further geothermal development in the East Mesa area which is optimal habitat for the FTHL.

624 Sand and Gravel operations also create significant indirect impacts on residential populations in areas such as Ocotillo where noise of trucking operations associated with mineral transport and blowing dust from disturbed extractive areas have long been a source of complaints by residents to County officials.

625 DEIR discussion of environmental impacts of mining operations on sensitive species is inadequate because it fails to specifically address the existing and potential future impacts of mining operations on the desert tortoise, a USFWS and CDFG species listed as threatened. The mining operations are located within the area presently mapped for inclusion as part of the Chuckwalla desert tortoise habitat management plan. Why doesn't the DEIR discussion include at least the impacts listed in GP-C/OSE (p.17)?

626 Why does the DEIR contain no discussion of the County parks including Weist Lake County Park and Sunbeam Lake which were mentioned in the GP-C/OSE (p.31)?

627 Because the DEIR fails to identify the sources of information used in creating DEIR Fig. 15, it is not possible to determine whether is it merely mapping errors or out-dated information that resulted in the creation of overlap in areas with "sensitive biology" and "areas requiring future biological studies" within the areas shown on DEIR Fig.5 (III-31) as being agricultural lands. This area of tipple overlap to the south and west of Salton Sea and within the cultivated areas to the west of the Westside Main Canal should be discussed in the text, or the mapping should be corrected to reflect current existing conditions.

#### B. AGRICULTURE...ENVIRONMENTAL EA

628 The DEIR text appears to be essentially the text of the GP-AE, although the DEIR and GP-AE use different sets of population projections. DEIR (III-42) indicates a population of 164,115 by the year 2000. GP-AE (p.18) states a population of 140,000 by 1999. Both documents reference the same 1992 Department of Housing

628 and Community Development estimate. But, is it realistic to expect a population increase of 25,000 in one year? The factors leading to this kind of growth inducing impact deserve considerable discussion in the DEIR.

b. Current Irrigation Agriculture in Imperial County  
Productive Soils

629 DEIR Fig.5 "Existing Agricultural Land in Imperial County" fails to depict the presence of the existing urban areas where there is no longer cultivated agriculture. The locations of the incorporated cities and unincorporated communities (Table 2, DEIR, III-3) within those lands designated as agricultural is essential in order to achieve some conformance with the proposed land use Plan (DEIR, Fig 4) and its designation of urban areas.

630 The mapping of existing agricultural land on Fig 5 is inconsistent with locations of various biological resources in the maps included in the EA for Biological Resources. Either the mapping errors need to be corrected or the conflicts be resolved in the text.

631 The area east of the East Highline Canal and west of the Coachella Canal is identified as the East Mesa unit of the Imperial Irrigation District Map (1990). DEIR Agricultural environmental analysis reference to the locations of Class III located east to the East Highline Canal concludes that: "Barring the availability of substantial amounts of irrigation water from a new source, noticeable expansion of irrigated acreage appears unlikely." (DEIR, III-35.) The identified problems of water availability for irrigated agriculture (DEIR, III-35), and the extent of federal ownership of the East Mesa (BLM DAG 22), together with BLM's 1987 adopted agricultural prohibition on all but unclassified lands, and BLM's adopted management plans for the East Mesa ACEC (1983) and FTHL (1990) combine to remove the justification for inclusion of agricultural uses in the Recreation/Open Space designation as described in DEIR (II-8) and GP-LUE (p.45-46), and the deletion of the preservation designation (DEIR, III-17). Furthermore, the definitions of Important Farmland Map categories includes the following caveat for each Important Farmland category: "It does not include publicly owned lands for which there is an adopted policy preventing agricultural use." (DEIR, Appendix A, p.A-1.)

632 Based on the acreage of land currently used for agriculture (559,435 acres, DEIR, III-37) and the acreage classified as Important Farmland ( 560,000 acres, DEIR, III-36) it appears that almost all of the available Important Farmland is currently being utilized.

Water Resources

633 DEIR states that more than 2.6 million acre feet of Colorado River water is delivered for irrigation of more than 500,000 Acres. (p. III-40.) How much more than 500,000 acres? How much irrigated agriculture is based on groundwater resources and where are these



633 groundwater dependent agricultural lands located? The identification of these groundwater dependent agricultural lands is crucial in evaluating the environmental impacts of those existing and any adjacent proposed agricultural developments on the environment, particularly on sensitive biological resources. Without an accurate and adequate discussion of the existing physical conditions, it will not be possible to adequately address the impacts of future agricultural operations which would be authorized in the various land use designations including Recreation/Open Space. This is particularly important in those portions of the County where the pattern of public/private lands are checkerboarded. DEIR fails to provide adequate detailed discussion of the environmental setting and the physical conditions at the present as required by CEQA Guidelines Sec. 15125 (a)(c). There is no discussion of the potential incompatibilities between the proposed general plan update and existed adopted State and Federal Plans, including those with special reference for managing critical habitat for the endangered desert pupfish (Guidelines Sec. 15125(b)).

634 c. Current Livestock Production in Imperial County  
By failing to include any map information on the location of existing feedlots for livestock production (DEIR III-40,41), dairy operations, and aquaculture operations (DEIR, III-41) and in either the DEIR or the GP-AE, the DEIR fails to provide an adequate description of the regional setting related to livestock production. The failure to locate the existing feedlots results in an incomplete discussion of the existing physical conditions which must form the base line (CEQA Guidelines Sec. 15125(c)) for discussion of direct and indirect impacts associated with changes induced in population distribution and population concentration induced by changes land use designations as required by CEQA Guidelines Sec. 15126(a).

635 Where are the aquaculture operations in relation to the geothermal resources whose direct heat could use used in their operations as indicated in DEIR (III-42)?

636 d. Agricultural Trends and Issues  
The GP-AE and DEIR both cite statistics from 6/92 projections of population and household numbers from the Department of Housing and Community Development for projected populations. GP-AE estimates a population of 140,000 people in 1999 (GP-AE, p.18), while DEIR (p. III-42) estimates 164,115 people in 2000. Is it realistic to expect a population increase of 24,115 persons in one year? Why are the two figures based on the same source so different? Which should be considered more accurate?

637 Leapfrogging of non-agricultural developments  
The DEIR does not explain how the adoption of the Right-To-Farm Ordinance (DEIR, III-46) will actually reduce or minimize the impacts and conflicts resulting from leapfrogging development or

637 gradual expansion of the urban areas into existing agricultural lands.

638 Water Conservation and Water Transfer Programs  
Why does the DEIR fail to address the impacts of the water conservation and water transfer programs related to the 1989 Water Conservation Agreement between IID and MWD? These programs were discussed at some length in the GP-AE (p. 20, 21) and would appear to be issues of considerable potential environmental and developmental impacts in the future. Failure to discuss these issues in the DEIR represents the failure of the DEIR to adequately analyze the existing physical conditions that are important to the assessment of agricultural and environmental impacts and resource constraints to future development as required by CEQA Guidelines Sec. 15125.

639 Whitefly ..... Aquaculture  
Why does the DEIR fail to provide any meaningful discussion of the whitefly problems addressed in the GP-AE (p.25) or special environmental issues and impacts associated with aquaculture addressed in the GP-AE (p.27-28)?

640 e. 1973 Plan  
The DEIR fails to discuss the incompatibilities between county planning and general plan and the conflicts created by designating federal lands for agricultural development, when in 1980 portions of those federal lands were designated as an Area of Critical Environmental Concern. CEQA Guidelines Sec. 15125(b) requires discussion of the incompatibilities between the various applicable regional plans.

641 2. Environmental Impacts..Agriculture EA  
The DEIR fails to mention the incompatibilities related to authorized uses of the Recreation/Open Space land use designation and adopted federal policies and plans as required by CEQA Guidelines Sec. 15125(b). This is particularly important where such agricultural uses would have off-site impacts on public lands management mandates related to sensitive biological resources.

642 a. Loss of farmland to Urban uses  
The discussion of the potential loss of agricultural lands to urban uses in the Salton Sea/West Shores area under the proposed General Plan Update is meaningless. At no place in either the GP or the DEIR was it possible to find any description or map indicating that the lands in the West Shores/Salton City are currently used for agricultural activities. Indeed, a recent visit to the area suggest it is one of the most sparsely populated areas in the County, with most of the area still undeveloped lands with roads for transportation infrastructure, but only sparsely scattered residences.

643 Because the impacts analysis must address the changes to the DEIR, Imperial County General Plan

643 existing physical conditions (CEQA Guidelines Sec. 15125 Discussion), a discussion of lost Important Farmland is not useful. The discussion is confusing and misleading. This is particularly true in light of the statement that: "The areas involved are designated Urban under the existing 1973 General Plan." (DEIR, III-49.) Based on the first three reasons for justification of agricultural related impacts (that the lands are already designated as urban and in fact have streets, the areas are within the cities' spheres of influence, and urban expansion is gradual) one must question the purpose of the confused text.

c. Land Use Conflicts Within Urban Areas  
c. Agriculture/Urban land Use Conflicts along boundaries  
644 The DEIR requires Planning Department review to ensure that "any new residential or non-agricultural commercial uses located on agriculturally zoned land be adjoined on at least one entire property line to an area of existing urban uses" (DEIR, III-50,51). There is, however, no language that suggests an actual prohibition on leapfrogging, just a recommendation that it "should not be approved." (DEIR, III-51.)

645 DEIR fails to consider at what point in time (with respect to future development) zoning shall be changed from agricultural zones to ones more reflective of the residential or commercial character of the Urban land use designation as Urban build-out occurs in the Urban land use designation. Such policies should be developed to avoid the agriculture/urban inconsistency and conflict related to the residential development restriction within the agriculture land use designation (GP-AE, p.39) and the agricultural land use development standards and residential development standards of the Urban land use designation (GP-LUE, p.50-52).

646 Neither the DEIR (III-51) nor the GP-AE explain how enforcement of the "Right-To-Farm-Ordinance" would or could serve to reduce the Agriculture/Urban land use conflicts. DEIR relies on the use of "buffer zones" to reduce conflicts, but the GP-AE (p.20) discusses the failure of buffer zones because of the listed problems associated with their use in the past. What policies would ensure that any new requirements for buffer zones would meet with more success?

d. Proposed Specific Plan Areas (SPAs)  
647 The DEIR (III-51) includes the Mesquite Lake SPA as Important Farmland, while (DEIR (III-20) calls it an "area of poor agricultural land" and GP-LUE (p.16) says that "this area is predominantly affected by soils that are high alkali which reduces agriculture production." DEIR III-52) describes the area as one of poor agricultural land where portions have already been converted from agricultural use to industrial use and a waste disposal area. The DEIR thus contains internally inconsistent discussion of this site and the potential loss of Important Farmland and at this site and therefore DEIR text does not accurately reflect the information

647 in the GP or the existing conditions on the ground.. Why?

648 With respect to the DEIR discussion related to mitigation of agricultural impacts at the I-8/SR 111 SPA, Tamarack Canyon Ranch SPA, and Bravo Ranch (DEIR, III-53,54), where are the "suitable off-site replacement lands" that could be brought into agricultural production? What precisely is intended by "fees for an agricultural "banking" fund for preservation of Important Farmland"? Does this refer to purchasing development rights to certain lands? What are the specifics of the "on-site buffer zones"? Why wouldn't the impacts of development at the East Border Crossing SPA be similar to those for the listed SPAs? Only the Bravo Ranch SPA is larger than the East Border Crossing SPA within the existing agriculture use area. Why does the loss of 890 acres of Important Farmland at the Tamarack SPA warrant more mitigation measures than the loss of 1,455 acres of Important Farmland at the East Border Crossing? The conversion of agricultural lands to commercial/industrial uses is still the conversion of agricultural lands out of direct production, whether the commercial/industrial uses are related to agriculture or manufacturing or residential. Such developed lands would not likely return to agricultural productivity in the future.

e. 1973 General Plan

649 DEIR fails to address the incompatibilities between the draft General plan Update Recreation/Open Space designation authorized uses for agriculture and the adopted BLM Management Plan and adopted agricultural policy as amended in 1987 as required by CEQA Guidelines Sec. 15125(b) and discussed elsewhere in this response. The failure to acknowledge the existing patterns of land ownership/management and adopted plans and policies is best exhibited by the following discussion related to uses on what are in reality mostly public lands managed by BLM:

This loss of land [in East Mesa] covered by an agricultural designation is not considered an adverse impact. This is because the Recreation/Open Space designations allows for agricultural uses including row and field crops, orchards, aquaculture, grazing and apiaries. No loss of actual farmland would occur by this land use redesignation. (DEIR, III-54.)

The authors of the DEIR are directed to the BLM (1983) East Mesa Wildlife Habitat Management Plan, BLM (1990) "Management Strategy for the Flat-Tailed Lizard on BLM Administered Lands within the California Desert Conservation Area", and the BLM (1987) Plan Amendment Record of Decision related to multiple use class guidelines for agriculture and the boundary changes to the Yuha Basin ACEC. The DEIR and GP-AE must incorporate the changes necessary to ensure policies and land uses compatible with adopted regional plans.

650 Why has the DEIR discussion of impacts related to agriculture failed to address the potential conflicts between implementation of

50 the Endangered Species Act and agricultural activities especially with respect to the potential of bringing new lands into groundwater based agricultural productivity in the vicinity of the San Sebastian Marsh/San Felipe Creek ACEC, an area which includes critical habitat for the endangered desert pupfish?

51 3. Mitigation Measures...Agriculture EA  
DEIR provides inadequate discussion of the mitigation measures related to "securing replacement Important Farmland". Where is such land to be found and what water sources will provide water to bring the area into productivity?

### C. TRAFFIC/CIRCULATION ... ENVIRONMENTAL ANALYSIS

52 The DEIR states that a separate consultant was hired to review transportation impacts, but what is the assessment of the County's Public Works Department? Has the DEIR considered and included all the input from the County Public Works Department in its evaluation of the transportation impacts and plans for the General Plan Update?

53 1. Existing Conditions...Traffic/Circulation EA  
This DEIR discussion of transportation related impacts resulting from changed patterns of development and residential growth resulting from the general plan update and changed land use designations is certain to be inadequate because as of 3/18/93 the 12 Urban Area Plans and 3 Community Area Plans and their associated maps discussed in the GP-LUE (p.3,6) have not yet been released for public comment and review, purportedly because they have not yet been completed. Consequently the transportation and infrastructure impacts and needs cannot be realistically or adequately addressed by the DEIR until such time as the missing area plans have been completed. If the plans haven't yet been completed, how was Willdan Associates able to prepare the transportation analysis?

54 DEIR fails to present an adequate or even reasonably accurate discussion of existing conditions with respect to the various transportation issues as required by CEQA Guidelines Sec. 15125(c). The DEIR fails to discuss the present levels of service and existing routes of railroads and air transportation including the location of airports. Why? Surely the use of rail transportation should be a major consideration in the location of industrial operations and for the transport of people and goods to and from the County.

55 Although these aspects of the transportation infrastructure were also ignored in the Circulation Element of the GP, they are discussed in the GP Noise Element and in the DEIR in environmental analysis for noise (DEIR III-69, 70,75,76,79). the potential for future increased air transport was also discussed in relation to

55 the Holtville Air-Strip SPA (DEIR, III-22). How is it possible that the preparers of the DEIR felt it necessary to discuss noise impacts of railroads and airports but then fail to include either mode of transportation in the discussion of circulation/transportation?

d. Public transportation

56 What is the purpose of providing a laundry list of public transportation route numbers (DEIR, III-60) without giving routing information for any bus routes other than saying two routes go from Holtville to the Naval Air Facility? What are the areas, neighborhoods that are physically served at the present time?

