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April 29, 2016

HAND DELIVERED

BOARD OF SUPERVISORS
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93101

Re: Appellant's Statement
Pollyrich Farms Appeal of CUP for Sierra Grande
Rural Recreation Project (3d Sup. Dist.)
Hearing Date: May 17, 2016

Dear Supervisors,

This office represents appellant Pollyrich Farms. We are submitting these materials for your consideration in support of our client's appeal in the referenced matter. For the following reasons, we believe the appeal should be granted and the project application denied.

To begin with, the Planning Commission's approval of the project rests upon the faulty premise that primary access to the project will occur through our client's property. As explained below, this is not the case.

In addition, the project's traffic analysis and related requirements are inadequate on a number of levels. For example, when evaluating project access issues, the County Fire Department understood that primary access for the proposed project was to be routed to U.S. Hwy 101, not through our client's property. The significance of this discrepancy cannot be overstated. Other important traffic-related issues were also not properly identified or resolved.

Finally, the project's biological analysis does not conform to industry standards and does not satisfy CEQA's requirements.

I.

**THERE IS NO LEGAL ACCESS THROUGH
APPELLANTS PROPERTY FOR THE INTENDED USE**

One of the essential findings for approval of a CUP is that the roads serving the project are adequate. It is appellant's position that this finding cannot properly be made here.

County staff apparently relies upon the applicant's representation that it has legal access for the project through our client's property. However, when basic principles of California easement law are properly taken into account, it is evident that there is no merit to the applicant's representation of a 60 foot wide access easement that can lawfully provide public access to the project. See plot map Attachment No. 1.

**A. The Project Sponsor Has No Right to Use Appellant's
Driveway for Project Activities on Parcel 33**

An easement is an incorporeal interest in the land of another which gives its owner the right to limited use of the property. The land to which the easement attaches is called the "dominant tenement" (Gildred-Hartman, APN 137-270-33); the land on which the burden is imposed is called the "servient tenement" (Pollyrich, APN 137-250-74). Civil Code § 803.

The fee owner (Pollyrich) retains all rights to and uses of the servient tenement that are not inconsistent with the terms of the easement. (*Golden West Baseball Co. v. City of Anaheim* (1994) 25 Cal. App. 4th 11, 35.) An easement holder must use his or her easements and rights in such a way as to impose as slight a burden as possible on the property across which the easement runs. (*Locklin v. City of Lafayette* (1994) 7 Cal. 4th 327, 356, fn. 17 [quoting *Baker v. Pierce* (1950) 100 Cal. App. 2d 224, 226].)

A corollary of the rule that the dominant tenement must not impose an undue burden on the servient tenement is that there cannot be an increase in the burden on the servient tenement that exceeds the reasonably anticipated use of the dominant tenement. When an easement is created by reservation, as was the case here, the "reservation... is to be interpreted in favor of the grantor." Civil Code section 1069.

A substantial change in the nature of the use of the dominant tenement outside the scope of normal development is prohibited and can be enjoined. (*Wall v. Rudolph* (1961) 198 Cal. App. 2d 684, 686 ["A principle which underlies the use of all easements is that the owner of an easement cannot materially increase the burden of it upon the

BOARD OF SUPERVISORS

Re: Pollyrich Farms Appeal of CUP

Hearing Date: May 17, 2016

Page 3

servient estate or impose thereon a new and additional burden."][*quoting* 17A Am.Jur. § 115, p. 723]; *Thorstrom v. Thorstrom* (2011) 196 Cal. App. 4th 1406, 1422.) See also, *Connolly v. McDermott* (1984) 162 Cal. App. 3d 973, 977-978 (cattle herding easement does not include motor vehicles); *Wright v. Horse Creek Ranches*, 697 P. 2d 384, 390-391 (Colo. 1985) (shift in use from agricultural to recreational not permitted due to increased traffic); and *Cheatham v. Melton*, 593 S.W. 2d 900, 903-904 (Mo. 1980) (easement holder may not expand a private driveway easement into a public roadway).

In this case, there would be a major change in the nature and intensity of the use of parcel 33 the dominant tenement. Since creation of the easement in 2005, parcel 33 has been used for limited private agricultural and residential purposes. This project would materially transform use of the property to include a seven-day a week, year-round commercial recreation operation open to the general public. This is in addition to the existing use.

As observed by Caltrans' Adam Fukushima in his March 3, 2015 letter to the County's John Zorovich: "Given that the land use of the driveway on SR 246 **will be changing from private to public use . . .**" (Emphasis added.) This would be a fundamental change in the nature of the use of the dominant tenement and the easement that serves it.

The burden on the Pollyrich Farms property would increase substantially due to significantly increased project activities. The CUP provides for up to 80 customers and five to 10 employees per day to use the facilities. County staff estimates that the project will add 84 vehicle trips (with 16 peak hour trips) per day over Pollyrich's driveway. This amounts to more than 30,000 new trips annually. More vehicles with single occupants will only increase this number. Moreover, none of these estimates takes into account large numbers of curious persons, or "looky-loos," that can be expected as a result of widely disseminated publicity and advertising about the Project. See article in Santa Ynez Valley Star, March 2016. Attachment No. 2.

The existing driveway is the only entrance available to the Pollyrich Farms property. Daily operations by Pollyrich Farms staff typically include: horse care (twice daily feedings, medications for retired and rehabilitating horses, blanketing, grooming, vet and farrier appointments and client visits), facility maintenance (well and pump operations, irrigation, mowing, fence maintenance, rodent and weed abatement and manure removal), hay deliveries, Marborg service, as well as transport of horses to and from the property. These ongoing activities will clearly be disrupted by project operations. Project customers lined-up on busy SR 246 to turn on to and off of the appellant's driveway will interfere with the ability of Pollyrich Farms and its clients (including tractors, large trucks and trailers) to safely enter and exit. One can also

reasonably expect there to be major increases in noise and, inevitably, dust from the deteriorating roadway. There is also a significant increased likelihood of members of the public feeding or bothering the horses, and disrupting the peace and comfort of residents of the Pollyrich Farms property. In short, the increased level of activity on the road by the general public will constitute a substantial change in the nature and intensity of the use, and will materially increase the burden to our client's property. Appellant's driveway cannot lawfully be so used.

B. The Project Sponsor Has No Right to Use Appellant's Driveway for the Benefit of Activities on the Rest of the Project Lands (Parcels 31 & 17).

We recently engaged the services of a well-qualified land title expert to research the easement title issues involved. He discovered that there is no deeded easement over the Pollyrich Farms parcel for the benefit of Hartman parcels 31 or 17 – both of which are integral parts of the project. Attachment No. 3. The only deeded easement is for the benefit of parcel 33, not parcels 31 or 17. **Thus, there is no deeded access over Pollyrich Farms property to serve the zip lines or rope courses on parcels 31 and 17.¹**

The easement over the Pollyrich Farms property cannot lawfully be used to provide access to the two Hartman (Hart B LLC) project parcels. Use of an appurtenant easement for the benefit of any property other than the dominant tenement (parcel 33) is a violation of the easement. (See *Wall supra*, 198 Cal. App. 2d at 695 ["Use of an appurtenant easement for the benefit of any property other than the dominant tenement is a violation of the easement because it is an excessive use."]) Thus, public use of the Pollyrich Farms parcel to access the zip lines and rope courses on parcels 31 and 17 is not permitted.

In sum, County staff's understanding that there is lawful primary access to the project through our client's property is based on incomplete and erroneous information. Basic principles of California law demonstrate that there is no merit to the claim of a 60 foot wide easement that can provide access to central features of the project. Moreover, there is in fact no deeded right of ingress or egress over our client's property that can be used for access to parcels 31 or 17.

¹ Project parcels 137-270-31 and 137-280-17 are held in the name of Hart B LLC; and parcel 137-270-33 is in the name of River Oaks Ranch & Vineyard LLC.

II.

THE PROJECT'S TRAFFIC ANALYSIS IS INADEQUATE

At our request, an independent traffic engineering firm, Pinnacle Traffic Engineering, reviewed the project documents related to traffic and access issues. Attachment No. 4. Pinnacle noted a number of deficiencies in the information presented.

The County's MND concluded that the project's potential impacts relating to transportation and circulation (section 4.15 of environmental checklist) would be less than significant. This conclusion cannot properly be drawn based upon available information. For example, it is unclear if the project would have a potentially significant impact on peak hour operations, since an analysis of segment Levels of Service (LOS) was not conducted.

The County's MND does not address the potential traffic hazards or inadequate site distance issues associated with the private access driveway or low water "Arizona" crossing of the Santa Ynez River. Based on a review of those existing conditions, it is unclear if the project traffic would have a significant impact since these issues are not addressed in the County's MND.

