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Comments on Recirculated Draft Environmental Impact Report for Wayne J Sand & Gravel Conditional Use Permit Modification 4571-6 and Amended Reclamation Plan Case No. PL13-0116 (SCH No. 2003111063)

Mr. Baca:

The Santa Monica Mountains Conservancy offers the following comments on the Recirculated Draft Environmental Impact Report (RDEIR) for the Wayne J Sand & Gravel Conditional Use Permit (CUP) Modification 4571-6 and Amended Reclamation Plan Case No. PL13-0116. Because of the anticipated extensive land and drainage alteration, high level of disturbance (e.g., lighting, noise) over a long period of time (30 years), the limitations of restoring the site to pre-mining conditions, and the large area affected by the project, the Conservancy recommends that the applicant offer additional mitigation measures to address impacts to biological resources. These additional mitigation measures, and additional specificity for existing mitigation measures, described in this letter should be incorporated into the Final Environmental Impact Report (FEIR). Contrary to the conclusions in the RDEIR, the Conservancy maintains that the proposed mitigation measures in the RDEIR do not reduce project-specific impacts to biological resources to a level of less than significant.

Need for Adequate Amount of Land Preservation

The Conservancy concurs with the RDEIR conclusion that cumulative impacts to biological resources would remain significant after implementation of mitigation (p. 4.6-41). Contrary to the conclusions in the RDEIR, the Conservancy maintains that the proposed mitigation measures do not reduce *project-specific* impacts to biological resources to a level of less than significant. In addition, it does not appear that efforts were made to reduce the significance

level of impacts to biological resources; instead of avoidance, compensation measures were proposed.

The current RDEIR proposes an overall compensatory mitigation ratio of 2:1 for each acre of Venturan coastal sage scrub, oak and walnut woodland to be removed (1:1 for reclamation and 1:1 for off-site mitigation). A reclamation ratio of 1:1 is proposed for annual grassland. An overall ratio of 3:1 is proposed for jurisdictional stream and riparian habitat (1:1 for reclamation and 2:1 for off-site mitigation) (RDEIR, p. 4.6-43).

The Conservancy recommends a higher preservation mitigation ratio for sensitive plant communities for the following reasons. These sensitive plant communities are considered sensitive because they are declining and/or threatened. For example Venturan coastal sage scrub and southern riparian scrub have a G3S3 ranking (vulnerable to extirpation/extinction globally and in the State). Coast live oak woodland is a Locally Important Community pursuant to Section 21083.4 of the Public Resources Code and California walnut woodland, has a ranking of G2S2 (at high risk of extirpation/extinction globally and in the State) (RDEIR, p. 4.6-19). Particularly, these sensitive plant communities are known to support numerous sensitive wildlife species, many of which occur onsite, or have a high potential of occurring onsite. If mitigation ratios for off-site preservation are on the order of 1:1, then on average the remaining sage scrub would be decreased by one half, substantially reducing the already extremely reduced extent of this plant community. In particular, projects such as this one would result in large decreases in acreage of sensitive habitat. Even though preservation is a valuable mitigation measure that the Conservancy supports, it ultimately leads to an overall net loss.

A higher mitigation ratio is also needed because the proposed onsite reclamation will not result in restoration of the mined site to a pre-mining complex of plant species and they will not occur for about 30 years.

An increased overall mitigation ratio on the order of 3:1 is more appropriate for permanent impacts to sensitive plant communities. Mitigation measure BR 1-1 (p. 4.6-43) should be changed to specify that the applicant shall receive 1:1 credit for reclamation and shall provide a 2:1 compensatory ratio for off-site mitigation instead of 1:1 ratio for impacts to sensitive plant communities. The off-site mitigation site(s) should include a minimum of 137.2 acres of California sagebrush and purple sage scrub. Including the acreage for the other plant communities, the total area to be protected off-site should be approximately 146.1 acres.

Unauthorized Project Impacts

The RDEIR is deficient in characterizing and mitigating unauthorized project impacts administered under the existing CUP. The DEIR circulated in 2006 stated the project had unauthorized impacts to 14.53 acres of California sagebrush and purple sage scrub, 1.21 acres of alluvial scrub, and 0.06 acre of oak dominant woodlands. Why were these past unauthorized impacts omitted from the RDEIR? Unauthorized impacts should be incorporated into the RDEIR and should be part of the biological resources impact analysis in the FEIR. The Conservancy recommends the Permittee mitigate for these unauthorized impacts by permanently protecting existing unprotected habitats through direct acquisition and dedication (donation or permanent encumbrance with a conservation easement) at a 3:1 ratio.