Why wasn't discussion of air transportation and airport locations, railroad lines and rail terminals provided as a component of the public transportation infrastructure?

2. Environmental Impacts ... Traffic/Circulation EA

57 Why are no airports or scenic highways shown on Fig.8 for the Circulation and Scenic Highways Plan? Why doesn't Fig. 8 indicate the proposed major street network proposed to support the population of 75,000 in the Hot Mineral Spa/Bombay Beach community Area to the E of Salton Sea or the network necessary to support the large 31,1840 acre Urban Area of West Shores/Salton City to the west side of Salton Sea? Surely each of the proposed high population density areas will need more than just the single state highway passing through it.

58 Why does discussion of the environmental impacts fail to include discussion responsive to the concerns specifically addressed by the 9/30/92 letter form the Riverside County Planning Department? How will the changes in development patterns including new, improved or upgraded roads for automobile travel near Riverside County affect Riverside County and the planned uses in Riverside County? How will planned uses and changed land use designations in Imperial County impact Riverside County? Why is there no discussion of regional rail transit as a means of reducing dependence on automobiles for transportation?

559 The DEIR is inadequate because it fails to address alternatives to the use of the private automobile as the dominant means of transport within the County. Why is there no discussion of potential bus transportation and routes throughout the County to provide transport between places of living and places of employment and commercial activity? Why is there no discussion of major routes for the travel of slow-moving oversized farm machinery and truck routes for the transport of goods including agricultural products? Where is discussion of rail freight routes and the need for new rail spurs to accommodate the projected growth in the GP-LUE? With all the deficiencies in the GP-CE, the DEIR environmental analysis of traffic and circulation issues is woefully inadequate.

660

The DEIR environmental analysis related to traffic/circulation appears to have been prepared in a vacuum unrelated to the changed land use designations and authorized uses within each land use designation. The analysis is unrelated to the relationship between new locations for employment opportunities and areas for new residential growth; unrelated to existing and future needs for public transportation including possible use of rail transport of goods and people; unrelated to the relationship of residential and economic activity in Imperial county and their relationship to existing and planned uses in the adjoining Riverside County. How is the circulation pattern and any projected needed expansion or upgrades of the transportation infrastructure related to the growth inducing potential of new land use designations and the locations of new residential and industrial/ commercial activity?

661

Why is there no serious or detailed discussion of the impacts of the new East Border Crossing SPA and the new port of entry and impacts resulting from the need for a transportation infrastructure to be developed to accommodate the projected commercial/ industrial/warehousing activities anticipated and discussed for that area? This omission from DEIR Traffic Circulation EA is inexcusable in light of the following discussion of the same under the Noise EA in the following section. The Noise EA states: The Circulation and Scenic Highways Element includes goals and policies to expand railroad service, implement rail service between the international border crossings in Calexico and the Coachella Valley, and encourage the use of railroad service to minimize long haul truck traffic. If implemented, these goals and policies would increase the potential railway noise impact, and could reduce potential roadway noise impact. (DEIR III-78.)

662

Why doesn't the discussion of traffic/circulation impacts reveal the infrastructure developments that are later discussed in the EA for Noise within the DEIR? Where is there any discussion of impacts related to increased population densities and travel for employment in response to changed land use designations and their growth inducing impacts?

663

Why does the Circulation map (DEIR Fig.8) fail to locate the identified potential scenic highways as the title suggests?

664

Why doesn't Fig. 8 include the location of any of the unpaved roads that provide access to the major gold mining and sand and gravel operations in various parts of the County? Many of these unpaved routes represent routes of heavy travel by employees and/or commercial vehicles, including trucks used for the transport of the extracted resources. At times this seems like a never-ending parade of gravel trucks to and from the sand and gravel pits in SW Imperial County. The heavy truck use of unpaved roads can be a major factor in increased particulate levels of sand and dust in the air.

65 Why does Fig.8 and the accompanying DEIR text fail to locate and evaluate the unpaved routes of travel that lead from paved roadways to residential/recreational developments on the east side of the County and the potential for additional such developments elsewhere in the County under the proposed changed Recreation/Open Space designation?

66 The discussion of traffic/circulation environmental effects ignores CEQA Guidelines (Sec. 15125(c) and associated Discussion) requirement that the environmental analysis evaluate the impacts of the proposed changed land use designations and growth inducing potential of the proposed General Plan Update. Needed is an evaluation of the impacts on the existing conditions as they exist today, not compared only to what could be expected at build-out of the existing General Plan. In the EA discussion under the heading "c. 1973 General Plan" it seems obvious that the environmental impacts of the proposed Circulation Element will be greater than under the unrealized 1973 Plan.

67 Discussion of potential impacts related to the Holtville Air-Strip SPA should be addressed in the Traffic/Circulation EA because the noise impacts of this proposed use is discussed in the Noise EA (DEIR III-79) and in earlier discussion DEIR (III-22).

68 The reader is referred to the discussion of Circulation Element of the General Plan Update in the comments in response to that separate volume.

#### D. NOISE ... ENVIRONMENTAL ANALYSIS

669 In addition to the listed sensitive noise receptors, most wildlife is sensitive to various levels of noise which has been documented to alter behavior, mating, awareness of predators, and direct hearing loss. The general public first became aware of much of this information on noise during the period of public discussion and review for the BLM 1990 CDCA. Much research was done on the biological impacts of noise associated with off-road vehicle activity in the California Desert.

##### 1. Existing Conditions .. Noise EA Aircraft Noise

670 How is it possible that there can be discussion of existing conditions related to noise associated with aircraft and railroads in this section of the DEIR, and yet only a few pages earlier the traffic/circulation section failed to include these sources of noise as being related to transportation? Why does DEIR Fig.9  
671 locate an airport at the junction of I-8 and SR 98 near Ocotillo, when none is listed in the DEIR III-69 text? In reality, there is no airport near Ocotillo at present. The DEIR fails to include on  
672 Fig.9 or otherwise in the text, reveal the locations of airfields used for agricultural crop spraying operations mentioned on DEIR



672 III-69 as being sources of noise.

673 It would not be inappropriate to include the majority of the text in discussion of locations of airports and railroads in the noise EA also in the Traffic/circulation section immediately preceding the Noise EA.

674 Roadway Noise and Industrial related to Mining  
The DEIR fails to discuss the noise generated by gravel truck traffic through the residential neighborhoods of Ocotillo on S-2. Additionally, the DEIR fails to discuss the noise associated with the existing sand and gravel operations and with gold mining and/or other mining operations. The locations of these noise generating extractive sites should also be included on DEIR Fig.9.

675 2. Environmental Impacts ...Noise EA  
Both the DEIR and the GP-NE fail to provide information and noise contours for all the airports in Imperial County.

676 Why does the DEIR provide such uneven treatment of the proposed Mesquite Landfill near Glamis? Our comments in response to the draft General Plan Update noted the uneven and inconsistent treatment of the proposed Mesquite Landfill in that document as well as in the DEIR. Most newspaper articles on the General Plan Update mention the proposed landfill and note that Arid Operations, the project proponent for the proposed landfill, has made funds available for the General Plan Update. The following is a partial listing of dates on which regional landfill projects, and often the General Plan Update issue were discussed in the Imperial Valley Press: 11/21/91, 11/24/91, 12/3/91, 5/27/92, 5/28/92, 8/9/92, 8/23/92, and 2/19/93.

The Mesquite Landfill is currently under environmental review with the anticipated release of the DEIR/DEIS from mid January 1993 to mid March 1993 (Planning Department timeline) or July 1993 (Koski, 1993). Arid Operations, the project applicant for the Mesquite Landfill, paid the initial "\$178,000 for an update of the general plan." (I.V. Press 8/23/92.) That article further commented that "Arid officials have said the lack of an updated general plan could slow their plans to build a rail-supplied landfill that could someday handle up to 20,000 tons of trash a day." (See also article in I.V. Press of 8/9/92 related to relationship of general plan update and the Mesquite Landfill project.)

3 The Noise EA discusses the noise related to the railroad spur that would be needed for the proposed trash by rail Mesquite Landfill at Glamis and even discusses noise analysis (DEIR, III-76). Additionally, the DEIR EA text for Public Services/Safety discusses two proposed privately owned regional landfills in eastern Imperial County (DEIR, III-150). GP-LUE Fig 3 (p.24) shows the location of the proposed Mesquite Landfill, but DEIR Fig.18 of

677 the same title omits the location of any proposed landfill despite the Figure title (DEIR III-151). It is obviously a sensitive issue, but one that should be dealt with consistently in both the Draft General Plan and DEIR

678 If the DEIR is going to discuss the noise impacts associated with railroad spur to the landfill, it must adequately discuss the noise impacts on sensitive wildlife species in the area. This is of concern because the listed desert tortoise BLM proposed Chuckwalla Habitat Management Area includes the area in which the proposed landfill is located.

679 3. Mitigation Measures ... Noise EA

How will the preparation of "acoustical analyses" (DEIR III-80,81) serve to mitigate noise impacts on sensitive receptors including sensitive biological species?

F. CULTURAL RESOURCES

680 2. Environmental Impacts ..Cultural Resources EA

The DEIR text (III-147) fails to reflect the information on DEIR Fig. 16 related to sensitive cultural resources and fails to reflect the information in the GP-C/OSE on cultural resources. In addition to the DEIR text, the GP-C/OSE states that:

Other areas that are highly sensitive include the vicinities of ..., lower Borrego Valley extending east to Highway 36, the southwesternmost portion of the County centered around Ocotillo, a portion of the Pilot Knob area east of Glamis, and the entire easternmost portion of the County including the Palo Verde Mountains and the area between Ogilby Road and the Colorado River. The only non-agricultural areas that are expected not to contain resources are the immediate east and west sides of the Salton Sea and the Algodones Sand Dunes. (GP-C/OSE, p.15.)

The GP-C/OSE discussion continues to include additional areas which are less sensitive, but would require additional archeological studies.

681 Why has the text of the DEIR (2. Environmental Impacts, p.III-147) deleted so much discussion of areas identified in the GP-C/OSE (p.15) as "highly sensitive " for cultural resources? By failing to accurately and adequately describe in the DEIR existing physical conditions which were identified in the GP-C/OSE, the DEIR Cultural Resources EA has failed to satisfy the requirements of CEQA Guidelines Sec. 15125 to "include a description of the environment in the vicinity of the project, as it exists before the commencement of the project..." For the environmental analysis to exclude the environmental setting with respect to cultural resources described in the GP-C/OSE is more than a little deficient. This is especially confusing because at the bottom of the same DEIR p.III-147 the area around Ocotillo and the

681 easternmost portion of the County are mentioned under discussion of "mitigation measures."

682 By failing to include information in the GP-C/OSE, the DEIR reached the erroneous conclusions that: "Under the proposed General Plan, most future development activities would occur in existing farmland and residential areas: no significant impacts to prehistoric cultural resources are expected to occur at these locations." (DEIR III-147.) With a quick review of the intensive agricultural and development activities that would be authorized within the Recreation/Open Space designation and a review of the three applicable BLM DAGs, together with the text and maps of the GP-C/OSE, one will reach a very different conclusion about the potential for significant impacts to prehistoric cultural resources with build-out under the proposed General Plan.

683 The DEIR should address the potential impacts on cultural resources related to expansion of existing mining activities and off-highway vehicle recreational uses as has been documented by BLM in the Yuha Basin ACEC and other BLM management areas for which management plans have been adopted. (BLM (1985) Yuha Desert Management Plan, p. 21-27.)

### 3. Mitigation Measures...Cultural Resources EA

684 The DEIR fails to address any mitigation measures related to reducing the potential for significant impacts on cultural resources that might be the result of off-site RV or ORV activities associated with the residential/recreational land uses contemplated within the Recreation/Open Space designation. With the Recreation/Open Space designation replacing the 1973 Preservation designation in areas with sensitive cultural resources, the potential for increased ORV damage to cultural resources on lands managed by BLM is significant and must be addressed, because the Recreation/Open Space designation authorizes many uses incompatible with BLM's management mandates and plans. (See discussion elsewhere.)

## G. PUBLIC SERVICES/SAFETY

685 DEIR introduction to this section lists a number of infrastructure components which were ignored in the GP-CE. The locations of major components of the County's existing infrastructure do not appear on figures in either the GP-CE or on figures in the DEIR. In order for the DEIR to serve its intended function as a Program EIR the missing mapped information should be supplied for all major infrastructure components such as natural gas pipelines (trunk lines), liquid petroleum pipelines, sewage treatment facilities and main lines, locations of schools, fire protection facilities, communication systems, and existing parks and recreational facilities and locations of all infrastructure component systems should be included in a series of figures. While

there is discussion of some of the above listed infrastructure components, none is shown on any DEIR figures.

CEQA Guidelines contain the following recommendations for a program EIR:

A program EIR will be most helpful in dealing with subsequent activities if it deals with the effects of the program as specifically and as comprehensively as possible. With a good and detailed analysis of the program, many subsequent activities could be found to be within the scope of the project described in the program EIR, and no further environmental documents would be required. (CEQA Guidelines Sec. 15168(c)(5).)

85 Additionally if a Program EIR is to be incorporated by reference in future Subsequent EIRs or Negative Declarations, it must have been detailed enough "to deal with regional influences, secondary effects, cumulative impacts, broad alternatives..." (CEQA Guidelines; Sec. 15168(d)(2).)

By failing to map the locations of important components of the infrastructure, the DEIR fails to address the impacts related to the existing infrastructure, the need for expansion of existing infrastructure components, and the impacts associated with the needed expansion of the existing infrastructure mentioned in GP-S/PSE (p. 15-18).

#### b. Fire Protection

386 Why aren't the locations of fuel storage tank farms (DEIR, III-149) located on a map in the DEIR or referenced back to Fig. 5 in the GP-S/PSE? Why isn't the DEIR discussion of hazardous materials sites as detailed as in the GP-S/PSE and why doesn't the DEIR include any mapping of these sites identified in Fig.5 of the GP-S/PSE?

#### c. Solid Waste

387 Why does discussion of proposed regional landfills occur under the section called "Existing Conditions"? Existing conditions is supposed to "include a description of the environment in the vicinity of the project, as it exists before commencement of the project, from both a local and regional perspective." (CEQA Guidelines Sec. 15125, emphasis added.) Discussion of two proposed regional landfills under the section for existing conditions could be viewed as an attempt to suggest either prior site approval or set the stage for approval of projects for which no environmental review documents have yet been released for public review. All mention of proposed regional landfills in the section on 'existing conditions' should be removed because these are not existing conditions/facilities on the ground at present.

If discussion of regional landfills is appropriate within these documents, it should be addressed potentially in the section on environmental impacts, but again unless the land uses are

687 designated on some map, how can their impacts be addressed in anything but a general way?

688 Why doesn't the DEIR include the locations of the proposed Regional Landfills on Fig. 18 of that title when it discusses the specific locations of the two proposed landfills in the text on the facing page? Is the omission intentional or just inattention to detail? Why does the map of the same title in the GP-LUE Fig. 3 show the location of the Mesquite Landfill?

689 As noted elsewhere in this response both the GP and the DEIR treat the proposed regional landfills in an inconsistent manner. Why? Is it because the County has not yet completed the preparation of its Integrated Waste Management Plan and completed its independent site evaluation criteria? In any event, the numerous inconsistencies in both documents should be corrected.