County Fire Department standards require that a private driveway serving three or four parcels have a minimum width of 20 feet, while a private driveway (road) serving five or more parcels is required to have a minimum width of 24 feet. County staff reports that six (6) residences are currently served by the private driveway. BOS SR p.6.) Measurements of the private access driveway north and south from the Santa Ynez River "Arizona" crossing show widths of the paved all-weather surface to be between 16 and 18 feet. Moreover, the private driveway, as it extends north of the Arizona crossing on an uphill alignment limits visibility around the curve for vehicles traveling northbound. Since the County's review of the project did not include a proper evaluation of the private access driveway, it is unclear if the existing conditions would contribute to potentially significant impacts regarding a traffic hazard and/or inadequate site distance.

Secondary/emergency access for project traffic is to be directed to the at-grade entrance at U.S. Hwy 101. County Fire Department standards require that alternative access roads comply with the same standards applicable to private access (e.g. width up to 24 feet). The County Fire Department reviewed the project and submitted a June 18, 2015 memorandum of project conditions for approval. However, Pinnacle Engineering learned that based upon a recent review of the Fire Department's records

BOARD OF SUPERVISORS

Re: Pollyrich Farms Appeal of CUP

Hearing Date: May 17, 2016

Page 6

by Captain Fred Tan, when the Fire Department reviewed the project it was understood that primary access to the project site was to be via connection to Santa Rosa Road and U.S. Hwy 101, and not via the private driveway through appellant's property to Route 246. It thus appears that County Fire had not been asked to review issues associated with using the private driveway as primary access from Route 246 as now proposed.

The existing private driveway through the Pollyrich Farms property is in very poor condition. There are sub-grade structural failures, surface cracking, potholes and previous asphalt concrete repair work. We have seen no evidence that the County's review of the project included an evaluation of the impacts to the existing private driveway resulting from additional project traffic. The condition of the driveway needs evaluation and proper standards need to be applied.

The low-water Arizona crossing of the Santa Ynez River varies in width from between 14 to 15 feet, not 20 feet or more. A southerly portion of the crossing has crumbled and does not appear to meet County Fire Department standards regarding minimum width and structural integrity. Yet the project does not propose any alterations to the crossing itself. BOS SR p.8. Since the County Fire Department has apparently not reviewed the actual proposed project configuration with the private driveway serving as primary access, it is unclear if such access complies with current Public Works and Fire Department standards.

The project applicant has proposed construction of a **deceleration** "taper" on Route 246 for eastbound right-turns onto the private driveway on the Pollyrich Farms property. However, Caltrans' Public Road Intersection Standards also provide for an **acceleration** taper for right-turn movement from a minor road when entering a major road. In this case, provision of acceleration taper improvements would better facilitate movement of the northbound right-turning vehicles from the private driveway. The MND and project proposal does not include such acceleration taper improvements on Route 246 and it is therefore unclear whether the project complies with Caltrans' standards for a project such as this.

The County's traffic analysis also did not include an evaluation of peak hour segment Level of Service on Route 246, and it is therefore unclear whether the project may have potentially significant impacts on existing or cumulative peak hour conditions.

Existing conditions of the proposed "secondary access" to U.S. Hwy 101 make it clear that significant improvements would be required to provide even a 20 foot minimum width required by the County Fire Department. In addition, the proposed secondary access needs to be reconciled with Caltrans' concerns about safety and operational issues associated with using the at-grade intersection at U.S. Hwy 101.

In short, the available information is inadequate and the necessary findings related to traffic issues for approval of the project cannot properly be made.

III.

THE PROJECT'S BIOLOGICAL ANALYSIS IS INADEQUATE

Appellant retained the services of an independent environmental consulting firm, Terra Verde of San Luis Obispo, to conduct a peer review of the project documents related to biological issues. Attachment No. 5. The peer review discloses that the project's environmental documents, specifically the Biological Assessment (BA) dated July 21, 2014, and the December 2015 revision of the final MND, are inadequate on a number of important levels.

The BA's coverage area does not appear to include the entire MND project description. This is essential in order for a meaningful biological assessment to occur pursuant to CEQA.

According to the BA, the vegetation and California plant surveys were conducted in mid-July (and possibly in August). This is outside the appropriate time-sensitive windows for proper plant identification. This does not comply with industry standards or resource agency-accepted methods for determining the presence or absence of special status plant species. Moreover, there was no analysis of soils or site elevations to assist in determining the potential of species to occur. The survey results for sensitive plants are thus inconclusive.

With respect to sensitive wildlife species, the surveys were done after the standard nesting period for most Avian species. In addition, there has not been an assessment of future impacts to wildlife species in the area as a result of project implementation, such as the necessary repair and widening of the Arizona river crossing. These are also critical omissions in the biological information presented to-date.

A discussion of hydrological features present and the potential indirect impacts to water resources (silt and sedimentation) are missing from the BA and MND. The regulatory bodies with jurisdiction should be contacted for their respective approvals for the necessary repairs to and use of the Santa Ynez River crossing.

There are a number of other biological deficiencies noted. Further analysis of biological resources affected by the project should occur per CEQA requirements to provide a suitable project description and adherence to industry standards for the

analysis. Most notably, a meaningful discussion of potential impacts to the Santa Ynez River and associated wildlife species are lacking. Based on the information presented to-date, an MND cannot properly be approved for this project.

For these reasons, the appeal should be granted and the project application denied.

Respectfully submitted,

HOLLISTER & BRACE

By



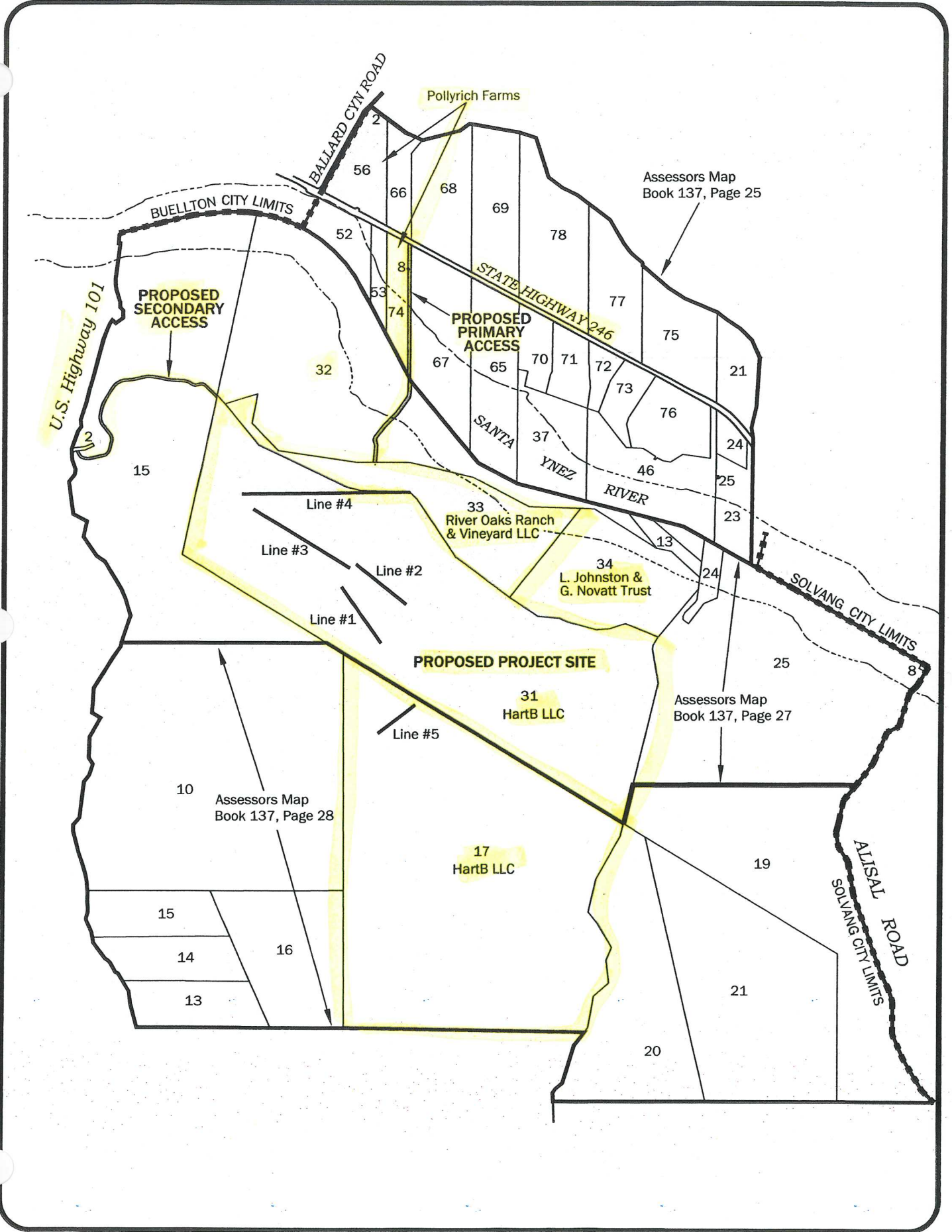
Steven Evans Kirby

SEK:bew

Attachments

Copy: C.E. Wullbrandt, Esq.