Oak Tree Mitigation

The RDEIR is deficient in stating the total number of oak trees to be impacted by the proposed expanded mining area. The FEIR should state the total number of oak trees to be removed/impacted. A site-specific Oak Tree Plan should also be included as an appendix item. The Conservancy recommends an Oak Tree Plan be prepared for oak trees on the property that have at least one trunk measuring six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter, measured at four and one-half feet above natural grade. The Oak Tree Plan shall be prepared by a qualified arborist to evaluate the oak trees of the project area to determine potential impacts that may occur. Should the Oak Tree Plan determine that unavoidable adverse impacts to oak trees may result, the impacts must be mitigated.

Project development that will have unavoidable impacts to oak trees and require mitigation, an Oak Tree Replacement Planting Program, prepared by a qualified biologist, arborist, or other resource specialist, which specifies replacement tree locations, tree or seedling size planting specifications, and a ten-year monitoring program with specific performance standards to ensure that the replacement planting program is successful shall be submitted for the review and approval of the Ventura County Planning Division. The tree replacement program shall plant oaks on fee simple public owned land where there is suitable conditions/habitat. In order to ensure replacement oaks are permanently protected. The approved Oak Tree Replacement Planting Program shall be implemented concurrent with project initiation.

Need for Assurances for Effective Preservation of Dedicated Land

Mitigation measure BR 1-1 should specify the appropriate agency to accept the land donation. There must be assurances that the land is not donated to an agency that, based on the whims of the governing board, may not protect the land in perpetuity. An appropriate agency with the relevant mission and experience in protecting such types of donations is the Mountains Recreation and Conservation Authority (MRCA).

There should be no leeway in the implementation of this critical project component of the land dedication. It is critical that the mitigation requirements be satisfied early. The Conservancy commends the County for stipulating the Permittee provide a plan/acquire and donate/dedicate land prior to issuance of a Zoning Clearance. In our experience if the permit is issued before mitigation requirements are met, then the incentive to implement the mitigation has diminished and excuses tend to appear.

Because the site is part of several wildlife corridors, and one of the objectives of the reclamation plan is to restore native vegetation, it would be beneficial for the County to ensure that the reclaimed project site be dedicated (fee title donation or conservation easement) to an appropriate agency. The Reclamation plan should specify the appropriate agency to accept this land donation or at the very least specify qualifications of the land agency appropriate to accept the donation. An appropriate agency with the relevant mission and experience in protecting such types of donations is the MRCA.

Need for Analysis of Wildlife Movement Impacts Across State Route 23 and Mitigation

The FEIR should include an analysis of project-specific and cumulative impacts to wildlife movement (mammals, birds, reptiles, amphibians) associated with increased road kill. Specifically, the FEIR should analyze where animals are crossing State Route 23. It may be necessary for this applicant, and applicants associated with modifications to CUPS for the adjacent mines, to pay into a fund to create and improve culverts under State Route 23 to mitigate significant adverse impacts to wildlife movement.

Need for Clarification Regarding Impacts to Biological Resources

The biological section of the FEIR should include a recent aerial photograph depicting the project impact area, with accurate parcel and ownership showing the cumulative impact footprints of all mining in the area. This aerial should include the surrounding

development and farming within at least a one mile radius. The aerial should denote clear animal crossings along State Route 23 (e.g., with adequate terrain for at-grade crossings or crossings under the freeway). The figure should show how wildlife will move through the area at approximately five, ten, and fifteen years, as well as post-reclamation. This type of figure is the best way to disclose to decision-makers some of the potential impacts to regional wildlife movement.

We assume that the entire area within the proposed expanded mining area would be cleared to bare dirt. Can we assume that no areas outside of the proposed expanded mining area, but within the proposed expanded project area boundary, would be disturbed? For example, there are large areas of oak woodland, walnut woodland, unspecified woodland, and sage scrub, along the northwestern area of the proposed expanded project area boundary, and to a lesser extent along the southern boundary. If these areas would be impacted (directly or indirectly), the degree of impacts must be quantified in the FEIR. If this area will not be impacted, then there should be no problem with the applicant offering a conservation easement over those areas to a conservation agency such as MRCA.

Please direct any questions and all future correspondence to Paul Edelman, Deputy Director of Natural Resources and Planning, at the above address and by phone at 310-589-3200, ext. 128.

Sincerely,

LINDA PARKS
Chairperson