690 DEIR discussion of the BLM request for closure of county operated landfills on BLM lands if regional landfills are sited in the County (DEIR, III-150) is inconsistent with the suggestion in GP-LUE (p.23) that the County has landfill capacity until the year 2005. The discussion in these two documents should be consistent with respect to future solid waste disposal issues.

a. Electric and Telephone

The electrical power generating facilities and major transmission corridors should be mapped in both the DEIR and the GP-CE. Inclusion of transmission corridors in the GP-GE is not sufficient to provide a reference as a part of the infrastructure requirements of the Circulation Element.

691 The DEIR should include discussion of why power is imported by Imperial Irrigation District (DEIR, III-154) when geothermal resources power is exported in an amount sufficient to supply 400,000 persons (GP-GE, p.8). All generating facilities, including hydroelectric drops and substations should be located on an infrastructure map.

Where are microwave relay facilities located within the County? These should also be mapped.

f. Water Service and Availability

692 The DEIR information about the quantity of additional availability of Colorado River water over and above that determined by the Colorado River Compact of 1922 is inconsistent with that in the GP-WE Table 1 which says "0,92 MAF when available".

Water Delivery and Supply

693 Discussion of the EPA order to IID re the Safe Drinking Water Act should be updated prior to release of the final EIR. There should be a map showing the main canals and drainage ditches that make up the IID water delivery system. No such map was included in

93 the GP-WE either. Why?

94 Why is there no discussion of the groundwater resources and watershed for the communities of Ocotillo, Nomirage, and Yuha and the scattered residences that rely on the Ocotillo-Coyote Wells Groundwater Basin, a sole source aquifer in the SW portion of Imperial County? Why doesn't the DEIR at least refer to the GP-C/OSE "Open Space for the Protection of Public Health and Safety" which includes but is not limited to "areas for the protection of water quality" (GP-C/OSE. p.32). and its associated objectives 8.11 and 8.12 (GP-C/OSE p.41)?

95 Why doesn't the DEIR indicate whether the Southern California Water Company that serves Niland and Calipatria uses Colorado River water or groundwater? If it is Colorado River water, what is the existing entitlement?

96 What is the source of drinking water for Bard? The DEIR text (III-160) indicates that it is not the local groundwater that is used for other domestic and landscaping purposes.

97 g. Sewage Treatment  
Why doesn't the DEIR identify the communities such as Ocotillo, Nomirage, Hot Mineral Spa which are identified in the GP as not having any sewage treatment facilities and which rely primarily on septic systems? Why does neither the GP or the DEIR indicate the method of sewage disposal for Palo Verde?

98 h. Schools  
Why does the DEIR fail to address the capacity and restraints of the Calexico school system which is located in the part of the County which would appear to have the most rapid growth in the future? Why is no information given for the numbers of students in the Calexico and Imperial school districts?

99 What was the outcome of the 11/92 bond issue for the Westmorland School District? How will new schools be funded for Westmorland and Meadows Union districts if the bond issues fail?

700 Where are the San Pasqual Valley district schools? What is the capacity of the Holtville schools?

701 i. Parks and Recreation  
Why aren't the Wildlife Refuges and park areas of DEIR III-166 included in the discussion of EA for biological resources?

702 j. Health Care  
Are the health care facilities within Imperial County adequate? The Calexico Hospital has been facing a series of very serious problems that threaten its future. How many beds did Calexico Hospital have and how many physicians on staff? What are the estimates of Imperial County residents who travel to Yuma

702 Arizona or to San Diego or Riverside Counties for medical care? What are the existing impacts on County health care facilities as a result of the large seasonal population in the winter months? Why does the DEIR fail to discuss health and safety issues related to the GP-C/OSE attractive nuisances such as abandoned mine sites and inherently dangerous off-road vehicle activity in the County, especially during winter holiday weekends?

2. Environmental Impacts ... Public Services/Safety EA

f. Water Service and Availability

703 The DEIR fails to discuss at all the availability of groundwater resources for development in the Ocotillo/Nomirage Community area, and the very serious resource constraints of that resource with respect to water quality/water quantity issues. These serious issues have been documented by more than 15 years of semi-annual monitoring by USGS and additional studies by the County's consultant. It also fails to adequately discuss the potential impacts of Imperial County Urban growth in the West Shores/Salton City Urban area and Hot Mineral sap/Bombay Beach based on groundwater resources pumped from wells in Riverside County.

704 h. Why are impacts on Calexico schools totally ignored in discussion of impacts on schools when there is already a significant increase in housing on County lands adjacent to Calexico? Why are schools in Imperial not mentioned when DEIR III-164 earlier noted that Imperial schools are already operating at capacity?

705 Why are the proposed landfills at Mesquite and Chocolate Mountains discussed under "existing conditions" rather than under issues of environmental impacts or mitigation measures?

706 Contrary to the assertion under mitigation measures related to telephone, the phone company is not "obligated to serve the community" by providing facilities as needed. The phone company only provides service to those who can afford to pay for the services.

707 Is the reason the increased growth in population will not result in significant impacts on health care services because so many Imperial County residents seek health care from providers located outside Imperial County?

708 Saying that future projects should be evaluated for seismic safety (DEIR, III-175) is not the same as requiring such evaluation. Why has the DEIR made such evaluation optional?

H. AIR QUALITY EA

1. Existing Conditions

709 DEIR discussion of existing conditions is inadequate in part because it fails to address PM10 problems associated with ORV

09 activity, fugitive dust resulting from travel on unpaved roads, dust generation associated with extractive operations such as sand and gravel operations and mining activities. All PM10 values in Table 17 exceed the California Annual mean of 30 micrograms/cubic meter in Table 16, and the County has been designated a non-attainment area for PM10 (DEIR III-180). Why is there no current PM10 monitoring in Calexico where air quality is often noticeably bad? The Imperial Valley Press 3/17/93 article entitled "Report slams air district: State analyses faults enforcement, monitoring pollution in Valley" states the problem well and is not encouraging with respect to addressing the need to improve monitoring and air quality within the County.

10 What do the numbers in Table 18 mean? What are the units of measure for each of the categories of pollutants? What specifically is meant by the category "Natural Sources" for source categories of pollutants? Does that category include dust pollution resulting from sand and gravel operations, mining and ORV activity on public lands and unpaved routes of travel? Why does the DEIR fail to provide meaningful discussion of the information provided in the Appendix A of the GP-C/OSE A-2 with respect to mining impacts on air quality? GP-C/OSE noted that: "open or surface mining may produce excessive amounts of dust" (p.A-2).

## 2. Environmental Impacts

### a. Land Use External Inconsistency between Land Use Element and Air Quality Attainment Plan

11 The DEIR ignores the need to discuss how the changed land use designations and the development based on the authorized uses and development standards within the various land use categories will impact the existing air quality in the County. Why?

12 Why doesn't the DEIR provide discussion of the "mixed Land Use" strategy (DEIR, III-189) elsewhere in the DEIR? As discussed elsewhere on page DEIR III-189, the Mixed Land Use is a strategy which is contrary to the final Implementation program in the GP-LUE. That program states that: "the County Zoning Ordinance shall be amended to prohibit residential as a principal use in commercial and industrial zones." (GP-LUE, p.56,)

13 If the DEIR is supposed to be reflective of the text and maps and programs in the Draft General Plan Update, it succeeds very well in pointing out the external inconsistencies between the proposed General Plan and the existing 1991 Air Quality Attainment Plan for the County. (DEIR, III-188, 189.) Why, when the preparers of the Draft General Plan Update and the DEIR are the same firm, did that firm not seek to draft implementation policies and programs to resolve those external inconsistencies? Why have these inconsistencies not been resolved?

## 3. Mitigation Measures..Air Quality EA

14 Why does the DEIR propose mitigation measures which are based



714 on the mixed land use and balanced housing and jobs strategies of the Air Quality Attainment Plan, when the implementation programs of the Draft GP Land Use Element are inconsistent with those strategies and would prohibit the implementation of such programs? How would incorporation of the Air Quality Attainment Plan strategies L-1, L-2, and L-3 be incorporated into the Land Use Element? Why hasn't this already been done along with the necessary changes in the development standards of the various land use designations if it is recommended in the DEIR? Why didn't the proposed General Plan Update resolve such external inconsistencies before it was released for public review?

715 What specific mitigation measures are proposed to reduce the amounts of air pollution related to agricultural operations as identified in this environmental analysis?

7 Why shouldn't mitigation measures be included which would respond to the failures of the local APCD to implement measures related to monitoring and enforcement of air quality standards and discussed in the report of the State Air Resources Board as described in the I.V. Press article of 3/17/93? That report cites out-dated regulations, failure to do required inspections and monitoring, failure to conduct required annual tests, failure to enforce regulations by assessing penalties for violations, etc.. Why shouldn't the APCD officer be returned to the jurisdiction of the Environmental Health Officer as it was originally? Wouldn't such an action remove the potential for conflict of interest that exists at present with the APCD residing in the Department with oversight and permitting related to the activities that represent the major sources of air pollution within the County?

#### I. VISUAL RESOURCES

717 Why does the DEIR ignore the visual impacts of the proposed regional landfills discussed on III-150 and the potential additional industrial uses at Plaster City and in the Mesquite Lake present industrial/future SPA industrial designation? Are the preparers of the DEIR so enamored of landfills that they see no visual impacts from the proposal to create above ground landfills?

#### J. WATER QUALITY

719 Most of the information in the discussion of Water Quality is taken from the Water Element which was based on the "Water Plan" prepared for the County by Terra Nova Planning and Research, Inc. of Palm Springs, a document which was not included in Appendix C, the Water Element Bibliography or in the DEIR. Why was no attribution made for the original work?

##### 1. Existing Conditions

Surface Water

19 Why are there no maps of the existing IID water distribution system including major canals, major drains?

20 Why does the Alamo River have higher fecal coliform counts when it reaches the Salton Sea (Table 23, DEIR, III-201) than it does at the international border (Table 21, DEIR III-199)? The tables raise questions about Imperial County sources of pollution and indicate different conditions than the text of DEIR III-198. Why doesn't the text match the information in the tables?

Groundwater

DEIR discussion of groundwater resources in the Ocotillo area is inadequate and inaccurate because it relies on out-dated information from a report more than 15 years old and ignores the results of subsequent monitoring by USGS and others. For more than 15 years, USGS has conducted a semi-annual monitoring program which monitors water levels and collects and analyzes water quality samples from selected wells in the Ocotillo-Coyote Wells Basin. Reliance on the out-dated 1977 USGS report leads to erroneous assumptions about the quantity of groundwater available for development. To accurately assess the availability of groundwater for development requires consideration of the patterns of federal vs. private land ownership, patterns of pumpage, underlying geological formations, and evaluating the results of water quality and water level monitoring.

721 Based on studies and monitoring of the groundwater resources in SW Imperial County by USGS, it has been determined that even though there is significant groundwater of good quality in the Ocotillo-Coyote Wells basin, a number of areas within that basin do not have potable quality groundwater. (Skrivan, 1977, p.18, 19; and subsequent monitoring.) A review of Skrivan (p.18) and current USGS monitoring of the well at Coyote Wells suggest that the basing of projections of future growth on the assumptions and modeling in the 1977 USGS study is to base it on wishful thinking rather than the more serious limitations that have been revealed by additional studies and semi-annual monitoring. Studies of the basin have revealed that the underlying geology is much more complex than originally thought and monitoring data have indicated that some of the original assumptions were erroneous and more optimistic than borne out by semi-annual monitoring. (Harmon analysis of USGS studies and data, 1993.)

722 Why does the DEIR fail to discuss the quality of groundwater resources relied upon for domestic use by the residents of the Palo Verde Community area, and Bard and Winterhaven (DEIR III-160, 221)? It is presumed that the water is seepage from the Colorado River. Why does the DEIR fail to discuss the reasons that water quality in the Bard area is of such a quality as to be unsuitable for drinking? (DEIR, III-160, 221.)

723

Why does the DEIR fail to discuss any issues associated with the water quality or water quantity of the communities on both sides of the Salton Sea which rely on well water from wells in Riverside County and supplied by the Coachella Valley Water District? (DEIR, III-160.)

2. Environmental Impacts .. Water Quality EA

The DEIR discussion of environmental impacts of implementation of the general plan update on groundwater quality is dangerously inadequate. The analysis is also based on false assumptions and out-dated information and a lack of reliance on current data for groundwater resources. The DEIR discussion of water quality impacts simply ignores the authorized uses of various land use designations, including authorization of agriculture in the Recreation/Open Space designation. Why? Consequently the DEIR ignores the potential impacts of groundwater based agriculture on groundwater quality. Why? The areas where agriculture represents a potential threat to groundwater quality are not those areas of planned urbanization in areas surrounded by agricultural uses but the outlying areas that are groundwater dependent. Why?

724

Why does the DEIR fail to accurately address the water quality/water quantity interrelation within the Ocotillo-Coyote Wells basin? It should be painfully obvious that there are very serious limitations on potential growth and potential water use on private lands when and if the preparers of the DEIR are willing to consider the data obtained from the USGS semi-annual monitoring of water levels and water quality. Why has the DEIR chosen to ignore current monitoring data and use that data to update the understandings and assumptions of the 1977 USGS report? Why has the discussion of groundwater quality issues in the Ocotillo-Coyote Wells Groundwater Basin ignores the known locations of poor quality and nonpotable quality groundwater to the south, east, and north of Nomirage? Why has the DEIR ignored discussion of the changing water quality in a monitored well at Coyote Wells? Why has the DEIR ignored the studies of the underlying geology? Why aren't all these interrelated factors considered in the projected potential growth and the resulting potential for serious groundwater quality deterioration at build-out?

Why doesn't the DEIR discuss groundwater quality issues at Painted Gorge?

725

Why has the DEIR ignored the potential impacts of the proposed regional landfills identified (DEIR, III-150) on their underlying groundwater resources?

7

To assert that the impacts of the general plan update would result in less water quality impacts is to ignore the CEQA Guidelines Sec. 15125 Discussion which requires that impacts be examined based on the existing level of development today rather than just by comparing potential impacts at build-out under each

726 plan. (Environmental Information and Planning Council (1982) 131 C.A.3d 350.)

3. Mitigation Measures ..Water Quality EA

727 How will continued monitoring of the groundwater conditions of the Ocotillo-Coyote Wells basin serve to extend the life of the basin when 15 years of monitoring data has been ignored by the County to date? What threshold levels of water quality shall trigger corrective actions or the implementation of a moratorium? What corrective actions are proposed, how shall they be monitored and enforced?

728 Why is there no requirement for watershed designation and protection? What land uses or commercial activities should be prohibited as being incompatible over a sole-source aquifer?

729 Why are there no monitoring programs proposed for other groundwater basins that are essential to the continued growth and survival of those groundwater dependent communities? Why is there no proposal for a cost-sharing joint-powers agreement for monitoring of the groundwater basin in Riverside County upon which communities near the Salton Sea rely? Why are there no criteria established for potential needs to increase rather than decrease lot size to be consistent with groundwater resource constraints?