Attachment 1



Attachment 2



Santa Ynez Valley Star

March 2016 • Volume 1, Number 2

www.santaynezvalleystar.com

SY Valley residents and tourists may soon zip across the hills

by Raiza Giorgi
news@santaynezvalleystar.com

Stuart Gildred is following in his father's footsteps by creating a business that will bring people together and get them moving, literally zipping across the hills of the Santa Ynez Valley. He expects **Sky Ranch Ziplines and Adventure Park** to be open within the next year.

The project was recently approved by the Santa Barbara County Planning Commission after three years of effort.

"My dad instilled a love of the Santa Ynez Valley into my family. He was passionate about horses and the hills, and I know he would be so proud of what we are trying to

accomplish," he said.

Gildred was granted permission to build five separate zip lines, which guests will be able to ride tandem on two separate runs ranging from 420 feet to 2,100 feet long. The zip line and adventure park will use 40 of the 1,186-acre ranch he owns off Highway 246, south of the Santa Ynez River between Solvang and Buellton.

"We got the idea to build our own zip line after taking my sons to the one at Lake Lopez. We had such a fun time bonding and spending time away from the electronics that it inspired me. I had been looking for a good use of my property that would bring the community together, and I found it," he said.

Gildred said he started investigating what it

would take to put a zip-lining and ropes course on his property, since it's the first one in Santa Barbara County. His ranch once belonged to Slick Gardner, known locally for being an Auto Racing Club of America driver turned wild-horse rescuer and then animal abuser, who was eventually evicted from the ranch.

Gildred has owned the property for a decade now after spending most of his career working for wine giants such as Gallo and Kendall Jackson before returning to the family business of real estate.

"Even though we were in real estate, my dad was always a professional cowboy in my eyes," he said.



Contributed

Stu Gildred modeled his zipline after a similar one at Vista Lago Adventure Park at Lake Lopez, but said his will be even bigger and better.

CONTINUED ON PAGE 5

ZIPLINE CONTINUED FROM PAGE 1

His father is most known in the valley for his charitable giving, co-founding the Santa Ynez Valley Foundation, and having the local YMCA building named after him. Gildred Sr. was also known for his cutting-horse breeding and training facility, Rancho Sierra Grande, in Santa Ynez, which he bought from Jimmy Stewart in 1975, according to a 1982 New York Times article. Gildred remembers hearing stories about the time his dad, former President Ronald Reagan and 400 of his closest friends were entertained with a concert by Merle Haggard.

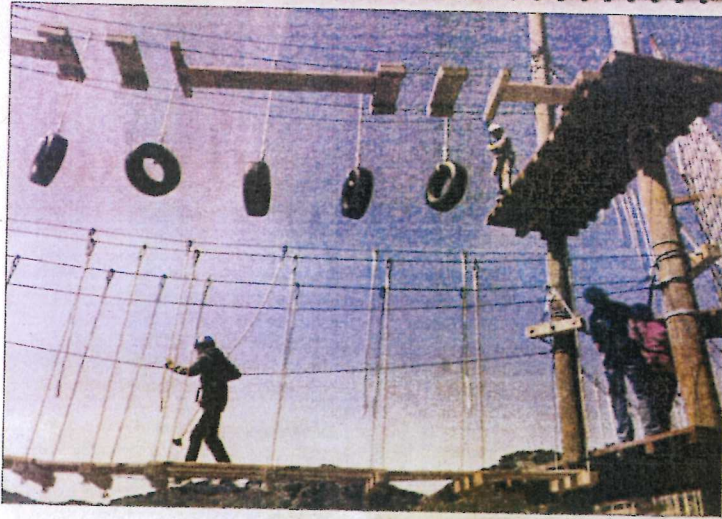
"I loved hearing his stories and I want to give the opportunity to have families tell stories about their time zip lining and climbing ropes," he added.

The low-impact project was approved to erect 20 large poles to hang the zip lines. In peak use, the zip lines and adventure park will be allowed no more than 80 customers a day. He had to get a special state permit, since cars will have to travel through the bed of the river, and multiple studies were done on the potential impacts on birds, frogs and other wildlife.

"We are using existing roads and buildings for staging and safety orientations and the lands we are putting the poles on aren't suitable for any other operation," Gildred said.

The benefits far outweigh the costs of a few more cars on the access road, which is already permitted for that many car trips, he added.

"This is going to be so good for our kids that don't have many things to do in the val-



Contributed
Stu Gildred knew he wanted to open an adventure park and zipline after spending quality time with his children and having so much fun.

ley, until the bowling alley (the pending Live Oak Lanes in Buellton) is built, which we are excited about, but this will be one more attraction to get kids outside and doing something positive," he said.

Gildred already operates Sky Ranch Fitness out of the Bacara Resort in Santa Barbara and is adding a branch to the Fess Parker Wine Country Inn in Los Olivos, where their guests

can take a multi-day fitness course combining health and wellness.

"My dad left big shoes to fill, and I really want this zip line and adventure park to do just that. It will be a place where families, kids and groups can really just be outside and experience all the nature and beauty this valley has to offer and do something so unique and fun," he said.

said Mike Hendrick, general manager of the have cost thousands of dollars

in a fun an easy way for any age. Music education of any kind should be fun and positive without pressure. Tompeet's Institute of Music gives lessons in guitar, drums, bass and ukelele. Guitar and drum repair available.



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Attachment 3

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Telephone: (805) 636-2537
Email: john.hebda@verizon.net
Web: www.hebdasolutions.com

Date: April 27, 2016
Subject: Pollyrich Farms Access Easement
Sky Ranch Ziplines & Adventure Park

To whom it may concern:

I was asked to research title plant property accounts for certain properties which were once part of the Gardner Ranch near Buellton. This research was for the purpose of determining which of these properties are dominant tenements for the road easement that passes through the easterly portion of the Pollyrich Farms property (APN 137-250-74), which is described in item 1 below and which I understand would serve as primary access to the subject project, if approved.

I conducted my title research during February through April of 2016 in accordance with generally accepted title examination practices in California. Upon completing my research, I reached the following professional opinion:

1. The 60 foot wide access easement in question was created by reservation in a deed from Jelmax, *et. al.* to Ruoslahti and Engval, recorded April 6, 2005 (2005-31251). Per the terms of this deed this easement was created to be appurtenant to and for the benefit of APNs 137-270-033 & 034.

2. Attached as Exhibit A hereto is Chicago Title Insurance Company's policy of title insurance issued to the Oas family (Pollyrich Trust) when they purchased the subject property (APN 137-250-74) in January 2006. The subject 60' wide easement for ingress and egress is shown as Exception 10 on page 4 of the policy. This easement was expressly reserved in April 2005 for the benefit of the property now owned by River Oaks Ranch & Vineyard LLC (APN 137-270-33) and the Johnston – Novatt family (APN 137-270-34). This easement has not been transferred by the Oas Family or by any of their predecessors in interest for the benefit of either of the two Hartman parcels that are part of the proposed Sierra Grande Rural Recreation Project (APN 137-270-31 and 137-280-17) now owned by Hart B LLC.

3. Neither of the two Hartman properties (APNs 137-270-031 & 137-280-017) possesses an easement of record for road purposes through the Pollyrich Farms property.

My professional qualifications are attached hereto.

Respectfully submitted,



John Hebda

About John Hebda

Prior to forming **Hebda Property & Title Solutions** John worked for over 34 years in the title insurance industry in Los Angeles, Ventura, Alameda, San Diego and Santa Barbara Counties.

As a dedicated title professional, John has spent many years honing and perfecting his real property research skills. He has extensive experience handling transactions affecting properties in multiple counties, and has had the opportunity to work closely with some of the top title insurance underwriters in California.

John has the ability to craft creative, common sense solutions to very challenging title issues.

Experience:

President/Owner, Hebda Property & Title Solutions (2009 –Present)

California State Title Manager, Stewart Title (2008 – 2009)

Santa Barbara County Manager, Stewart Title (2006-2008)

Santa Barbara County Manager, Lawyers Title (1998-2006)

Title operations manager and assistant county manager, Equity Title (1991-1998)

Title officer and title operations manager, Santa Barbara Title (1983-1990)

Searcher/examiner to Title Operations Manager, Safeco Title/Chicago Title (1975 – 1983)

Education:

A Santa Barbara native and a graduate of Bishop Garcia Diego High School (1967), John attended Loyola Marymount University (LMU) as a math major, graduating in 1971.

Military Service:

Upon graduation from LMU, John served 3 years in the United States Army stationed at Fort Bragg, North Carolina.

Memberships:

California Land Title Association, affiliate member

Community Activities:

Volunteer, United Way (1993-1994)

Volunteer Mentor, Endowment for Youth (1997-1998)

Board of Trustees, Bishop Garcia Diego High School (2005-2008)

Event Chairman, Semana Nautica Summer Sports Festival (1993-1997)



Chicago Title Insurance Company

POLICY NO.: CACTI7742-7742-4779-0077900129-CTIC-2006-01-0

COPY **CLTA STANDARD COVERAGE POLICY OF TITLE INSURANCE**

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, CHICAGO TITLE INSURANCE COMPANY, a Missouri corporation, herem called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of

- 1 *Title to the estate or interest described in Schedule A being vested other than as stated therein;*
- 2 *Any defect in or lien or encumbrance on the title;*
- 3 *Unmarketability of the title;*
- 4 *Lack of a right of access to and from the land;*

and, in addition, as to an insured lender only.

- 5 *The invalidity or unenforceability of the lien of the insured mortgage upon the title,*
- 6 *The priority of any lien or encumbrance over the lien of the insured mortgage, said mortgage being shown in Schedule B in the order of its priority,*
- 7 *The invalidity or unenforceability of any assignment of the insured mortgage, provided the assignment is shown in Schedule B, or the failure of the assignment shown in Schedule B to vest title to the insured mortgage in the named insured assignee free and clear of all liens*

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title or the lien of the insured mortgage, as insured, but only to the extent provided in the Conditions and Stipulations

IN WITNESS WHEREOF, CHICAGO TITLE INSURANCE COMPANY has caused this policy to be signed and sealed by its duly authorized officers

Cynthia M. Garcia
Countersigned

Chicago Title Insurance Company
 BY *[Signature]* President
 ATTEST *[Signature]* Secretary




Exhibit A
To Attachment 3

SCHEDULE A

Policy No.: CACTI7742-7742-4779-0077900129-CTIC-2006-01-0

Amount of Insurance: \$ 1,300,000.00
Premium: \$ 342.00

Date of Policy: January 13, 2006 at 08:00 AM

1. Name of Insured:

**RICHARD A. OAS, M.D. AND POLLY J. OAS, TRUSTEES (OR ANY SUCCESSOR TRUSTEE) OF
THE POLLYRICH TRUST DATED JULY 6, 2004**

2. The estate or interest in the land which is covered by this policy is:

A Fee

3. Title to the estate or interest in the land is vested in:

**Richard A. Oas, M.D. and Polly J. Oas, TRUSTEES (OR ANY SUCCESSOR TRUSTEES) OF THE
POLLYRICH TRUST DATED JULY 6, 2004**

4. The land referred to in this policy is described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

THIS POLICY VALID ONLY IF SCHEDULE B IS ATTACHED

LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

That portion of Tract No. 4 of the Rancho San Carlos De Jonata, according to the map of survey made by F. F. Flournoy of Part of the Rancho San Carlos De Jonata for the Santa Ynez Valley Development Company, recorded April 8, 1910 in Book 5, Page 51 to 56 of Maps and Surveys, in the Office of the County Recorder of said County, described as follows:

Beginning at a 2" pipe with brass cap at the Northeast corner of said Tract No. 4; thence along the line between said Tract No. 4, and Tract No. 23, North 70° 56' 50" West 320.8 feet to a 3/4" pipe; thence North 53° 44' West 387.8 feet to a 3/4 inch pipe and stake marked 4A-4B at the Northeast corner of the tract of land granted by Merchants Trust Company, a corporation to John Roth, by deed dated November 11, 1911 and Recorded in Book 134, Page 176, of Deeds, thence South along the East line of said land conveyed to Roth, 3715.6 feet to a point in the Southerly line of said Tract No. 4; thence along said Southerly line; South 28° 10' 40" East 910.6 feet to the Southeast corner of said Tract No. 4; thence North along the East line of said Tract, 3954.1 feet to a 3/4 inch pipe; thence North 38° 55' 40" East 295.8 feet to the point of beginning.

Excepting therefrom that portion thereof described as "Parcel One" in Deed to Alfred Jacobson, et ux., recorded December 20, 1948 as Instrument No. 17563 in Book 829, Page 102, Official Records of said County. Also excepting that portion thereof described as "Parcel Twenty-Seven" in the Deed to Peter J. Whiting et ux., recorded August 30, 1973 as Instrument No. 34820 in Book 2479, Page 657 of Official Records of said County.

Also excepting therefrom any portion thereof which may lie outside of the original boundary of said Rancho San Carlos De Jonata, as described in the U.S. Patent thereof.

ALSO EXCEPTING therefrom that portion conveyed to the State of California in document recorded May 11, 1998 as Instrument No. 98-33111 of Official Records, records of said County.

Also excepting therefrom all oil, petroleum and other hydrocarbon substances including natural gas in and under said land.

APN: 137-250-74

SCHEDULE B

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

PART I

All matters set forth in paragraphs 1 through 5 inclusive on the cover of this policy under the caption Part I of Schedule B.

PART II

1. Property taxes for the fiscal year shown below are PAID. For proration purposes the amounts are:

APN:	137-250-74
Fiscal year	2005-2006
1st Installment:	\$2,262.15 PAID
2nd Installment:	\$2,262.15 PAID
Exemption:	none
Land:	\$424,006.00
Improvements:	\$5,623.00
Personal Property:	none
Code Area:	57-007

2. **The lien of supplemental taxes**, if any, assessed pursuant to the provisions of Chapter 3.5 (Commencing with Section 75) of the Revenue and Taxation code of the State of California.
3. **Water rights, claims or title to water**, whether or not disclosed by the public records.
4. The right of the public to use for road purposes that portion of this land lying within any public street or highway.
5. Any adverse claim based upon the assertion that some portion of said land is tide or submerged lands, or has been created by artificial means or has accreted to such portion so created.
6. Any rights, interest, or easements in favor of the public, which exists or is claimed to exist over a portion of said land which presently is, or has ever in the past, been covered by water.

- 7. Any vested and accrued water rights for mining, agricultural, manufacturing or other purposes and rights to ditches and resevoirs used in connection with such water rights as may be acknowledged by the local customs, laws and decisions of courts, and the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the property herein described as contained in Patent recorded September 4, 1875 in Book A, Page 230 of Patents.

- 8. Right and privileges to the use, development and protection of the Southerly portion of said land lying within the bed of the Santa Ynez River, as set forth in an Agreement between Santa Ynez Valley Development Company, a corporation, and Edward De La Cuesta, et al., dated January 5, 1910 and recorded in Book 123, Page 443 of Deeds, Records of said county, and as reserved in the Deed from Isabel Ward recorded September 29, 1936 in Book 374, Page 237 Official Records, Records of said County, and set forth in that Agreement between E.A. Pillsbury II, et. ux., and Frank P. Ward, recorded September 29 1936 in Book 374, Page 238 of Official Records, Records of said county.

- 9. Easement(s) for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Alfred Jacobsen and Gudrun K. Jacobsen, husband and wife
 Purpose: Ingress and egress
 Recorded: December 10, 1948, Instrument No. 17563, Book 829, Page 102, of Official Records
 Affects: A 10 foot strip over an Easterly portion of said land