730 What specific actions shall be taken when monitoring shows water quality deterioration?

731 Why does the DEIR fail to include any potential water budget and projections for potential build-out use requiring groundwater as the source of water for development? Without a detailed discussion of the actual number of potential residences and domestic and commercial usage for each of the communities or each basin or subbasin that will supply the water source for future development in Ocotillo-Coyote wells groundwater basin, West/Shores/Salton City Urban area, Hot Mineral Spa/Bombay Beach, Felicity, Palo Verde, Bard and Winterhaven, how can any effective planning for these groundwater dependent communities take place? Why doesn't the DEIR provide the kind of detailed information about groundwater resources currently relied on as it does for Colorado River based developments?

732 Given the projected population of 75,000 for the Hot Mineral Spa area in addition to the unknown population projections for the 31,840 acres designated for the West Shores/Salton City Urban Area, is all the projected growth to be based on Riverside County Groundwater Resources? If so, what are the water quantity and water quality resource constraints? How will the projected Imperial County development near the Riverside County line impact water quality for Riverside County groundwater users? Why doesn't the DEIR include a comprehensive discussion of this issue and how it related to Riverside County Plans for uses based on the same

732 groundwater basin?

K. GEOLOGY/SOILS

733 1. Existing Conditions  
Why is the EA on soils and geology so superficial by comparison to the information in the GP?

734 2. Environmental Impacts  
Why does the DEIR fail to include the map on landslide activity which was included in the GP-S/PSE (p.7)? Why does the GP include such a map depicting landslide activity on an alluvial fan in the Ocotillo area? What evidence is there that there has been recent landslide activity of concern on this alluvial fan? Why shouldn't the County either provide references indicating the source of information or correct the maps?

735 Erosion  
Why does the DEIR (III-216) ignore the very serious problems of wind erosion of disturbed soils at various locations within Imperial County as identified as a major cause of PM10 air pollution in Imperial County? Because the County is an area with very limited rainfall, wind erosion of disturbed soils may be more serious than elsewhere. Sheridan has discussed the problems of soil erosion on disturbed desert soils in his numerous articles. Why do the DEIR and GP present such inconsistent discussion of soil erosion resulting from the wind erosion of disturbed soils?

736 Floods  
Why does the DEIR conclude that there is little potential for flood damage in the eastern portion of the County, when the proposed General Plan envisions an Urban area at both Winterhaven and Felicity?

737 Why does the DEIR fail to consider the potential for flooding from heavy rains in the western mountains? This has happened in the past when the Pinto Wash carried flood waters that damaged the Westside Main Canal and resulted in flooding. Why doesn't the DEIR address the potential for flooding in the Ocotillo townsite and in the Nomirage subdivision in SW Imperial County since both of these floodways are shown on DEIR Fig.24 which was based in part on the 1976 flooding?

738 Why does the DEIR fail to discuss the environmental impacts associated with gold-mining, gypsum mining, and sand and gravel operations which were all discussed in the GP-C/OSE and Appendices? How will these resources be impacted by increased growth and how will their extraction affect the nearby communities (where such communities exist), and how will expanded sand and gravel operations impact the environment, including sensitive biological resources? What will be the anticipated impacts of expansion of gold mining operations discussed in the GP? How will expanded

738 mining operations impact groundwater resources and biological resources?

739 Why does the DEIR fail to discuss the potential impacts of expanded mining operations on groundwater quality and on surface water quality? These issues were raised in GP-C/OSE (p.A-2) so there is no excuse for failing to address them in the DEIR.

#### L. FLOOD CONTROL/HYDROLOGY

740 Why isn't there any reference to the GP-WE in the EA for Flood control and hydrology? If the DEIR fails to reference that element why was it prepared?

741 Why is there no mapping of drainage patterns or watersheds for groundwater basins?

##### c. Groundwater

There are fragments of discussion about groundwater in the Ocotillo basin, although invariably relying on out-dated information.

742 Why does the DEIR fail to provide any discussion about the groundwater basin that supplies the well water the CVWD supplies to the Salton City area and Hot Mineral Spa and Bombay Beach? Just because the groundwater is imported from wells in Riverside County is no reason not to provide information about that resource.

What is the potential for subsidence where groundwater is used for domestic, agricultural or industrial purposes in groundwater dependent areas as growth reaches build-out under the proposed General Plan? Why doesn't the DEIR discuss the potential for loss of storage capacity related to groundwater withdrawal and subsidence?

##### d. Flooding

743 DEIR text (III-222) does not match the Fig. 24 map which also shows a large area of flooding from Davies Valley into Nomirage.

##### e. 1973 General Plan

744 DEIR discussion of the contents of the Water Element contains reference to specific performance requirements for various elements which relate to water issues. These could not be found. In fact, often it seemed that the water element had less useful information and policies related to groundwater issues than did other elements.

#### 2. Environmental Impacts

745 Implementation of the proposed General Plan could also result in increased ORV activity on disturbed surfaces and consequently impact infiltration and rates of recharge.

745

Full implementation would undoubtedly result in groundwater degradation and well interference due to increased total pumpage concentrated on private lands, especially in the Ocotillo-Coyote Wells basin unless industrial pumpage ceases. Increased groundwater usage would also likely result in loss of storage capacity.

3. Mitigation Measures

b. Groundwater

746

The Water Element is inadequate as it pertains to groundwater resources. It fails to identify groundwater basins or groundwater recharge areas including watersheds for basins of importance for existing uses in groundwater dependent communities. See discussion of the General Plan Water Element in the separate comments in response to the Draft General Plan Update. Why are the GP-C/OSE policies more specific than those in the Water Element ?

747

What is intended by the discussion of the use of reclaimed water to "benefit groundwater supplies"? To what areas does this apply? Is it a reference to treated water from sewage treatment facilities or to the use of grey-water systems? The DEIR discussion on the use of reclaimed water (III-226) seems inappropriate in reference to the groundwater resources in Imperial County unless more information is provided. It also seems unrelated to discussions and information in the draft Water Element which is an abbreviated portion of the original Terra Nova Water Plan prepared for the County in 1991.

748

Why are there no maps of groundwater basins or watersheds to be protected in either the draft General Plan Update in any element or anywhere in the DEIR to indicate which portions of the County are groundwater dependent for domestic purposes? Why are there no maps which indicate where potable quality groundwater resources can be found? There are portions of the county which do not overlie potable quality groundwater resources and also are not located in areas which are or can be served by Colorado River water supplied by an irrigation district, at least not at the present time. Why aren't these areas identified and their potential for development discussed?

IV. GROWTH INDUCEMENT

A. Public Service Infrastructure

749

Why does the DEIR fail to discuss the increased demands on the non-public service infrastructure such as groundwater resources which represent a water source supplied most often by individual domestic wells rather than any public or private water system? Even after the inadequate discussion of groundwater resources for the Ocotillo/Nomirage Community Area, the preparers of the DEIR should have been aware that water resources for those communities is not supplied by a public service infrastructure as in other parts of the County. Consequently the available resource may be

49 more vulnerable to the impacts of development under the proposed land use plan in terms of impacts on the existing conditions resulting from both increased pumpage and increased leachate from individual septic systems overlying the resource.

50 What assurances are there that upgrading of existing roadways will not encourage leapfrogging of residential development?

51 How will infrastructure be affected by the increasing number of seasonal residents, particularly in outlying, groundwater-dependent areas as tourism, seasonal recreationists, and snowbirds move to the area as anticipated under build-out conditions? What are the cumulative impacts of this population in addition to the permanent population? How will this impact the available groundwater resources in out-lying parts of Imperial and Riverside Counties which are the source of supply?

#### B. Establishment of New Land Uses

752 The DEIR discussion of the growth inducing potential of new land uses mistakenly compares only the impacts of the proposed land use plan at build out to the impacts resulting from build-out under the existing plan. Why does the DEIR fail to consider the interpretations of the courts that discussion of impacts of general plan amendments or general plan updates must consider the effects of the growth inducing impacts of the plan in relation to the existing physical conditions at the present time? (Remy, 224, 225, and Environmental Planning and Information Council (1982) 131 C.A.3d 350, 354-355.)

753 The proposed plan may well be less growth inducing than the unrealized and unrealistic 1973 Plan, but the proposed plan still represents a tremendous potential for growth inducement. This is particularly true for areas being designated as SPAs and in areas where the Preservation designation was deleted and changed to Recreation/Open Space which permits agriculture and sets development standards which open the door for high density intensive recreation/residential growth not contemplated under the earlier Preservation designation.

#### C. Development Potential of Surrounding Land

754 The DEIR fails to adequately discuss the development potential and growth inducing impacts and their relationship to land use planning impacts along the Riverside County line which would result from development planned in the Hot Mineral Spa/Bombay Beach area and in the West Shores/Salton City area. Would these proposed areas of growth induce or inhibit growth in the Riverside County areas? How would growth of these groundwater dependent areas which import groundwater from Riverside County impact groundwater dependent growth in Riverside County?

#### D. Socioeconomic

755 Why doesn't the discussion of the potential socioeconomic and



755 development potential in Mexico realistically deal with very serious infrastructure constraints in Mexico also? Where will all the water come from to support the additional growth anticipated and how/where will all the waste water go? Aren't these some serious existing problems already?

756 E. Growth Accommodation  
Why doesn't the DEIR acknowledge that to a large part, growth planned and projected for areas such as SW Imperial County were and are unrealistic because the projected urban growth was planned on public lands not on privately owned lands, and thus not attainable?

757 What is the logic in asserting that deleting the Preservation designation from areas that include primarily BLM ACECs and changing that designation to Recreation/Open Space which permits uses incompatible with adopted BLM policies and adopted BLM management plans would provide the County "greater land use controls in the generally environmentally-constrained areas outside the central Imperial Valley" (DEIR, IV-3)?

#### V. CUMULATIVE IMPACTS

This supplements the discussion in the earlier documents in response to the DEIR.

##### A. Land Use

758 The DEIR Cumulative Impacts introduction references CEQA Guidelines Sec. 15355 which is a brief definition for the term Cumulative Impacts, whereas Guidelines Sec. 15130 contains a more detailed text and discussion of what shall be included within the cumulative impacts analysis. The DEIR cumulative Impacts analysis is superficial and inadequate for the following reasons, including but not limited to:

759 Section A. on Land Use discusses the issue of incompatibility, but fails to discuss the incompatibility of land uses, most notably the Recreation/Open Space designation, with adjacent and surrounding BLM adopted policies and adopted management plans which apply to BLM managed lands throughout the County. Why has the DEIR ignored the issue of incompatibility between proposed County land uses and adopted BLM management plans and polices?

760 How is it possible to adequately evaluate cumulative impacts of the proposed Plan including changes in land use designations when Urban Area Plans and Community Area Plans referenced on GP-LUE (p.3,6) have not yet been completed and are not yet available for review together with their associated maps? This is particularly crucial for the West Shores/Salton City Urban Area, an unincorporated, sparsely settled area encompassing 31,840 acres (GP-LUE, p.6) and the Ocotillo/Nomirage Community Area Plan which encompass approximately 108,000 acres (GP-LUE, p.7)?

8. Agriculture

761 Why does the DEIR fail to acknowledge that the vast majority of existing Important Farmland which has not been developed in Imperial County is under federal ownership and not available for cultivation or development because of adopted federal policies? Why doesn't the cumulative impacts discussion include reference to limitations on the availability of available water resources for the development of agriculture?

C. Traffic/Circulation

762 Why is it that the DEIR repeatedly states that the County has no jurisdiction over state highways, but is unwilling to acknowledge the same limitation of County jurisdiction over public lands managed by BLM, over State or Indian lands, all of which make up the majority of land within the County?

D. Noise

763 Why doesn't the DEIR provide any discussion of the cumulative noise impacts for the proposed regional land fills one of which is proposed to be located adjacent to the existing Gold Fields mine? To fail to include this discussion is to ignore the requirements of CEQA Guidelines Sec. 15130.

E. Biological Resources

764 DEIR discussion of the Cumulative Effects on biological is superficial and ignores the fact that the implementation measures discussed have extremely limited or no proven success in desert environments (BLM meeting (1978) p. 44-45), including locations within Imperial County where such measures have been attempted. (BLM (1990) FTHL mgmt p.11.) Of special concern is BLM's discussion about the effectiveness of mitigation measures as related to Imperial County. In 1990 BLM stated that:

Mitigation measures, which are project specific modifications or other actions designed to reduce an adverse impact of a proposed project, vary greatly in their effectiveness. The Bureau does not always have adequate funding either to monitor compliance with mitigating stipulations or to assess the effectiveness of mitigation measures developed for land use permits. Even with mitigation, development within habitat of concern usually results in a temporary or permanent net loss of habitat. (BLM (1990), p.11.)

Consequently the DEIR assumption that cumulative impacts on biological resources can be mitigated "to below a level of significance" by the implementation of County goals, objectives, and policies "relative to the protection of biological resources" (DEIR, V-4) seems overly optimistic based on experiences in Imperial County and concerns raised by BLM in its Management strategy for the flat tailed horned lizard, a category 1 species for federal listing.

765 G Public Services/Safety  
Why does the DEIR Cumulative Impacts analysis fail to address the availability of groundwater for the projected growth at build-out under the proposed plan, particularly for areas such as Ocotillo-Coyote Wells basin with its known resource constraints, and for the areas served by groundwater pumped from wells in Riverside County?

766 G. Visual Resources  
Why does the DEIR fail to discuss the most serious impacts on the "visual resources" of the County namely the proposals to build two new mountains of imported trash on the east side of the County identified in DEIR III-150 as the proposed regional landfills? To ignore these identified proposed projects, is to ignore the CEQA Guidelines mandated consideration of "reasonably anticipated future projects" (Guidelines Sec. 15130).

767 IV. EFFECTS FOUND NOT TO BE SIGNIFICANT  
Why didn't the DEIR address all the concerns of the Planning Department of Riverside County?

768 VII. RELATIONSHIP BETWEEN LOCAL SHORT TERM USES OF MAN'S ENVIRONMENT AND ENHANCEMENT OF LONG-TERM PRODUCTIVITY  
B. Impacts Posing Long-Term Risks to Public Health  
The DEIR discussion in this section seems confusing. Most areas that are groundwater dependent and have individual septic systems have absolutely no relationship to the dependency on raw canal water as suggested on DEIR, VII-1. The DEIR fails to explain how "adoption and implementation of the Plan Update could reduce the dependency on raw canal water and septic systems" (DEIR, VII.1 in areas already remote and relying on such systems.

769 VIII. SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES  
The DEIR fails to include impacts to fossil groundwater resources with limited recharge where usage already exceeds recharge.

770 CERTIFICATION AND INDEPENDENT JUDGEMENT OF LEAD AGENCY  
Before using a draft [EIR] prepared by another person, the Lead Agency shall subject the draft to its own agency's review and analysis. The draft EIR which is sent out for public review must reflect the independent judgement of the Lead Agency. (Pub. Resources Code, sec. 21082.1 (c); CEQA Guidelines Sec. 15084(e))

Why was this Lead Agency Certification ignored prior to the distribution of the DEIR? How and why was the County's outside consultant authorized to substitute his "independent judgement" on p. DEIR XI-1 for that of the Lead Agency?

## CONCLUSION

771 For the above reasons, the Conservation Committee urges the County to authorize the preparation of a revised (supplemental or subsequent) draft EIR (SDEIR) as per CEQA Guidelines Sec. 15163, which includes the recommendations in this response, particularly suggestions for a new alternative based on environmental constraints. The DEIR is inadequate to meet the specificity required for a Program EIR for a General Plan for a County the size and diversity of Imperial County. Specific comments on the General Plan Update will be submitted separately. We appreciate this opportunity to comment on the DEIR for the General Plan Update.

This goes with both  
Contains appendices for  
both, & references are  
for both  
DEIR + Genl Plan

## AMENDMENT TWO

### MULTIPLE USE CLASS (MUC) GUIDELINES - AGRICULTURE

#### Proposed Amendment

Change the MUC Guidelines to prohibit agricultural uses (excluding livestock grazing) in MUC M and I. Permit agricultural uses to continue in unclassified lands.

#### Other Alternatives Considered

No Action

#### Decision

Accept Proposed Amendment

#### Rationale

Currently, agricultural uses (other than livestock grazing) are not permitted in Multiple Use Classes C and L. This amendment would extend this policy to Classes M and I.

The basic intent of all multiple use classifications for public lands is to signify the basic values of these lands. The Federal Land Policy and Management Act of 1976 (FLPMA) sets forth the principle that public lands are to be retained in public ownership and managed for the public good. The Act did, however, retain certain land disposal policies, including desert land entry.

Historically, the development of public lands for agricultural uses has been controlled by the Classification and Multiple Use Act (C & MU) classifications. The C & MU prohibits, or segregates, most of the federal land in the CDCA from acquisition through Desert Land Entry (DLE) for agriculture. The intent of this amendment is to bring the Multiple Use Class Guidelines of the Desert Plan into agreement with this historical principle.

The Desert Plan, in its zoning system, intended that retention lands which were in multiple use classes would be maintained in essential wildland character, except as authorized under specific lease, permit or grant. Agricultural use is not generally one of those kinds of authorized uses. Further, agricultural use contemplates disposal of the land from Federal ownership.

This amendment provides that agricultural entry will be allowed only on unclassified land. If public land is found which may be potentially suitable for agricultural development, the applicant must first apply for a plan

amendment to change the land to "unclassified" before entry would be allowed or considered further. This would insure a consideration of both its agricultural potential as well as the public values associated with its retention in its current undeveloped state.

Implementation Needs

None

*H. W. Richter*  
District Manager

1/15/87  
Date

— NEW BOUNDARY

- - - ORIGINAL BOUNDARY

▨ PRIVATE LAND

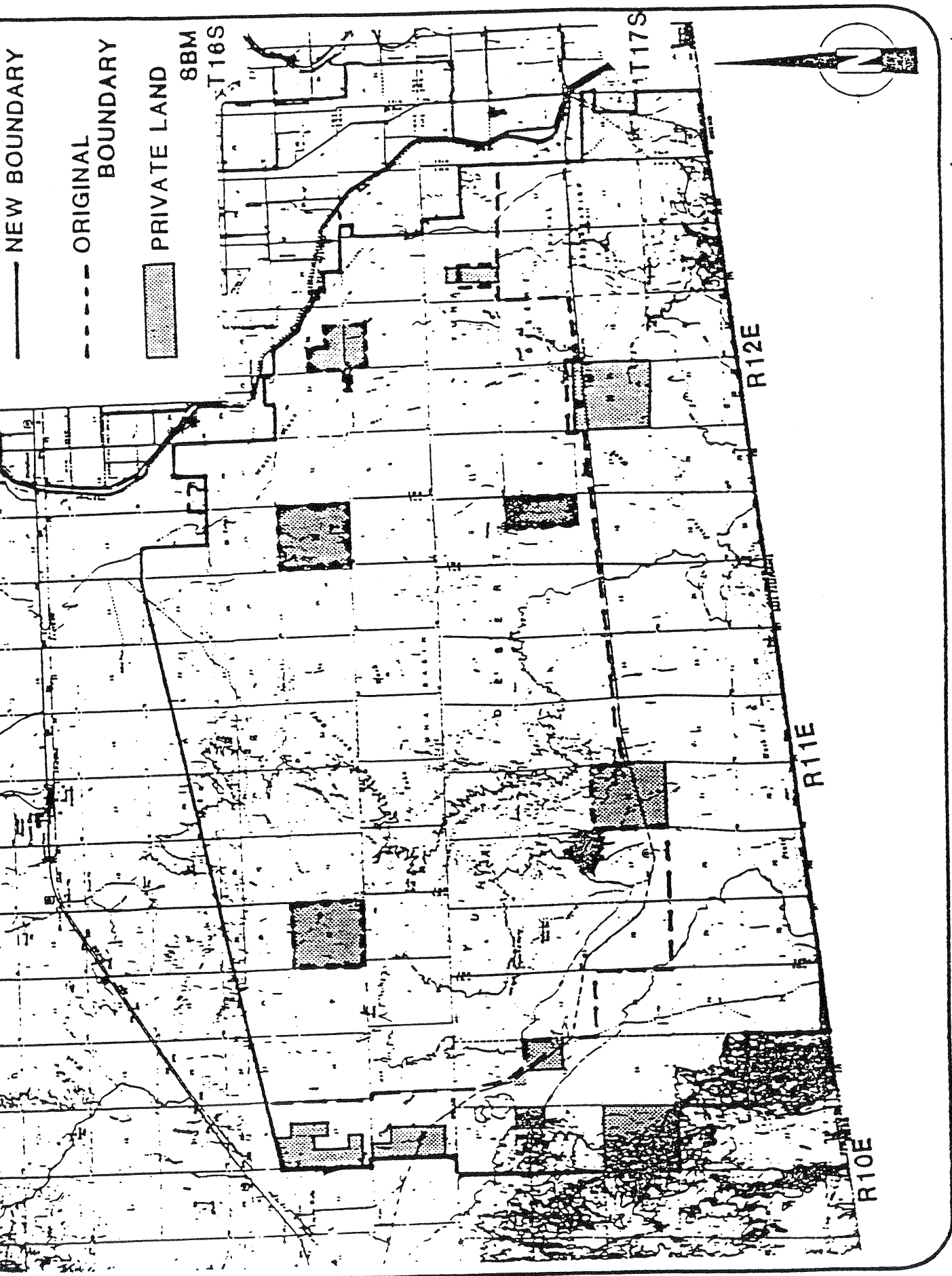
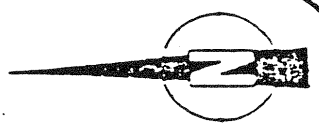
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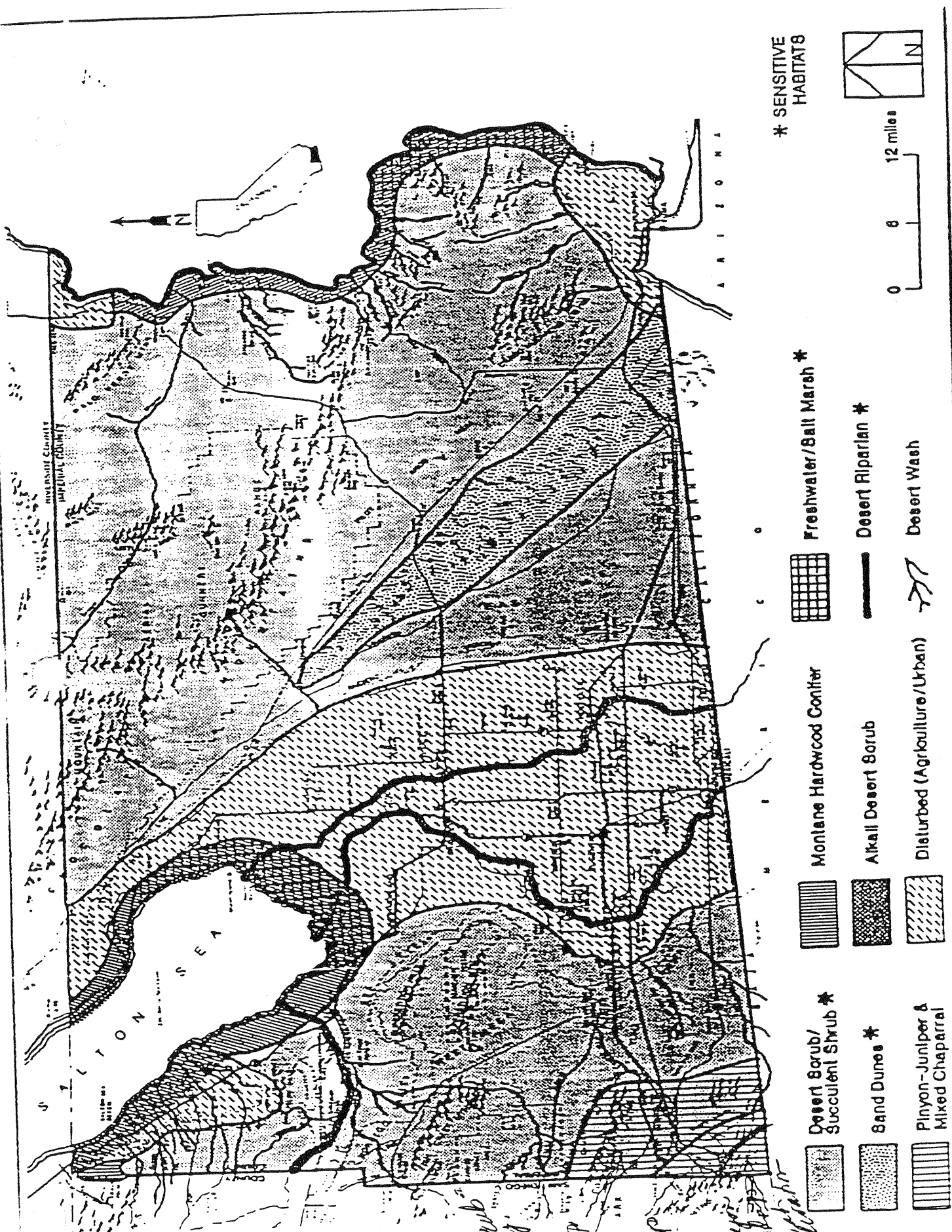
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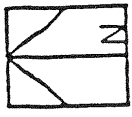









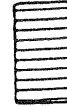

*BLM Plan Amendment.  
R00 1/87*



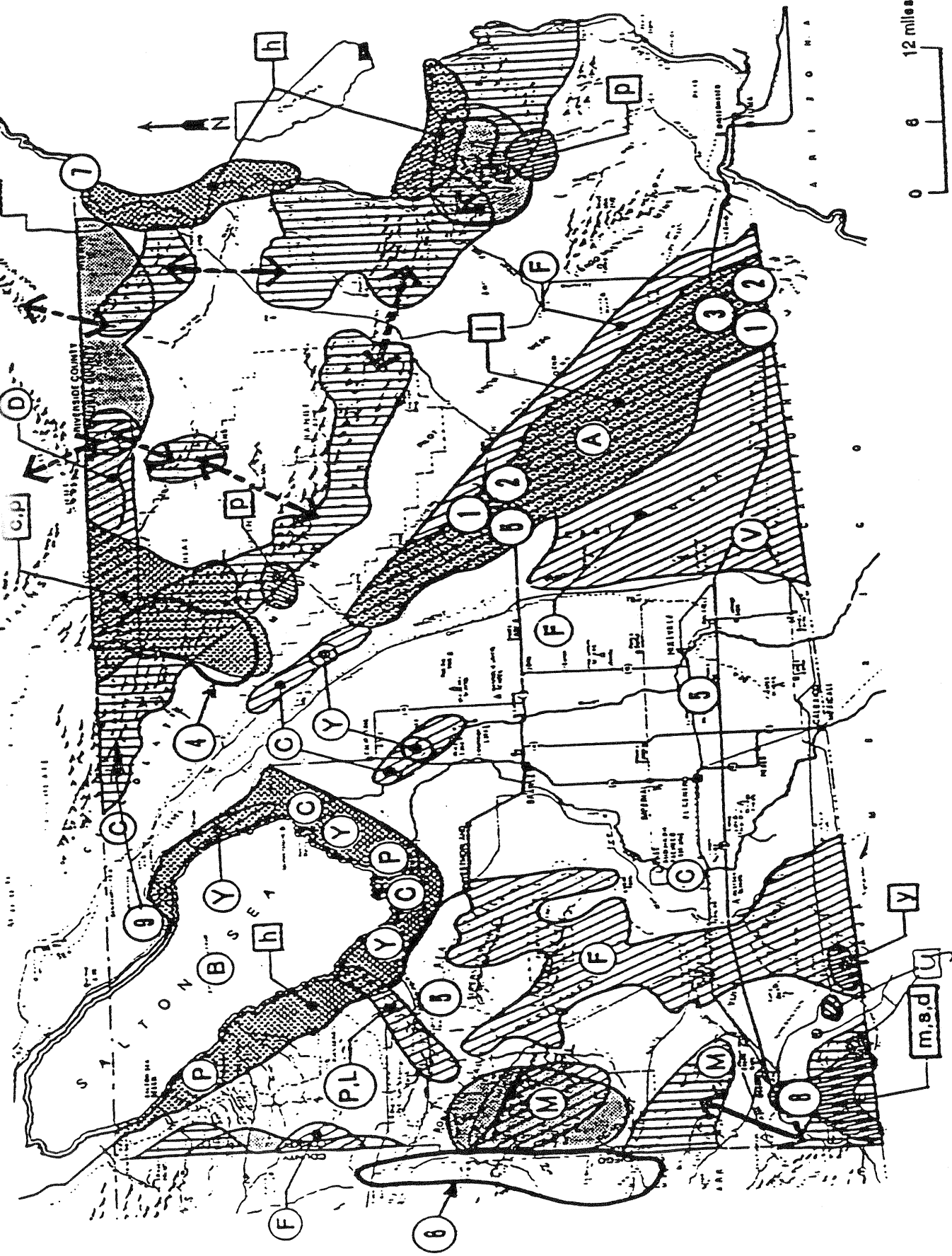


\* SENSITIVE HABITATS



-  Freshwater/Salt Marsh \*
-  Montane Hardwood Conifer
-  Desert Scrub/Succulent Shrub \*
-  Alkali Desert Scrub
-  Sand Dunes \*
-  Desert Riparian \*
-  Disturbed (Agriculture/Urban)
-  Pinyon-Juniper & Mixed Chaparral
-  Desert Wash

*desert scrub  
 desert  
 alkali  
 overcast  
 pinyon  
 mix chaparral  
 pinyon  
 high alkali*