10 AN EASEMENT FOR THE PURPOSE SHOWN BELOW AND RIGHTS INCIDENTAL THERETO AS RESERVED IN A DOCUMENT

PURPOSE: Ingress and egress

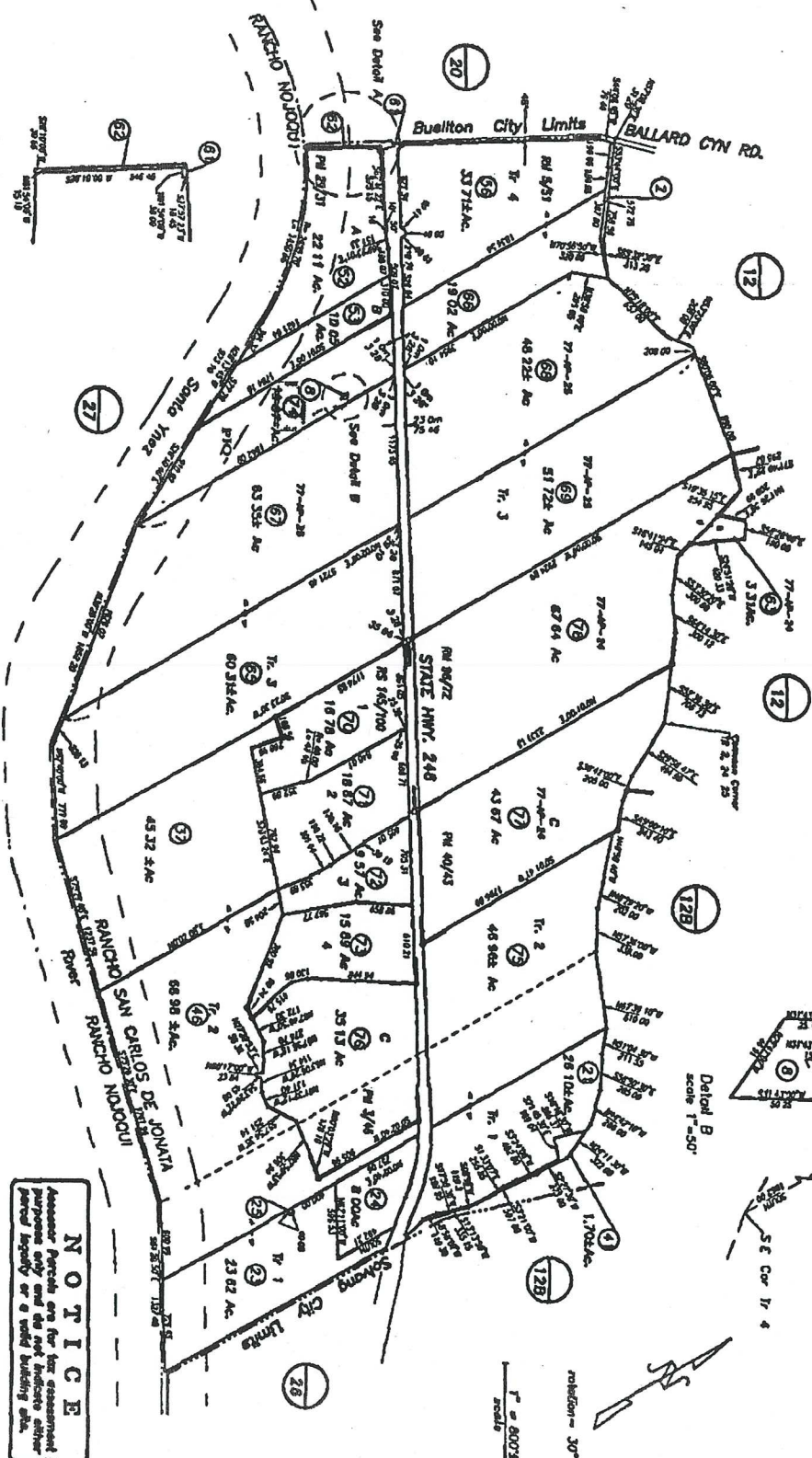
RECORDED: April 6, 2005 as Instrument No. 2005-0031251, Official Records

AFFECTS: Portion of said land

This map is being prepared as a convenience to those who have been interested in the subject of planning and development in the area. The listing of parcels is not intended to be a complete listing of all parcels in the area. The listing of parcels is not intended to be a complete listing of all parcels in the area. The listing of parcels is not intended to be a complete listing of all parcels in the area.

POR. RANCHO SAN CARLOS DE JONATA

137-25



6/26/1979 R.M. Bk. 96 , Pg. 72 . Tract Map of Vacation-Reversion To Acreage
 4/09/1910 R.M. Bk. 5 . Pg. 51-57 , Tract Rancho San Carlos De Jonata

Assessor's Map Bk, 137-Pg, 25
 County of Santa Barbara, Calif.

(10/30) 24 Nov 77 and 25 May 78

NOTICE
 Assessor's Parcels are for tax assessment purposes only and do not indicate either present or future ownership or a valid building etc.

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building or zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land, (ii) the character, dimensions or location of any improvement now or hereafter erected on the land, (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge
3. Defects, liens, encumbrances, adverse claims, or other matters:
 - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy; or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the land is situated
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws.

CONDITIONS AND STIPULATIONS

1. DEFINITION OF TERMS

The following terms when used in this policy mean

(a) "insured" the insured named in Schedule A, and, subject to any rights or defenses the Company would have had against the named insured, those who succeed to the interest of the named insured by operation of law as distinguished from purchase including, but not limited to, heirs, distributees, devisees, survivors, personal representatives, next of kin, or corporate or fiduciary successors. The term "insured" also includes

(i) the owner of the indebtedness secured by the insured mortgage and each successor in ownership of the indebtedness except a successor who is an obligor under the provisions of Section 12(c) of these Conditions and Stipulations (reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor insured, unless the successor acquired the indebtedness as a purchaser for value without knowledge of the asserted defect, lien, encumbrance, adverse claim or other matter insured against by this policy as affecting title to the estate or interest in the land),

(ii) any governmental agency or governmental instrumentality which is, an insurer or guarantor under an insurance contract or guaranty insuring or guaranteeing the indebtedness secured by the insured mortgage, or any part thereof, whether named as an insured herein or not,

(iii) the parties designated in Section 2(a) of these Conditions and Stipulations

(b) "insured claimant" an insured claiming loss or damage

(c) "insured lender" the owner of an insured mortgage

(d) "insured mortgage" a mortgage shown in Schedule B, the owner of which is named as an insured in Schedule A.

(e) "knowledge" or "known" actual knowledge, not constructive knowledge or notice which may be imputed to an insured by reason of the public records as defined in this policy or any other records which impart constructive notice of matters affecting the land

(f) "land" the land described, or referred to in Schedule A, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule A, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy

(g) "mortgage" mortgage, deed of trust, trust deed, or other security instrument

(h) "public records" records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge

(i) "unmarketability of the title" an alleged or apparent matter affecting the title to the land, not excluded or excepted from coverage, which would entitle a purchaser of the estate or interest described in Schedule A or the insured mortgage to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title

2. CONTINUATION OF INSURANCE

(a) After Acquisition of Title by Insured Lender. If this policy insures the owner of the indebtedness secured by the insured mortgage, the coverage of this policy shall continue in force as of Date of Policy in favor of (i) such insured lender who acquires all of any part of the estate or interest in the land by foreclosure, trustee's sale, conveyance in lieu of foreclosure, or other legal manner which discharges the lien of the insured mortgage, (ii) a transferee of the estate or interest so acquired from an insured corporation, provided the transferee is the parent or wholly-owned subsidiary of the insured corporation, and their corporate successors by operation of law and not by purchase, subject to any rights or defenses the Company may have against any predecessor insureds, and (iii) any governmental agency or governmental instrumentality which acquires all or any part of the estate or interest pursuant to a contract of insurance or guaranty insuring or guaranteeing the indebtedness secured by the insured mortgage

(b) After Conveyance of Title by an Insured. The coverage of this policy shall continue in force as of Date of Policy in favor of an insured only so long as the insured retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from the insured, or only so long as the insured shall have liability by reason of covenants or warranty made by the insured in any transfer or conveyance of the estate or interest. This policy shall not continue in force in favor of any purchaser from an insured of either (i) an estate or interest in the land, or (ii) an indebtedness secured by a purchase money mortgage given to an insured.

(c) Amount of Insurance. The amount of insurance after the acquisition or after the conveyance by an insured lender shall in neither event exceed the least of

(i) the amount of insurance stated in Schedule A,

(ii) the amount of the principal of the indebtedness secured by the insured mortgage as of Date of Policy, interest thereon, expenses of foreclosure, amounts advanced pursuant to the insured mortgage to assure compliance with laws or to protect the lien of the insured mortgage prior to the time of acquisition of the estate or interest in the land and secured thereby and reasonable amounts expended to prevent deterioration of improvements, but reduced by the amount of all payments made, or

(iii) the amount paid by any governmental agency or governmental instrumentality, if the agency or instrumentality is the insured claimant, in the acquisition of the estate or interest in satisfaction of its insurance contract or guaranty

3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

An insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in 4(a) below, (ii) in case knowledge shall come to an insured hereunder of any claim of title or interest which is adverse to the title to the estate or interest or the lien of the insured mortgage, as insured, and which might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if title to the estate or interest or the lien of the insured mortgage, as insured, is rejected as unmarketable. If prompt notice shall not be given to the Company, then as to that insured all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required, provided, however, that failure to notify the Company shall in no case prejudice the rights of any insured under this policy unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice

4. DEFENSE AND PROSECUTION OF ACTIONS; DUTY OF INSURED CLAIMANT TO COOPERATE

(a) Upon written request by an insured and subject to the options contained in Section 6 of these Conditions and Stipulations, the Company, at its own cost and without unreasonable delay, shall provide for the defense of such insured in litigation in which any third party asserts a claim adverse to the title or interest as insured, but only as to those stated causes of action alleging a defect, lien or encumbrance or other matter insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of such insured to object for reasonable cause) to represent the insured as to those stated causes of action and shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs or expenses incurred by an insured in the

defense of those causes of action which allege matters not insured against by this policy

(b) The Company shall have the right, at its own cost, to institute and prosecute any action or proceeding or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest or the lien of the insured mortgage, as insured, or to prevent or reduce loss or damage to an insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this policy. If the Company shall exercise its rights under this paragraph, it shall do so diligently.

(c) Whenever the Company shall have brought an action or interposed a defense as required or permitted by the provisions of this policy, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

(d) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding, an insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, and all appeals thereon, and permit the Company to use, at its option, the name of such insured for this purpose. Whenever requested by the Company, an insured, at the Company's expense, shall give the Company all reasonable aid (i) in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest or the lien of the insured mortgage, as insured. If the Company is prejudiced by the failure of an insured to furnish the required cooperation, the Company's obligations to such insured under this policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

5. PROOF OF LOSS OR DAMAGE

In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided the Company, a proof of loss or damage signed and sworn to by each insured claimant shall be furnished to the Company within 90 days after the insured claimant shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the defect in, or lien or encumbrance on the title, or other matter insured against by this policy which constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of an insured claimant to provide the required proof of loss or damage, the Company's obligations to such insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such proof of loss or damage.

In addition, an insured claimant may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Policy, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the insured claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by an insured claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of an insured claimant to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in this paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that insured for that claim.

6. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Insurance or to Purchase the Indebtedness.

(i) to pay or tender payment of the amount of insurance under this policy together with any costs, attorneys' fees and expenses incurred by the insured claimant, which were authorized by the Company, up to the time of payment or tender of payment and which the Company is obligated to pay, or

(ii) in case loss or damage is claimed under this policy by the owner of the indebtedness secured by the insured mortgage, to purchase the indebtedness secured by the insured mortgage for the amount owing thereon together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of purchase and which the Company is obligated to pay.

If the Company offers to purchase the indebtedness as herein provided, the owner of the indebtedness shall transfer, assign, and convey the indebtedness and the insured mortgage, together with any collateral security, to the Company upon payment therefore.

Upon the exercise by the Company of the option provided for in paragraph a(i), all liability and obligations to the insured under this policy, other than to make the payment required in that paragraph, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, and the policy shall be surrendered to the Company for cancellation.

Upon the exercise by the Company of the option provided for in paragraph a(ii) the Company's obligation to an insured Lender under this policy for the claimed loss or damage, other than the payment required to be made, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation.

(b) To Pay or Otherwise Settle With Parties Other than the Insured or With the Insured Claimant.

(i) to pay or otherwise settle with other parties for or in the name of an insured claimant any claim insured against under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay, or

(ii) to pay or otherwise settle with the insured claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in paragraphs b(i) or b(ii), the Company's obligations to the insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation.

7. DETERMINATION AND EXTENT OF LIABILITY

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the insured claimant who has suffered loss or damage by reason of matters insured against by this policy and only to the extent herein described.

(a) The liability of the Company under this policy to an insured lender shall not exceed the least of

(i) the Amount of Insurance stated in Schedule A, or, if applicable, the amount of insurance as defined in Section 2(c) of these Conditions and Stipulations,

(ii) the amount of the unpaid principal indebtedness secured by the insured mortgage as limited or provided under Section 8 of these Conditions and Stipulations or as reduced under Section 9 of these Conditions and Stipulations, at the time the loss or damage insured against by this policy occurs, together with interest thereon, or

(iii) the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien or encumbrance insured against by this policy.

(b) In the event the insured lender has acquired the estate or interest in the manner described in Section 2(a) of these Conditions and Stipulations or has conveyed the title, then the liability of the Company shall continue as set forth in Section 7(a) of these Conditions and Stipulations.

(c) The liability of the Company under this policy to an insured owner of the estate or interest in the land described in Schedule A shall not exceed the least of

(i) the Amount of the Insurance stated in Schedule A, or,

(ii) the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien or encumbrance insured against by this policy.

(d) The Company will pay only those costs, attorneys' fees and expenses incurred in accordance with Section 4 of these Conditions and Stipulations.

8. LIMITATION OF LIABILITY

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the land, or cures the claim of unmarketability of title, or otherwise establishes the lien of the insured mortgage, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title, or, if applicable, to the lien of the insured mortgage, as insured.

(c) The Company shall not be liable for loss or damage to any insured for liability voluntarily assumed by the insured in settling any claim or suit without the prior written consent of the Company.

(d) The Company shall not be liable to an insured lender for (i) any indebtedness created subsequent to Date of Policy except for advances made to protect the lien of the insured mortgage and secured thereby and reasonable amounts expended to prevent deterioration of improvements, or (ii) construction loan advances made subsequent to Date of Policy, except construction loan advances made subsequent to Date of Policy for the purpose of financing in whole or in part the construction of an improvement to the land which at Date of Policy were secured by the insured mortgage and which the insured was and continued to be obligated to advance at and after Date of Policy.

9. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

(a) All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of insurance pro tanto. However, as to an insured lender, any payments made prior to the acquisition of title to the estate or interest as provided in Section 2(a) of these Conditions and Stipulations shall not reduce pro tanto the amount of insurance afforded under this policy as to any such insured, except to the extent that the payments reduce the amount of the indebtedness secured by the insured mortgage.

(b) Payment in part by any person of the principal of the indebtedness, or any other obligation secured by the insured mortgage, or any voluntary partial satisfaction or release of the insured mortgage, to the extent of the payment, satisfaction or release, shall reduce the amount of insurance pro tanto. The amount of insurance may thereafter be increased by accruing interest and advances made to protect the lien of the insured mortgage and secured thereby, with interest thereon, provided in no event shall the amount of insurance be greater than the Amount of Insurance stated in Schedule A.

(c) Payment in full by any person or the voluntary satisfaction or release of the insured mortgage shall terminate all liability of the Company to an insured lender except as provided in Section 2(a) of these Conditions and Stipulations.

10. LIABILITY NONCUMULATIVE

It is expressly understood that the amount of insurance under this policy shall be reduced by any amount the Company may pay under any policy insuring a mortgage to which exception is taken in Schedule B or to which the insured has agreed, assumed, or taken subject, or which is hereafter executed by an insured and which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy to the insured owner.

The provisions of this Section shall not apply to an insured lender, unless such insured acquires title to said estate or interest in satisfaction of the indebtedness secured by an insured mortgage.

11. PAYMENT OF LOSS

(a) No payment shall be made without producing this policy for endorsement of the payment unless the policy has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within 30 days thereafter.

12. SUBROGATION UPON PAYMENT OR SETTLEMENT

(a) The Company's Right of Subrogation.

Whenever the Company shall have settled and paid a claim under this policy, all right of subrogation shall vest in the Company unaffected by any act of the insured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the insured claimant would have had against any person or property in respect to the claim had this

policy not been issued. If requested by the Company, the insured claimant shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The insured claimant shall permit the Company to sue, compromise or settle in the name of the insured claimant and to use the name of the insured claimant in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the insured claimant, the Company shall be subrogated (i) as to an insured owner, to all rights and remedies in the proportion which the Company's payment bears to the whole amount of the loss, and (ii) as to an insured lender, to all rights and remedies of the insured claimant after the insured claimant shall have recovered its principal, interest, and costs of collection.

If loss should result from any act of the insured claimant, as stated above, that act shall not void this policy, but the Company, in that event, shall be required to pay only that part of any losses insured against by this policy which shall exceed the amount, if any, lost to the Company by reason of the impairment by the insured claimant of the Company's right of subrogation.

(b) The Insured's Rights and Limitations.

Notwithstanding the foregoing, the owner of the indebtedness secured by an insured mortgage, provided the priority of the lien of the insured mortgage or its enforceability is not affected, may release or substitute the personal liability of any debtor or guarantor, or extend or otherwise modify the terms of payment, or release a portion of the estate or interest from the lien of the insured mortgage, or release any collateral security for the indebtedness.

When the permitted acts of the insured claimant occur and the insured has knowledge of any claim of title or interest adverse to the title to the estate or interest or the priority or enforceability of the lien of an insured mortgage, as insured, the Company shall be required to pay only that part of any losses insured against by this policy which shall exceed the amount, if any, lost to the Company by reason of the impairment by the insured claimant of the Company's right of subrogation.

(c) The Company's Rights Against Non-insured Obligors.

The Company's right of subrogation against non-insured obligors shall exist and shall include, without limitation, the rights of the insured to indemnities, guarantees, other policies of insurance or bonds, notwithstanding any terms or conditions contained in those instruments which provide for subrogation rights by reason of this policy.