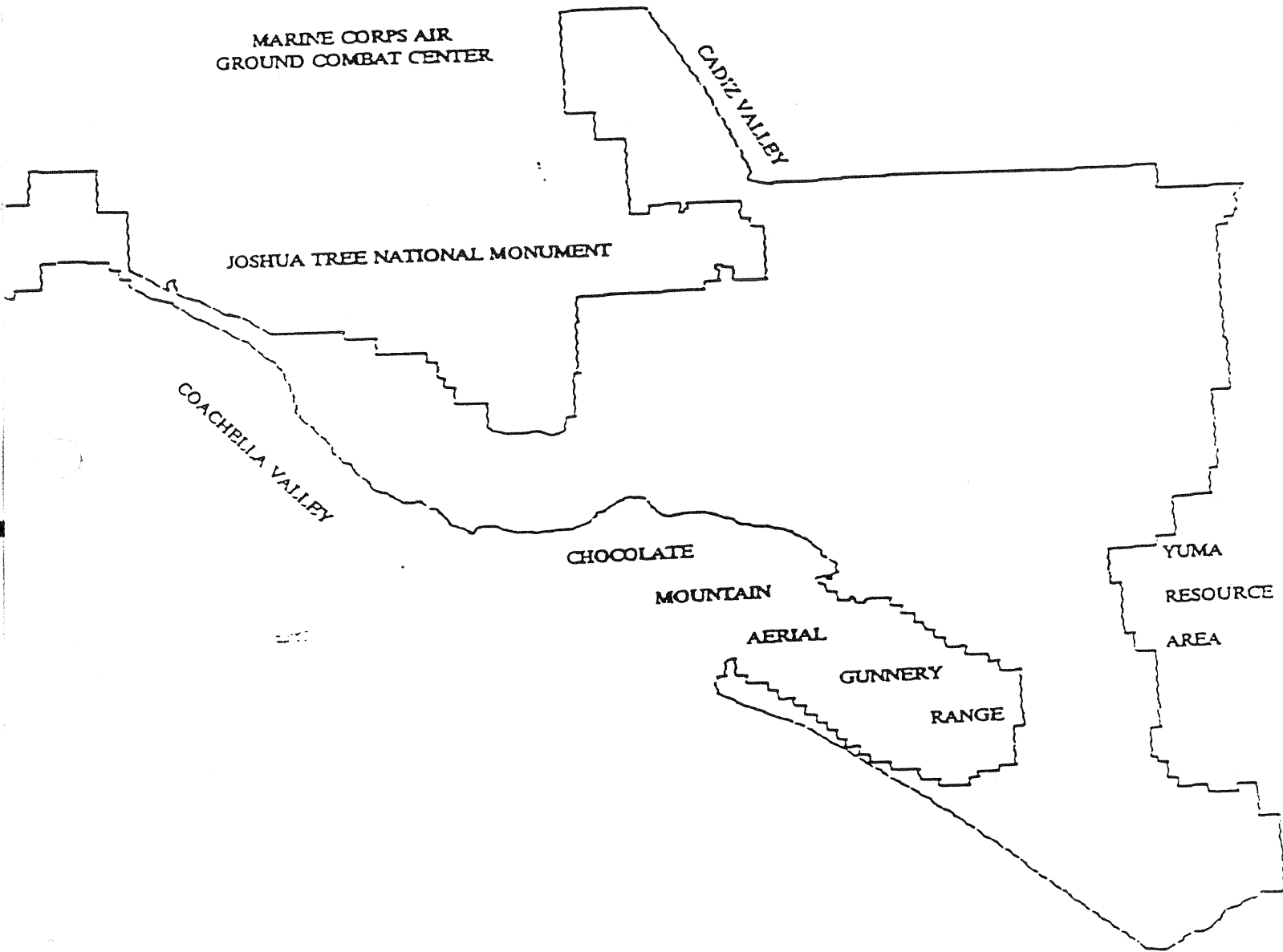
*these are 4 known sites of Crucifixion thorns*

Figure 11

GPA Sensitive Plants, Wildlife Areas and Unusual Plant Assemblages

Imperial County  
General Plan

Illustration 1  
MAP OF THE PLANNING AREA



# Report slams air district

## State analysis faults enforcement, monitoring pollution in Valley

By P.A. Rice  
Staff Writer

A state audit released Tuesday criticizes the county Air Pollution Control District for lax enforcement, testing, inspecting and monitoring of air pollution sources in Imperial County.

The state Air Resources Board also chides the county for failing to adequately staff the district.

"The report of that audit, to say the least, was not very kind to the district," Air Pollution Control District Officer Stephen Birdsall told the Board of Supervisors Tuesday. "Basically, what the ARB said is 'You have a major problem in your district.'"

The report was based on a March 1992 inspection made by the state.

Imperial County has not enforced the California Clean Air Act, the report states. The county exceeds state standards for both smog and small particulates. While some air pollution comes from Los Angeles and Mexicali, state air board officials maintain a significant amount of air pollution is generated within the county.

Of the 13 plants and businesses inspected in the audit, most were found to have violated air quality rules. Only five were found to meet state standards. Five had major violations.

The violations yielded more

than \$300,000 in penalties, more than half of which will go to the county's general fund.

"Some of the problems they (Imperial County) share with air pollution control districts that have short staff," said state air board spokesman Bill Sessa in Sacramento. But, he said, "The program hasn't been the high priority in the county it should have been."

Imperial County's shortcomings cited in the 1-inch-thick report include —

- Failure to conduct required annual tests of sources of air pollutants, such as factories, to see if they were complying with air quality regulations.

- Notices were not issued to

businesses found to be in violation of regulations. No monetary penalties were ever assessed. The state found notices issued for violation of agricultural burning statutes that were later voided for no apparent reason.

- Inspections and work in the district were not reviewed to make sure they were done properly.

- There were no inspection guidelines for the district, and the air district staff did not conduct "thorough and complete" inspections of facilities under its jurisdiction.

- While the majority of complaints from citizens received

See POLLUTION, A6

## Pollution

(Continued from Page 1)

attention, there are no guidelines to handle or document the complaints.

- The air regulations of the district are "seriously outdated."

- The local air district did not conduct inspections of businesses that reported a breakdown in equipment. Nor did it require the businesses to fix equipment within 96 hours as required.

At the time of the inspection, the county air pollution district employed six people. One more person has been added to the staff and Birdsall has requested more employees.

- The district currently issues permits and monitors more than 200 plants, industries and businesses that emit air pollutants.

Supervisor Sam Sharp said the air district may have had problems in the past because "I think they (air pollution officials) just let it go for too long. We are not in effect doing as much air quality work as we should."

1 V Press 17/Mar 93

Mar 17 93 1 V Press

# Conditions surround ozone plan approval

By P.A. Rice  
Staff Writer

1V Press  
2/19/93

INDIAN WELLS — The state Air Resources Board Thursday approved Imperial County's plan to control smog but only on the condition county air officials beef it up.

"There are deficiencies and we are in agreement with the Air Resources Board staff to work out these deficiencies," county Assistant Air Pollution Control Officer Miguel Monroy told the board.

The county's plan sets forth stringent standards on businesses in the county to reduce ozone, the major component of lung-damaging smog. The state ozone standard of 9 parts per million of air pollutants was exceeded in Imperial County four times in 1991, reaching a peak of 11 parts per million.

The most serious omissions in the plan are the lack of a regulations covering new and indirect sources of air pollution, said air board spokesman Bill Sessa.

State law requires "no net increase" of pollutants be allowed from new sources; that is, any new or modified facility that has the potential to emit more than 25 tons of pollutants a year. Such an industry would have to find a way to reduce air pollution in the county by an amount equal to the pollution it produces.

Indirect sources are those such as the dust arising from a car speeding over a dirt road or air pollution from construction ac-

See OZONE, Page A6

## Ozone

(Continued from Page 1)

tivities.

The county will be required to develop regulations to force existing industries in the county to reduce air emissions. There are currently 24 facilities with a total of 47 different emission sources, such as boilers, that would have to be fitted with pollution control equipment.

State air board officials said air pollution from Mexicali could be an overwhelming factor in violations of ozone standards in Imperial County.

But, Sessa said, "Ultimately, the greatest concern is what the people in Imperial County are breathing and so reducing the

contribution to local emissions is a public health benefit regardless of the transport (of air pollutants across the border)."

The county and state air agencies have set up monitoring stations to determine how much air pollution crosses the international border, said county Deputy Air Pollution Control Officer Gaspar Torres.

The county's plan targets 12 types of businesses for air pollution control measures, including commercial printing operations, dry cleaners, automobile refinishing shops, petroleum storage, gas loading operations, de-greasing businesses and asphalt roofers.

In addition, a gas collection system will be required to be

installed in the county's Calexico landfill and non-agricultural burning will be prohibited.

Agricultural burning contributes up to 21 percent of all the chemicals leading to smog in Imperial County, according to the county's air pollution control plan. The plan calls for further study of how to reduce emissions from agricultural burning.

The next step for the county is to begin writing the regulations to control specific industries. The regulations are expected to go into effect between 1993 and 1995.

The air board Wednesday also approved the Kern County air plan, and San Bernardino County's plan received conditional approval.

# Arid agrees to fund county plan update

(Continued from Page 1)

not constitute a conflict of interest, despite the fact Arid has applied for a conditional use permit for the dump and the plan can influence where landfills are built.

The El Centro-based Arid, Western Waste Industries of Gardena and S.P. Environmental Systems of Golden, Colo., are partners in the project to build a huge landfill in the desert near the Algodones Sand Dunes that would take in as much as 20,000 tons a day of trash from Southern California cities and counties.

Fries said the money from Arid is in anticipation of a schedule of fees being developed by county staff members that will charge large-scale

developers for updating and maintaining the general plan. The schedule is expected to be prepared by Dec. 31.

Fries said under California environmental laws, a county must have a general plan to cover all aspects of development, including housing, land use and industry. The county's general plan, Fries said, has not been updated for at least 18 years and portions of it may be out-of-date and inadequate. If the county approved a permit under the general plan, Fries said, it might be successfully challenged in the courts.

In fact, the county is being sued by the Ocotillo Community Council and the Sierra Club Legal Defense Fund for permitting two new agricultural water wells in Ocotillo. The suit alleges the county's decision was

based on a general plan that is inconsistent with its zoning ordinances. County attorneys have denied the plan is inadequate.

A successful challenge in the courts would mean developers working on projects would have to apply for permits all over again.

In denying a conflict of interest, Fries said developers should be charged for amendments and updates to the plan because it is in their interest.

Fries said the county and residents also benefit because general fund or other revenues would not have to be used. The county, which had an estimated \$6.5-million shortfall early this year, cannot immediately afford the expense of updating the plan, Fries said.

However, an official with California Common Cause, a government watchdog group in Sacramento, said there is at least an appearance of

"Certainly whether it is legal or not, I have no idea," said acting Executive Director Ruth Holton. "Whether it is ethical or not, whether there is an appearance of a conflict of interest, I would say, 'No question.'"

Holton said when it comes time to make a decision, "The supervisors are going to be aware from this one developer that they received the money to go ahead and change the general plan. It is hard to imagine that they are going to treat this developer in the same way they are going to treat any other developer. It is certainly an implied obligation. It may not be illegal, but it raises lots of serious questions."

Holton said developers have a "very strong vested interest" in the outcome to the general plan.

"You don't give \$50,000 and expect a negative outcome from that gift," Holton said.

Holton said it would appear to be less of a conflict if the county received the money from a variety of sources as they are planning to do with a fee schedule for large-scale developers.

"It is this current one where they are getting all this up-front money from this one developer," Holton said.

An attorney with the state Attorney General's office, who asked to remain anonymous, said conflict of interest cases usually arise because a government official benefits personally from the money. He said he would not comment specifically on the case of Arid and the county.

Filler said he does not think an advance to the county constitutes a conflict.

"It is like another permit that has to be taken care of so that our project can be consistent with an updated plan," Filler said.

The other side of it, he said, "is that the county doesn't have any money." In order for his project to go through as quickly as possible, Filler said, the general plan needs to be updated soon.

IMPERIAL COUNTY  
SUPERVISORS  
District 1: Wayne Van De  
Graaff - 339-4309 or 357-3030  
District 2: Bill Cole - 339-4210  
or 353-1811  
District 3: James Bucher -  
339-4308 or 355-1864  
District 4: Abe Seabolt -

Sunday, August 9, 1992

Imperial Valley Press

Rice

Centro company that has for a county permit to regional landfill has to give the county as \$60,000 to pay for an to the county's general has indicated it would even more money if the needs it.

Arid Operations Inc. of- d if the county does not ne plan soon, it will delay o project, and the county her the staff nor the o get the plan done.

e simply, the county update that general plan. major projects, we have sistent with the plan," d General Manager Rob- er, who was appointed to nty's general plan ad- ommittee July 31. "If it odated according to state on, then our project is not be valid."

agreement is approved ty Board of Supervisors , Arid will initially ad- be county \$50,000 to up- s general plan. The ap- of the agreement is on the consent agenda, meaning be approved with other without discussion unless e at the meeting asks use.

general plan is a document ys out how the county s to develop its resources e its land.

in principal has agreed to e more money for the o project if it is needed. nty has hired a San Diego

any to prepare the amend- s to the general plan.

provision in the agreement ates the county will be usible for paying back to all but \$60,000 in advances would later be counted as y fees.

nty Counsel Thomas Fries be payments from Arid do

See PLAN, Page A6

# Readers ready to visit land

## Virginia-based firm picking up tab for trip to site

Robert C. Johnston

Writer

A group of local leaders is scheduled to take an all-expenses-paid trip to Virginia landfill, courtesy of the owner, a Pennsylvania-based firm proposing a similar operation in Imperial Valley. Board of Supervisors Chairman Cole and Supervisor Sam Sharp will be among those on the June 11-14 trip, to be paid for by Chambers Development Co. Inc. of Pittsburgh. "I'm just going to visit local people

to see how it's been," Cole said of Chambers Development's Charles City, Va., dump, which has been picked for the visit. Sald Sharp, "My first question is going to be — What's the worst thing that's ever happened?" Chambers' officials revealed in February they hope to build a 5,000-acre regional landfill 12 miles east of Calipatria at the foot of the Chocolate Mountains. An estimated 20,000 tons of trash each day could be transported by rail to the site.

Lowell C. "Butch" Spires, But some are concerned about the influence Chambers' all-expenses-paid trip might have on the local leaders. "I agree decision-makers should be well-informed," said Brawley Mayor Norma Saikhon. "But this is quite an expensive gesture ... decision-makers should proceed with caution when gifts are involved." Sharp and Cole said Chambers will make transportation available to the group so they can travel on their own to interview local residents and leaders.

Saying he would be more concerned about the appearance of conflicting interests if he were alone, Sharp added, "These people would not come in without us looking into a site." Spires said the Charles City site covers 1,000 total acres, although only 289 acres hold trash. Chambers has sites in 19 states in various areas of the country, although most of its operations are located in the South, he added.

## Trip

(Continued from Page 1)

ster. Kulper is slated to make the trip, although Bristler turned it down because of a prior commitment. Ramirez said as of today the following people were confirmed for the trip: Antonio Tirado, Calexico city councilman; John Woelke and Betty Sampson, Calipatria City Council members; Roger Bennett, Brawley city manager; Pat Dockstader, Calipatria businessman; Jerry Gauna, county planning commissioner; Jay Jeffcoat, an attorney working out of El Centro and San Diego; Daniel O. Robinson, a Calexico businessman; Alton Scott, Calipatria public works director and Pat Brown of Holtville, who is a member of the Imperial County Historical Society.

"I hope people see what we do is compatible and palatable," Spires said of the trip. "I think it's important to do broad-based con-

"It's not that we're going to change their minds, but at this point if there is negative thinking, it is on a company other than Chambers. I want them to evaluate Chambers," he said.

Sharp said his group includes Brawley City Councilwoman Stella Mendoza and Fred Klicka, owner of Desert Benefits Inc. In Brawley. Both have confirmed they will go. Klicka is on the board of directors of the Brawley Economic Development Commission.

Included on Cole's invitation list were El Centro City Councilman Hank Kulper and El Centro Chamber of Commerce president Gene See TRIP, A6

He said Chambers has only recently expanded to the West and has had operations in California for less than two years.

Cole said he would like to move quickly on the proposed landfill as well as a second landfill proposed by Arid Operations on Gold Fields Mining Co.'s Mesquite Mine site near Glamis.

"But I want to make sure we have an opportunity to check it out ... I want to be sure it is all done carefully," he said.

Supervisors have scheduled meetings with Chambers and Arid officials at 4 p.m. today and 9 a.m. Friday in the County Administration Building in El Centro.