The Company's right of subrogation shall not be avoided by acquisition of an insured mortgage by an obligor (except an obligor described in Section 1(a)(ii) of these Conditions and Stipulations) who acquires the insured mortgage as a result of an indemnity, guarantee, other policy of insurance, or bond and the obligor will not be insured under this policy, notwithstanding Section 1(a)(i) of these Conditions and Stipulations.

13. ARBITRATION

Unless prohibited by applicable law, either the Company or the insured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. All arbitrable matters when the Amount of Insurance is \$1,000,000 or less shall be arbitrated at the option of either the Company or the insured. All arbitrable matters when the Amount of Insurance is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the insured. Arbitration pursuant to this policy and under the Rules in effect on the date the demand for arbitration is made or, at the option of the insured, the Rules in effect at Date of Policy shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permit a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

14. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT

(a) This policy together with all endorsements, if any, attached hereto by the Company is the entire policy and contract between the insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the lien of the insured mortgage or of the title to the estate or interest covered hereby or by any action asserting such claim, shall be restricted to this policy.

(c) No amendment or endorsement to this policy can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, and Assistant Secretary, or validating officer or authorized signatory of the Company.

15. SEVERABILITY

In the event any provision of the policy is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision and all other provisions shall remain in full force and effect.

16. NOTICES, WHERE SENT

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this policy and shall be addressed to the Company at:

FNF - Southwest Claims Center
17911 Von Karman Avenue, Suite 300
Irvine, CA 92614
Attn: Claims Administration

**SCHEDULE B
EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

PART I

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims, (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof, (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.

Attachment 4

PINNACLE TRAFFIC ENGINEERING

5662 Calle Real, #241
Goleta, California 93117
(805) 644-9260 • (831) 638-9260
PinnacleTE.com

April 21, 2016

Steven Evans Kirby
Hollister & Brace
2933 San Marcos Avenue, Suite 201
Los Olivos, CA 93441

RE: Sierra Grande Recreation Project (13CUP-00000-00012); Santa Barbara County, California

Per your request, Pinnacle Traffic Engineering (PTE) has reviewed the various documents and access issues for the Sierra Grande Recreation project. The project site is located south of the Santa Ynez River and comprised of approximately 1,186 acres (APN 137-270-031, -033 and 137-280-017). The proposed project includes the development of a zip-line and rope course facility. The following documents were reviewed to fully understand the project issues:

- Appellant's Supplemental Statement (January 22, 2016)
- County of Santa Barbara Planning Department Memorandum (December 17, 2015)
- County of Santa Barbara Final Mitigated Negative Declaration (MND; October 5, 2015)
- County of Santa Barbara Fire Department Memorandum (June 18, 2015)
- Supplemental Traffic Impact Analysis (ATE; April 29, 2015)
- Comments on Mitigated Negative Declaration (Caltrans; March 3, 2015)
- State Route 246 Transportation Concept Report (Caltrans; December 23, 2014)
- Collision Analysis (ATE; October 16, 2014)
- Traffic and Parking Analysis (ATE; June 30, 2014)

The project description material in the reference documents indicates that primary access to the project site would be provided via the existing private driveway connection to State Route (SR) 246. Secondary access would be provided via the existing at-grade connection to US 101 located south of the US 101 / Santa Rosa Road interchange. The traffic analysis material and County's memorandum indicates that the project will operate 7-days a week (8:00 AM to 6:00 PM during summer months) and have a maximum attendance of 80 persons per day (by reservation only). It was estimated that during peak summer months the project patrons and employees would generate approximately 84 daily trips, with 16 vehicle trips during the peak hour periods (highest hours between 7:00-9:00 AM and 4:00-6:00 PM). The Sierra Grande Recreation project was approved by the County Planning Commission on January 13, 2016. The Planning Commission's decision has been appealed to the County Board of Supervisors.

The County's MND concluded the project's potential impact relating to Transportation and Circulation (Section 4.15 of Environmental Checklist) would be "less than significant." Though the project would almost double the existing daily traffic on the private access driveway, the impact is considered "less than significant" since the existing plus project traffic volumes would be below the theoretical rural roadway capacity. The addition of daily traffic to SR 246 would also be below the County's level of significance threshold (less than 1.0%). It is noted that a review of the Caltrans State Route 246 Transportation Concept Report (TCR) indicates that peak hour segment volumes equal or exceed capacity on segments between US 101 and 5th Street in Solvang (V/C ratio ≥ 1.0). Seven (7) day count data provided by the Caltrans Census Division demonstrates that "peak" month daily volumes can be 5-10% higher than daily volumes during "non-peak" months. Therefore, it is unclear if the project would have a potentially significant impact to peak hour operations since an analysis of segment "levels of service" (LOS) was not conducted.

The County's MND also concluded that the project would not create the need for private or public road maintenance. It was stated, "the existing public roadway infrastructure is adequately designed to service the proposed project." However, there is no discussion regarding the possible need for future maintenance of the private access driveway. A review of existing conditions on the private access driveway indicated that the surface is in very poor condition. A more detailed description of the existing conditions is provided under the "Private Access Driveway" discussion (see Page 3). Based on the review of existing conditions, it is unclear if the project traffic would have a potentially significant impact on existing conditions of the private access driveway.

The discussion regarding "traffic hazards" and "inadequate sight distance" in the County's MND primarily focuses on the private driveway connection to SR 246. The existing two-way left turn lane on SR 246 provides deceleration and storage for westbound left turning vehicles, and a merge area for northbound left turning vehicles entering the westbound lanes on SR 246. Comments provided by Caltrans indicated that since the land use of the driveway on SR 246 will be changing from a private to public use, it is important that a "public road intersection" be constructed as a condition of approval. In addition, for safety and operational reasons Caltrans is opposed to any intensification of use of the at-grade intersection of US 101 for the project. It was agreed that there will be no US 101 access, except for emergency vehicles and if access off SR 246 is impassable due to a rain event. The project applicant has included the construction of a deceleration taper on SR 246 for the eastbound right turn movement, per the Caltrans Highway Design Manual (HDM, Figure 405.7) as part of the project. The County's MND does not address the potential "traffic hazards" or "inadequate sight distance" issues associated with the private access driveway or low water "Arizona" crossing of the Santa Ynez River. A more detailed discussion regarding the private access driveway and "Arizona" crossing is provided for the County's consideration (see Pages 3 and 4). Based on a review of existing conditions, it is unclear if the project traffic would have a potentially significant impact since these issues were not addressed in the County's MND.

The Santa Barbara County Public Works Engineering Design Standards (Sept. 2011, Section 4.8) state that "Private Streets" shall adhere to the County Fire Department Standards. The following is a more detailed discussion of the issues related to the (1) Private Access Driveway, (2) Private Driveway Arizona Crossing, (3) Project Access on SR 246, and (4) Secondary Project Access.

Private Access Driveway - The private driveway extending south of SR 246 serves as primary access for 3-5 parcels, depending on how the County determines the number of parcels being served (see attached APN Map). The private access driveway on the Pollyrich Farms property has a paved width of approximately 20-feet, plus a 10-foot dirt path (east side of driveway), with 32' fence-to-fence width. The paved section extends approximately one-half mile south of SR 246 (see attached picture). The County Fire Department Standards require that a private driveway serving three (3) and four (4) parcels have a minimum width of 20-feet, while a private driveway (road) serving five (5) or more parcels is required to have a minimum width of 24-feet (see attached Fire Department Standards).

Measurements of the private access driveway north and south of the Santa Ynez River "Arizona" crossing recorded widths of the paved and all-weather surface between 16 and 18-feet (see attached picture). It was also observed that the private driveway extends north of the "Arizona" crossing on an uphill alignment and along a curve to the left (see attached pictures). The horizontal and vertical alignments of the private access driveway do somewhat limit visibility around the curve for vehicles traveling northbound. Since the County's review of the project did not include an evaluation of the private access driveway, it is unclear if the existing conditions could contribute to a potentially significant impact regarding a "traffic hazard" and/or "inadequate sight distance."

It should be noted that the County Fire Department Standards require that an "alternative access road" (secondary) for emergency equipment (to be used when primary access is impaired) also comply with the same standards for a primary access driveway / road (not to exceed 24-feet, with no on-street parking). Information provided by Captain Fred Tan indicates that for emergency access purposes the Fire Department considers the number of parcels when determining the appropriate standard requirement.