# Gold Fields will support waste-by-rail plan at mine

By P.A. Rice  
Staff Writer

An official of Gold Fields Mining Co. announced Friday his company has decided to join waste and railroad officials in proposing a waste-by-rail system that would carry 20,000 tons of garbage a day from Southern California to the gold mine near Glamis.

"We made the decision Friday we would go ahead with development of the project," said Robert Filler, Gold

Fields Mining Co. general manager. "We were hoping to have a contract before we made that decision."

Filler said Saturday the decision to make a public announcement was spurred by a newspaper story disclosing the project.

Filler said the three companies will present their proposal to the Board of Supervisors Dec. 3. He said he expects the project with require a 2½ year environmental review.

But Gold Fields, Western Waste Industries of Gardena and SP Environmental Systems, Inc. of Colo-

rado have a long way to go before any waste is moved. The mega-dump would require approval by local, state and federal regulatory agencies.

"Our challenge is not only to go through the permitting process and construction and operation, but also to present the full program including the benefits to the county, as well as the rest of it, so they (regulatory agencies) can make an informed decision on what is going to happen," Filler said Saturday.

Two other mega-dumps in Southern California have generated

considerable controversy. One project near Amboy in Riverside County is now undergoing an environmental review. Another is being built at Eagle Mountain in San Bernardino County.

The Imperial County proposal is being developed under an agreement signed by officials of the mine, the Gardena waste firm and a sister company to Southern Pacific Transportation Co.

The proposal calls for waste to be brought to the Gold Fields mine near Glamis, 35 miles east of Brawley, on

tracks owned by the Southern Pacific railroad. A spur track would be built from the rail line at Glamis to Gold Fields.

Initial plans call for one train-load of 4,000 tons of trash a day to be brought to a 160-acre site west of present mining operations. Eventually, Filler said, the landfill would expand to cover 1,800 acres with a total garbage load of five trains a day carrying 20,000 tons of trash.

The trains would bring trash from Los Angeles, San Bernardino, Riverside, Orange, Ventura and San Diego counties, where 75,000 tons is gener-

ated daily. Imperial County produces 340 tons of trash a day.

Filler said the landfill will be on private property owned by Gold Fields, not on former federal land the company purchased.

The proposal calls for the mine to be in operation for 50 years and take in 250 to 400 million tons of trash, Filler said. It would rise up to 300 feet above the desert floor when filled, he added.

The landfill, Filler said would use rock and gravel generated by mining operations to cover waste taken to the site each day.

1 V Press 11/24/91



Jurg Heuberger, Director  
Imperial County Planning Department  
939 Main Street  
El Centro, CA 92243

Dear Mr. Heuberger:

Re: References section of Sierra Club Conservation Committee  
comments on DEIR for Imperial County General Plan Update

Please accept this more complete list of references cited for  
the Conservation Committee response to the DEIR and General Plan  
Update. Unfortunately, in the rush to meet the deadline for  
submission of comments, the reference section update was  
incomplete.

With this submission, please find the (1) Appendix text,  
without changes, but on separately numbered pages, and (2) the  
completed list of References cited. This information is being  
submitted to replace the earlier, but incomplete, list of  
references. Your acceptance of the completed Reference section is  
greatly appreciated.

Sincerely,

*Edith Harmon*

Edith Harmon

3/23/93

cc:  
Nick Ervin, Conservation Committee Chair  
Larry Silver, Sierra Club Legal Defense Fund

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MAR 23 1993

IMPERIAL COUNTY

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## APPENDIX TO GENERAL PLAN UPDATE AND DEIR RE GENERAL PLAN UPDATE

### OPR General Plan Guidelines

Some important highlights of the OPR discussion of requirements for an internally consistent General Plan follow: The internal consistency requirement has five dimensions of paramount importance to the structure and content of the general plan. (OPR, 10)

(1) Equal Status Among General Plan Elements  
All elements of the general plan have equal legal status. .... Because no element is legally subordinate to another, the general plan must resolve potential conflicts between or among the elements through clear language and policy consistency. (OPR, 11)

(2) Consistency Among the Elements (Inter-element Consistency)  
All general plan elements, whether mandatory or optional, must be consistent with each other. ...the land use and open-space elements should not designate different future land uses for the same site (Sierra Club v. Board of Supervisors of Kern County, (1981) 126 C.A. 3d 698). (OPR, 11)

As another example of inter-element consistency, a circulation element must address circulation problems resulting from land use element proposals. (Concerned Citizens of Calaveras County v. Board of Supervisors (1985) 166 C.A. 3d 90). (OPR, 11)

In keeping with Calaveras, a general plan's assumptions, projections, and standards should be uniform and consistent. For example, if the land use and housing elements are based on two separate population projections prepared at different times, their policies may easily conflict. Further, if the land use element's residential designations present a persons per acre standard of density, while the housing element presents an uncorrelated or unreconciled dwelling unit per acre density standard, obvious inconsistencies exist. (OPR, 11)

Whenever a jurisdiction adopts a new element or amends part of the plan, it must change the rest of the plan to eliminate any inconsistencies that the new element or amendment creates. the jurisdiction should update the plan at the same time it adopts the new element or amendment, or immediately thereafter. (OPR, 12)



Last, whenever a planning agency considers adopting a portion of the plan by reference, it should determine that no inherent inconsistencies are present before its adoption, rather than afterward. (OPR, 12)

(3) Consistency Within an Element (Intra-element Consistency)

Each element's data, analyses, goals, policies, and implementation programs, must be consistent with and complement one another. Established goals, data and analyses form the foundation for any ensuing policies. For example, if one portion of a circulation element indicates that county roads are insufficient to accommodate the projected level of traffic, while another section of the same element describes a worsening traffic situation aggravated by continued subdivision activity, the element cannot be internally consistent (Concerned Citizens of Calaveras County v. Board of supervisors of Calaveras County (1985) 166 C.A. 3d 90). (OPR, 12)

In turn, policies must form a logical basis for a general plan's implementation programs. (OPR, 12)

(4) Area Plan Consistency

Internal consistency also means that all principals, goals, objectives, policies, and plan proposals set forth in an area plan or community plan must be consistent with the overall general plan. (OPR, 12)

The general plan must contain a discussion of the role of area plans and their relationship to the general plan. Similarly, each area plan should discuss its specific relationship to the general plan. (OPR, 12)

(5) Text and diagram Consistency

Internal consistency means that the general plan text and diagrams must be consistent with one another since both are integral parts of the plan. A general plan with written policies and programs that conflict with its corresponding diagrams is internally inconsistent. For example, if a general plan's land use element diagram indicates extensive low density residential development in an area where the text describes the presence of prime agricultural land and contains written policies to preserve open space in this area, a conflict exists. The plan's text and diagrams must be reconciled. Recent case law held that an area plan's text as well as its diagrams must be examined when determining consistency (Las Virgenes Homeowners Federation, Inc. v. County of Los Angeles (1986) 177 C.A. 3d 300). (OPR, 13)

Without consistency in all these areas, the general plan cannot effectively serve as a clear guide to future

development. Decision makers will face conflicting directives; citizens will be confused about the policies and standards the community has selected; and land owners, business, and industry will be unable to rely on the general plan's stated priorities and standards for their own individual decision making. Beyond this, inconsistencies in the general plan expose the jurisdiction to expensive and lengthy litigation to resolve what already should have been settled. (OPR, 13)

The general plan should be reviewed regularly regardless of its horizon, and revised as new information becomes available and as community needs and values change. Unless it is periodically updated, a plan will become obsolete in the face of community change. A general plan based on outdated information and projections is not a sound basis for day-to-day decision making and may be legally inadequate. It will be more susceptible to successful legal challenge. (OPR, 14)

A jurisdiction is expected to make running changes to its general plan as they are necessary. As a general rule, major general plan revisions should occur at least every four to five years. (OPR, 14)

But how specific should a diagram be for an area where changes in land use patterns are proposed? As a general rule, a diagram or diagrams along with the general plan's text should be detailed enough so that the users of the plan -- staff, elected and appointed officials, and the public -- can reach the same general conclusion on the appropriate use of any parcel of land at a particular phase of a city's or county's physical development. Decision makers should also be able to use a general plan, including its diagram or diagrams, in coordinating day-to-day land use and infrastructure decisions with the city's or county's future physical development scheme. (OPR, 16)

Whenever a jurisdiction adopts a new element or amends part of the plan, it must change the rest of the plan to eliminate any inconsistencies that the new element or amendment creates. The jurisdiction should update the plan at the same time it adopts the new element or amendment, or immediately thereafter. (OPR, 12)

Last, whenever a planning agency considers adopting a portion of the plan by reference, it should determine that no inherent inconsistencies are present before its adoption, rather than afterward. (OPR, 12)

## CEQA GUIDELINES

### Sec. 15130. Cumulative Impacts -

(a) Cumulative impacts shall be discussed when they are significant.

(b) The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided of the effects attributable to the project alone. The discussion should be guided by the standards of practicality and reasonableness. The following elements are necessary to an adequate discussion of cumulative impacts:

(1) Either:

(A) A list of past, present, and reasonably anticipated future projects producing related or cumulative impacts, or

(B) A summary of projections contained in an adopted general plan or related planning document which is designed to evaluate regional or areawide conditions. Any such planning document shall be referenced and made available to the public at a location specified by the Lead Agency;

(2) A summary of the expected environmental effects to be produced by those projects with specific reference to additional information stating where that information is available, and

(3) A reasonable analysis of the cumulative impacts of the relevant projects. An EIR shall examine reasonable options for mitigating or avoiding any significant cumulative effects of a proposed project.

(c) With some projects, the only feasible mitigation for cumulative impacts may involve the adoption of ordinances or regulations rather than the imposition of conditions on a project-by-project basis. (CEQA Guidelines Sec. 15130.)

15130. When analyzing the cumulative impacts of project under 15130(b)(1)(A), the Lead Agency is required to discuss not only approved projects under construction and approved related projects not yet under construction, but also unapproved projects currently under environmental review and related impacts or which result in cumulative impacts. This analysis should include a discussion of projects under review by the Lead Agency and projects under review by other relevant agencies, using reasonable efforts to discover, disclose, and discuss the other related projects. The cumulative impact analysis requires a discussion of projects with related cumulative impacts which required EIR's, Negative Declarations, or were exempt from CEQA. (See: San Franciscans for Reasonable Growth v. City and County of San Francisco,

(1984) 151 Cal. App. 3d 61.) The court in SFFRG took note of the problem of where to draw the line on projects undergoing environmental review since the application of new projects are constantly being submitted. A reasonable point might be after the preparation of the draft EIR. Additional project information could be included in the final EIR if cumulative impacts were originally analyzed in the draft EIR and if the new project information doesn't warrant the preparation of a subsequent or supplemental EIR as required by Section 15162 of the Guidelines. (CEQA Guidelines Sec. 15130 Discussion.)

#### COURT CASE TEXT

The Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 C.3d 376; 253 C.R.426 decision described what the California Supreme Court considers necessary for an adequate discussion of project alternative. The Court noted that: Perhaps most important, the Legislature has expressly declared that "...it is the policy of this state to: ...[r]equire governmental agencies at all levels...to consider alternatives to proposed actions affecting the environment." (Sec. 21001, subd. (g), italics added.) The Guidelines require that an EIR "[d]escribe a reasonable range of alternatives to the project, or to the location of the project, which could feasibly attain the basic objectives of the project and evaluate the comparative merits of the alternatives." (Guidelines, Sec. 15126, subd. (d).) These alternatives must be discussed, "even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly." (Guidelines, Sec. 15126, subd. (d)(3).)

The foregoing CEQA provisions and Guidelines make it clear that "One of its [an EIR's] major functions...is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official." (Wildlife Alive v. Chickering (1976) 18 C.3d 190, 197 [132 C.R. 377, 553 P.2d 537], italics added.) (Laurel Heights, supra, at 400.)

As a matter of logic, the EIR must be prepared before the decision to approve the project. Not until project approval does the agency determine whether to impose any mitigation measures on the project. (Sec. 21002.1, subd. (b).) One cannot be certain until then what the exact mitigation measures will be, much less whether and to what degree they will minimize environmental effects. (Laurel Heights, supra, at 401.)

Finally, we note that alternatives and mitigation measures have the same function--diminishing or avoiding adverse environmental effects. The chief goal of CEQA is the mitigation or avoidance of environmental harm.

...alternatives are a type of mitigation. (Laurel Heights, supra, at 403.)

....Conclusory comments in support of environmental conclusions are generally inappropriate. (see People v. County of Kern, supra, 39 C.A.3d at pp. 840-842.) Moreover, the EIR's statutory goal of public information regarding a proposed project has not been met; the EIR provides no information to the public to enable it to understand, evaluate, and respond to the bare assertion of nonavailability of alternative space. 'The key issue is whether the selection and discussion of alternatives fosters informed decisionmaking and informed public participation.' (Guidelines, Sec. 15126, subd. (d)(5), *italics added*.)" (Laurel Heights, supra, at 404.)

The Regents miss the critical point that the public must be equally informed. Without meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process.... "To facilitate CEQA's informational role, the EIR must contain facts and analysis, not just the agency's bare conclusions or opinions" (Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn. (1986) 42 C.3d 229, 235 [131 C.R. 748, 707 P.2d 1029]; (and other cites)....An EIR must include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project. (Laurel Heights, supra, at 404-405.)

.... "[W]hatsoever is required to be considered in an EIR must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report." (Santiago County Water District v. County of Orange, supra, 118 C.A.3d 818, 831 [EIR found inadequate] quoting Environmental Defense Fund, Inc. v. Coastside County Water District, (1972) 27 C.A.3d 695, 706 [104 C.R. 197].) (Laurel Heights, supra, at 405.)

It is the project proponent's responsibility to provide adequate discussion of alternatives. (Guidelines, Sec. 15126, subd. (d).) That responsibility is not dependent in the first instance on a showing by the public that there are feasible alternatives. If the project proponent concludes that there are no feasible alternatives, it must explain in meaningful detail in the EIR the basis for that conclusion. (Laurel Heights, supra, at 405.)

....numerous CEQA provisions require that an EIR adequately describe feasible alternatives. Nowhere in CEQA, however, is there a provision that this duty is conditional on a project opponent coming forward with a documented alternative. (Laurel Heights, supra, at 406.)

(1) The foremost principle under CEQA is that the Legislature intended the act "to be interpreted in such a manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language." (Friends of Mammoth v. Board of Supervisors (1972) 8 C.3d 247, 259; [104 C.R. 761, 502 P.2d 1049].) ....The Legislature has emphasized that "It is the intent of the Legislature that all agencies of the state government which regulate activities...which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage...." (Sec. 21000, subd.(g).) (Laurel Heights at 390.)

(2)....The Legislature has made clear that an EIR is an "informational document" and that "[t]he purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project." (Sec.21061: Guidelines, Sec.15003, subds. (b)-(e)) (Laurel Heights at 391.)

....Before approving the project, the agency must also find either that the project's significant environmental effects identified in the EIR have been avoided or mitigated, or that unmitigated effects are outweighed by the project's benefits. (Secs. 21002, 21002.1, and 21081: Guidelines, Secs. 15091-15093.) (Id. at 391)

The EIR is the primary means of achieving the Legislature's considered declaration that it is the policy of this state to "take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state." (Sec.21001, subd. (a).) The EIR is therefore "the heart of CEQA." (Guidelines, Sec. 15003, subd. (a); County of Inyo v. Yorty (1973) 12 C.A.3d 795, 810 [108 C.R. 377].)....Because the EIR must be certified or rejected by public officials, it is a document of accountability....The EIR process protects not only the environment but also informed self-government. (Laurel Heights at 392.)

...significant cumulative effects of a project must be considered in an EIR. (Sec. 21093, subd. (b); Guidelines, Sec. 15130, subd. (a); Bozung, supra, 13 C.3d at pp.283-284; Environmental Protection Information Center, Inc. v. Johnson (1985) 170 C.A.3d 604, 624-625 [216 C.R. 502].) The Guidelines explain that a discussion of cumulative effects should encompass "past, present, and reasonably anticipated future projects." (Guidelines, Sec. 15130, subd. (b)(1)(A), italics added.) (Laurel Heights, supra at 394.)

We hold that an EIR must include a analysis of the environmental effects of future expansion or other action

if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects.

This standard is consistent with the principle that "environmental considerations do not become submerged by chopping a large project into many little ones--each with a minimal potential impact on the environment--which cumulatively may have disastrous consequences." (Bozung, supra, 13 C.3d at pp. 283-284.) (Laurel Heights, supra, at 396.)

We also find the future action will be significant in that it will likely change the scope or nature of the proposed initial project and its environmental effects. (Laurel Heights, supra, at 398.)

The fact that precision may not be possible, however, does not mean that no analysis is required. "Drafting an EIR...involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can." (Guidelines, Sec. 15144.) (Laurel Heights, supra, at 399.)

#### BLM 1978 LUND ON SOILS

The comments of Dr. Lanny Lund of U.C. Riverside discussing desert soils at a BLM conference were summarized as follows. He noted that these soils:

are developed through a number of processes such as the addition of materials, the transfer of materials within the upper surface, and weathering. The rate at which these processes can operate is determined by a number of factors. The lack of water restricts the soil forming process. Vegetation also has an effect on soil formation. In some cases, the soil characteristics have been formed under prior climates by prior types of vegetation. Another factor is that of parent material which ranges from young sediments to very old, residual bedrock. The surface configuration of the landscape and the depth of the water table is also important. The last soil-forming factor is time. In the desert, soil changes take place much more slowly....The surface horizons of desert soils are unique in that many of them have a porous structure. When that material is disturbed, this porosity is lost to some degree. (BLM, 1978, p. 8-9.)

#### AGRICULTURAL IMPACTS ON GROUNDWATER RESOURCES

1. Agricultural impacts on groundwater resources:  
A portion of the rainfall, or irrigation water applied,

on agricultural land filters through the surface soils carrying with it dissolved substances. Due to evapotranspiration, the concentration of dissolved salts in the percolate from irrigation is two or three times greater than in the applied water. In permeable soils, excess water rids the root zone of salt deposits by carrying dissolved minerals (particularly chloride, sulfate, and sodium ions) to groundwater. (Hammer, p.104)

The practice of irrigation usually involves applying more water than is consumed by evapotranspiration and direct percolation to groundwater. This practice results in either overland runoff, or subsurface seepage, to watercourses from which the irrigation return flows are reused in subsequent irrigation cycles. In arid climates, this process unavoidably increases the concentration of dissolved minerals with each water reuse. Groundwater quality in the southwestern and south central states, has deteriorated from infiltration of irrigation return flows and the buildup of salts is expected to continue for the foreseeable future. (Hammer, p. 104.)

Fertilizers and pesticides can migrate into the groundwater under cultivated land, except in the case of clayey soils that inhibit infiltration. . . . The most troublesome health-related pollutant from agriculture is the nitrate ion, which is readily carried by water percolating downward through unsaturated soil and groundwater flow in the saturated zone. Irrigation and the application of inorganic-nitrogen fertilizer appear to have contributed to the rapid rise in nitrate levels in many agricultural areas; nevertheless, increases are also being observed under areas of unirrigated lands where organic soil conditioners are applied. Apparently, infiltration of the nitrate ion under cultivated land with well-drained soils cannot be prevented without abandoning fertilization and converting the vegetation back to natural. . . . the amount of fertilizer applied, soil permeability, and rate of water infiltration are all key factors influencing the movement of nitrate to groundwater. (Hammer, p. 105)

The problem of rising nitrate levels in groundwaters is occurring in many regions of arable land. . . . Serious problems are occurring where small towns in rural areas use groundwater as a drinking source and where former cultivated areas are urbanized and wells installed for domestic supplies. To make the predicament worse, feasible treatment for removal of nitrate from drinking water has not yet been perfected. (Hammer, p. 105.)



Prevention is the key to groundwater quality management - after contamination, remedial actions are largely ineffective and natural purification requires decades. Knowledge of potential sources and a comprehensive understanding of the hydrogeology of a region are both essential to preventing pollution. (Hammer, p. 105-106)

The nature of a groundwater system determines the techniques available to prevent, monitor, and abate degradation. Prevention is directed toward the source by proper design, construction, and siting. Monitoring is intended as an early warning to determine the success of prevention techniques and protect the environment if the system contaminates groundwater. Abatement action is to stop further damage eliminating the source. If these controls fail or are not effectively employed and contamination reaches the point of discharge, condemnation of the water supply or expensive treatment are the aftereffect alternatives. (Hammer, p. 106.)

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March 15, 1993

Mr. Jurg Heuberger  
Planning Director, Imperial County  
939 Main Street  
El Centro, CA 92243-2856

- RE: (1) County of Imperial, Draft General Plan Update, Jan 25, 1993.  
(2) Draft Environmental Impact Report for the County of Imperial General Pan, Jan 1993.  
(3) Letter to Mr. Jurg Heuberger, Planning Director, Dated: April 21, 1992, Subject: Application for Mount Signal Specific Plan Amendment to the Imperial County General Plan, Environmental Information Application and Copies of Report.  
(4) Letter to Mr. Jurg Heuberger, Planning Director, Dated: April 22, 1992, Subject: Application for Mount Signal Specific Plan Amendment to the Imperial County General Plan, Filing Fee and Additional Copies of Report.  
(5) Feasibility Study and Proposal for Regional Commercial and Industrial Business Park Overlay to the General Plan, Mount Signal Area of the Imperial Valley of California, Dated: April 21, 1992

Dear Mr. Heuberger:

772 I have reviewed references (1) and (2). I found both documents failed to include the Mount Signal Specific Plan Amendment application filed with your office on April 21, 1992 (See references (3), (4) and (5).

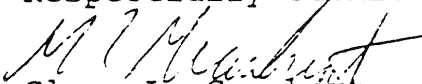
To correct this deficiency the following is requested:

773 1) A subsequent Draft Environmental Impact Report for the County of Imperial General Pan be completed to evaluate the environmental effects of proposed Mount Signal Specific Plan Amendment project.

774 2) The draft General Plan for the County of Imperial be updated to include a specific plan amendment area consistent with the Mount Signal Specific Plan Amendment application.

If I can be of further assistance please advise.

Respectfully submitted,

  
Glenn L. Gearhart

Certified:

# SUTHERLAND & GERBER

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PHILIP T. ASHWORTH

March 22, 1993

Mr. Jurg Heuberger  
Planning Director  
County of Imperial  
939 Main Street  
El Centro, California 92243

Re: Comments on Draft Environmental  
Impact Report for General Plan revision

Dear Mr. Heuberger:

775 I have reviewed portions of the above-described document. As a concerned citizen of the City of El Centro and of this County, I wish to specifically question the proposed land use element. The document prepared by Brian Mooney and Associates discusses at page 39 and recommends that a five year "moratorium" be placed on the removal of lands from the agricultural category except in certain conditions unless it can be demonstrated by the affected person a clear long term economic benefit to the County. It would appear that the standard and means to evaluate it are vague. In view of the substantial likelihood of economic growth in Imperial County anticipated with the proposed North American Free Trade Agreement among other things, and the depressed farming economy, this "moratorium" would disproportionately affect agricultural landowners who discover their land is unable to be used economically in agricultural production from achieving another use of the property and being needlessly regulated. I would like to be further informed of the reasons for this proposal and the legal basis upon which it is supported.

Very truly yours,

SUTHERLAND & GERBER  
A Professional Corporation

*Randy J. Rutten*  
Randy J. Rutten

**RECEIVED**

RJR:gkm

MAR 22 1993

IMPERIAL COUNTY  
PLANNING AND ZONING DEPARTMENT

RECEIVED

MAR 18 1993

To; Jurg Heuberger, Planning Director

From: Edith Harmon *EH*

IMPERIAL COUNTY  
PLANNING DEPARTMENT

Date: March 17, 1993

776 [ Re: Request for extension of Comment period for public review of Draft Program EIR for Draft Imperial County General Plan because 12 Urban Area Plans with their maps and 2 Community Area Plans with their maps were not included in the Draft General Plan Land Use Element Appendix A as stated in Text.

The Draft General Plan Update contains no map of the Proposed Land Use Plan. Why? How is the reader to know the locations of the various land use designations described in the Draft General Plan Update? There is, however, such a map included in the DEIR as Fig. 4.

The Draft General Plan Land Use Element (p.3) states that: "Appendix A contains more detailed descriptions and maps of the 12 Urban Area Plans which are adopted concurrently herewith as part of this General Plan Land Use Element." Under discussion of Community Area Plans, the Land Use Element states that: "Appendix A contains a detailed description and maps of these Community Area Plans [Palo Verde and Ocotillo/Nomirage] which are adopted concurrently herewith as part of this Land Use Element..." (p.6). The Hot Mineral Spa/Bombay Beach Community Area was to be based on three separate potentially out-dated existing plans.

777 [ Land Use Element Appendix A in the bound volume I received contains only 3 pages and is entitled "List of Organizations and Persons Consulted". Nowhere in that volume is even one of the Urban Area Plans or Community Area Plans. Without the referenced detailed Urban Area Plans and Community Area Plans, the Land Use Element is internally inconsistent with respect to text and maps. Govt. Code Sec. 65300.5 requires internal consistency within each element and among the elements as explained in the OPR State of California General Plan Guidelines. If there is internal inconsistency, the general plan is legally inadequate. (Curtin, 1993, p.22.)

On March 11, 1993 my husband and I stopped at the Planning Department to request copies of the missing 12 Urban Area Plans and plans and maps for the Community Areas as described in the Land Use Element. Planner Norma Lillegard was unable to find copies of the missing Area Plans, but said she would check with the County's consultant, Brian Mooney. I was unable to reach her when I called on Friday. On 3/13/93 I received a copy of 7 pages of text for the Ocotillo/Nomirage Community Area Plan from Jessica Stepler of Mooney's staff. The cover letter stated that she had "not yet had a chance to update the water budget that is referenced in the Plan". She further noted that the map was not complete.

I am sure you are well aware that March 22, is the deadline for comments on the Draft Program EIR for the Draft General Plan Update. How can the public be expected to evaluate the adequacy of a draft Program EIR when so much vital information in the Land Use Element is not included? The missing information is necessary for the "project description" and for evaluation of the "whole of the project" and its impacts. (CEQA Guidelines Sec. 15378(a)(1).) How can the public evaluate the potential impacts of the General Plan Update including changed land use designations and changed locations of land use designations when the listed Urban Area Plans and Community Area Plans and their maps have not yet been completed and distributed for public review, and worse, apparently will not be available until the deadline date for public comment?

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With the details of important Urban Area and Community Area plans and maps missing from the draft General Plan Update distributed for public review, how then can the Draft Program EIR achieve the stated purposes of evaluating the "proposed General Plan's effects on the environment" (DEIR, I-1)? If as Ms. Stepler stated the maps are not yet complete for the missing area plans, it follows that the DEIR and draft General Plan Update cannot provide needed portions of the General Plan for review until after the deadline date. Nor would it be possible for the DEIR to adequately or accurately provide a legally adequate "environmental assessment for the design and review of future development." (DEIR, p.I-1.)

How can the public be expected to comment in any meaningful way on a DEIR based on an incomplete project description? Without knowing the proposed land use designations, how is it possible to adequately analyze and evaluate the adequacy of existing infrastructure, needed infrastructure and the growth inducing impacts of the land use designations on both the infrastructure and the environment? The kind of piecemealing of environmental review created by withholding of detailed descriptions and maps of major portions of the Land Use Element is not acceptable under CEQA.

Additionally, it is my understanding that the Housing Element adopted by the Board of Supervisors on 10/23/90 was not accepted by the State. Indeed, that is why the Agenda for the 1/23/92 Ad Hoc Advisory Committee included "6. Review of Draft Housing Plan." If State approval had been granted there would have been no reason for the Ad Hoc Committee to spend time reviewing another draft Housing Plan just 15 months after the adoption of a Housing Plan/Element by the Board of Supervisors. Even if the State had accepted the Housing Element adopted by The Board of Supervisors in 1990, it is unlikely that such a Housing Element (with its 1989-1994 time frame) would be consistent with the information included in the still missing Urban Area and Community Area Plans.

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Consequently, I am formally requesting that: (a) the time clock stop running on the DEIR public review period; (b) the missing Proposed Land Use Plan Map and the missing 12 Urban Area Plans and the missing 2 Community Area Plans described as Land Use Element Appendix A be distributed for public review; (c) any

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necessary changes be made in the DEIR and other Plan Elements to reflect the text and maps of the missing Area Plans; (d) the updated revised Housing Element be released for public review; and (e) then and only then should the timeclock start running for the full period of public review required by law; or as an alternative, (e) an additional 45 days be provided for public comment after the release for public distribution of the updated Housing Element and missing portions of the Land Use Element. CEQA Guidelines Sec. 15105(a) provides for a public comment period of up to 90 days, or longer in "unusual circumstances". Surely the failure to circulate text and maps of the Urban Area Plans and Community Area Plans qualify as "unusual circumstances" which justify the extension of comment period to provide adequate public review.

The comments I have on both the Draft General Plan Update and the Draft Program EIR on that Plan Update are many and substantial, but the CEQA process as it now stands is fatally flawed. The preparation of a legally adequate General Plan and the preparation of a Program EIR that will serve its intended future purposes (CEQA Guidelines Sec. 15168(c)(5)) is in the best interests of all the people of the County. It requires the County's best efforts, not a rush job which may backfire because of careless omissions and the failure of the County to proceed in the manner required by law. Unless these discrepancies are remedied, it would appear that the Board would be acting in ultra vires to approve any resulting Program EIR and General Plan Update.

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My apologies for not catching these omissions earlier, but it is the responsibility of the consultant and the Planning Department to ensure the completeness and adequacy of the documents before their public release for the formal timed comment period. CEQA Guidelines Sec. 15084(e) requires that:

Before using a draft prepared by another person, the Lead Agency shall subject the draft to the agency's own review and analysis. The draft EIR which is sent out for public review must reflect the independent judgement of the Lead Agency. The Lead Agency is responsible for the adequacy and objectivity of the draft EIR. (CEQA Guidelines Sec. 15084(e).)

Once again, I appreciate the opportunity to share my concerns about the General Plan Update and the CEQA review process. I would appreciate your earliest response, and will try to reach you by phone as soon as possible.

cc:  
Wayne Van De Graaff, Chairman, Board of Supervisors  
BILAN MOUNEY, CONSULTANT  
Harry Orfanos, Public Works  
Larry Silver, S C Legal Defense Fund  
Bob Filler, Arid Operations  
TOM FILLER, COUNTY COUNCIL  
Jim Watkins, BLM  
Nick Ervin, Sierra Club