The County Fire Department did provide a review of the project and submitted a Memorandum (June 18, 2015) regarding the project's Conditions of Approval (COA). The COA required that all access ways shall be installed, made serviceable and maintained for the life of the project. In addition, the COA stated that the driveway shall have a minimum width of 20-feet. However, it should be noted that upon a recent review of the Fire Department records by Captain Fred Tan it was discovered that when the project was reviewed by the Fire Department primary access for the project site was assumed to be provided via a connection to Santa Rosa Road and US 101, and not by the private driveway connection to SR 246. It appears that the project access evaluated by the Fire Department was proposed as "secondary" access, as described in the project description and traffic analysis material. Since the Fire Department has not reviewed the issues associated with

using the private driveway connection to SR 246 for primary access to the project site, it is unclear if the existing private access driveway would comply with current Fire Department standards.

A review of existing conditions indicated that the paved surface of the private access driveway on the Pollyrich Farms property is in very poor condition. There are areas of localized sub-grade failure (structural section), surface cracking, pot holes, and previous asphalt-concrete (AC) repair work (see attached pictures). Based on information provided by your office, the County's review of the Sierra Grande Recreation project did not include an evaluation of the project impacts to the existing structural section associated with additional daily traffic (84 daily trips). It is anticipated that the project traffic will be comprised of commercial related truck trips and possibly shuttle vans. The County Fire Department Standards require a private road to be designed and constructed capable of supporting a 20-ton vehicle. Further degradation of the surface and structural section of the private access driveway could become a maintenance issue. If the private access driveway becomes damaged to a point that travel could be considered unsafe, it is unclear which party or parties would be responsible for the repairs and/or reconstruction.

Private Driveway Arizona Crossing - The low water Arizona crossing currently has a width which varies from 14 to 15-feet. The Arizona crossing of the Santa Ynez River is provided via an "all-weather" surface placed over seven (7) large concrete pipes. The most southerly pipe has been damaged at a slice point, which has leaked and eroded the west side of the crossing (see attached picture). As previously stated, the Fire Department Standards require a 20-foot minimum width for access on a private driveway serving three (3) to four (4) parcels. In addition, the Fire Department Standards require that culverts be constructed and maintained according with AASHTO or Caltrans Bridge Design Specifications, and certified by a structural engineer. Since the County's review of the project did not include an evaluation of the Arizona crossing and the Fire Department has not reviewed the issues associated with using the private access driveway connection to SR 246 for primary access, it is unclear if the private access driveway complies with current County Public Works and Fire Department Standards.

Project Access on SR 246 - A review of stopping sight distance on SR 246 indicates that there is sufficient sight distance for vehicles traveling on SR 246. A review of corner sight distance for vehicles exiting the private access driveway and entering SR 246 indicates there is sufficient corner sight distance based on the Caltrans standard. As previously described, the project applicant has included the construction of a deceleration taper on SR 246 for eastbound right turns to the private driveway as part of the project. As previously stated, the Caltrans comments indicated that since the land use of the SR 246 private access driveway will be changing from a private to public use, it is important that a "public road intersection" be constructed as a COA. However, it is noted that Caltrans "Public Road Intersection" Standards also include an acceleration taper for the right turn movement from the "minor" road when entering a "major" road (see attached Caltrans HDM - Figure 405.7). The provision of acceleration taper improvements on SR 246 would better facilitate the movement of northbound right turning vehicles from the private driveway. Since the project

proposal does not include acceleration taper improvements on SR 246, it is unclear if the project complies with the Caltrans "public road intersection" COA.

As previously described, the County's MND concluded the project's potential impact relating to Transportation and Circulation would be "less than significant." However, the Caltrans TCR for SR 246 indicates that peak hour segment volumes between US 101 and 5th Street (Solvang) equal or exceed capacity. Since the traffic analysis material did not include an evaluation of peak hour segment LOS on SR 246, it is unclear if the project would have a potentially significant impact on existing or cumulative peak hour operations.

Secondary Project Access - As previously described, the project description and traffic analysis indicated that secondary access would be provided via the existing at-grade connection to US 101 located south of the US 101 / Santa Rosa Road interchange. The Fire Department COA required that all access shall have a minimum width of 20-feet, which was assuming that primary access was to be provided via the connection to US 101 (not SR 246). A review of existing conditions indicated that the project secondary access road would require significant improvements to provide the 20-foot minimum width required by the Fire Department (see attached pictures). However, again the Caltrans comments stated that for safety and operational reasons staff is opposed to any intensification of use of the at-grade intersection of US 101 for the project.

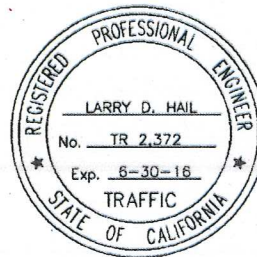
Based on a review of the project material, it is unclear if the Sierra Grande Recreation project complies with the applicable County and Caltrans standards or if the project will have a potentially significant impact regarding Transportation and Circulation. Therefore, it is recommended that the County's Planning, Public Works and Fire Departments, and Caltrans provide a more detailed evaluation of the potential impacts associated with the Sierra Grande Recreation project.

Please contact my office with any questions and/or comments regarding my review of the Sierra Grande Recreation project material.

Pinnacle Traffic Engineering

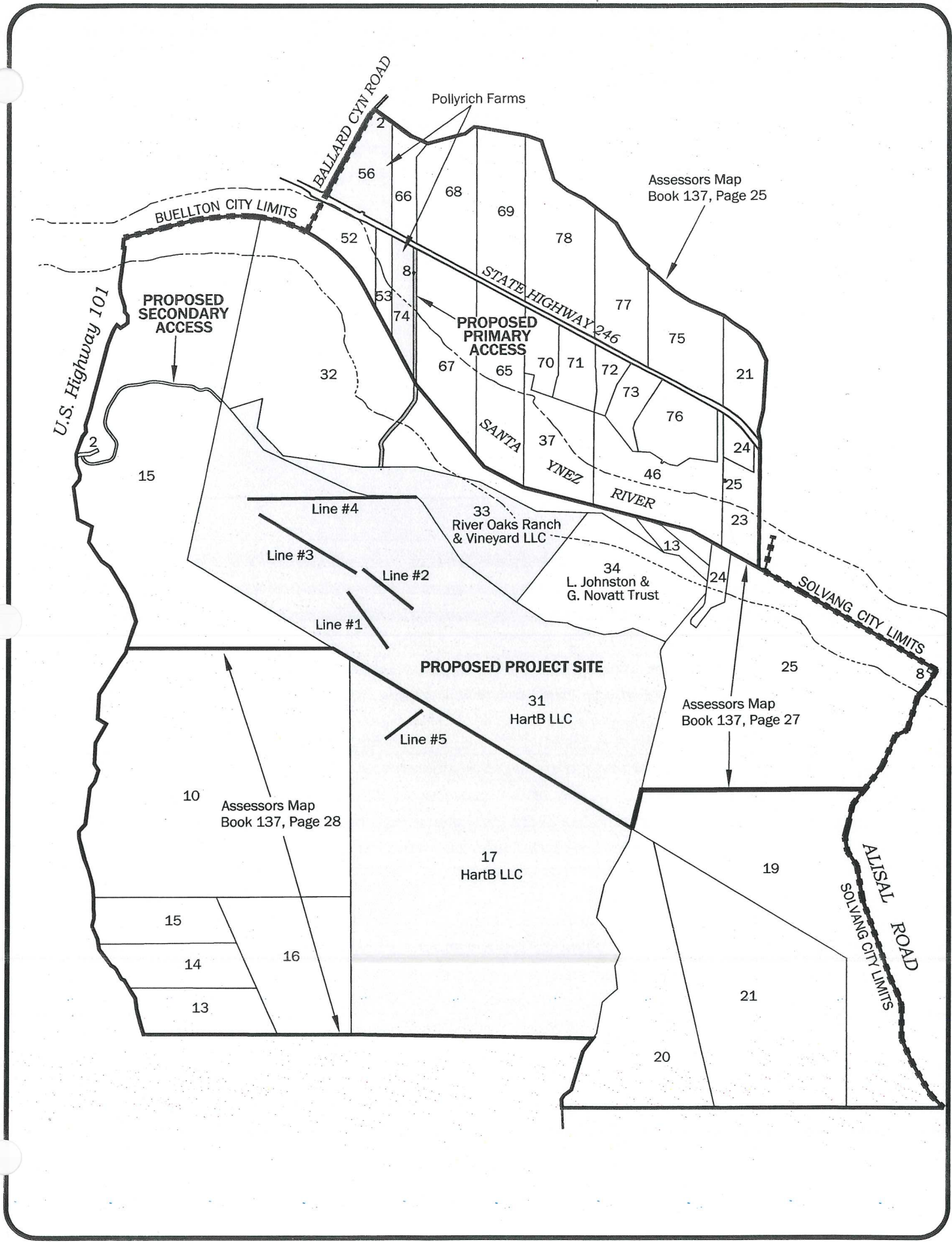


Larry D. Hail, CE, TE, PTOE
President

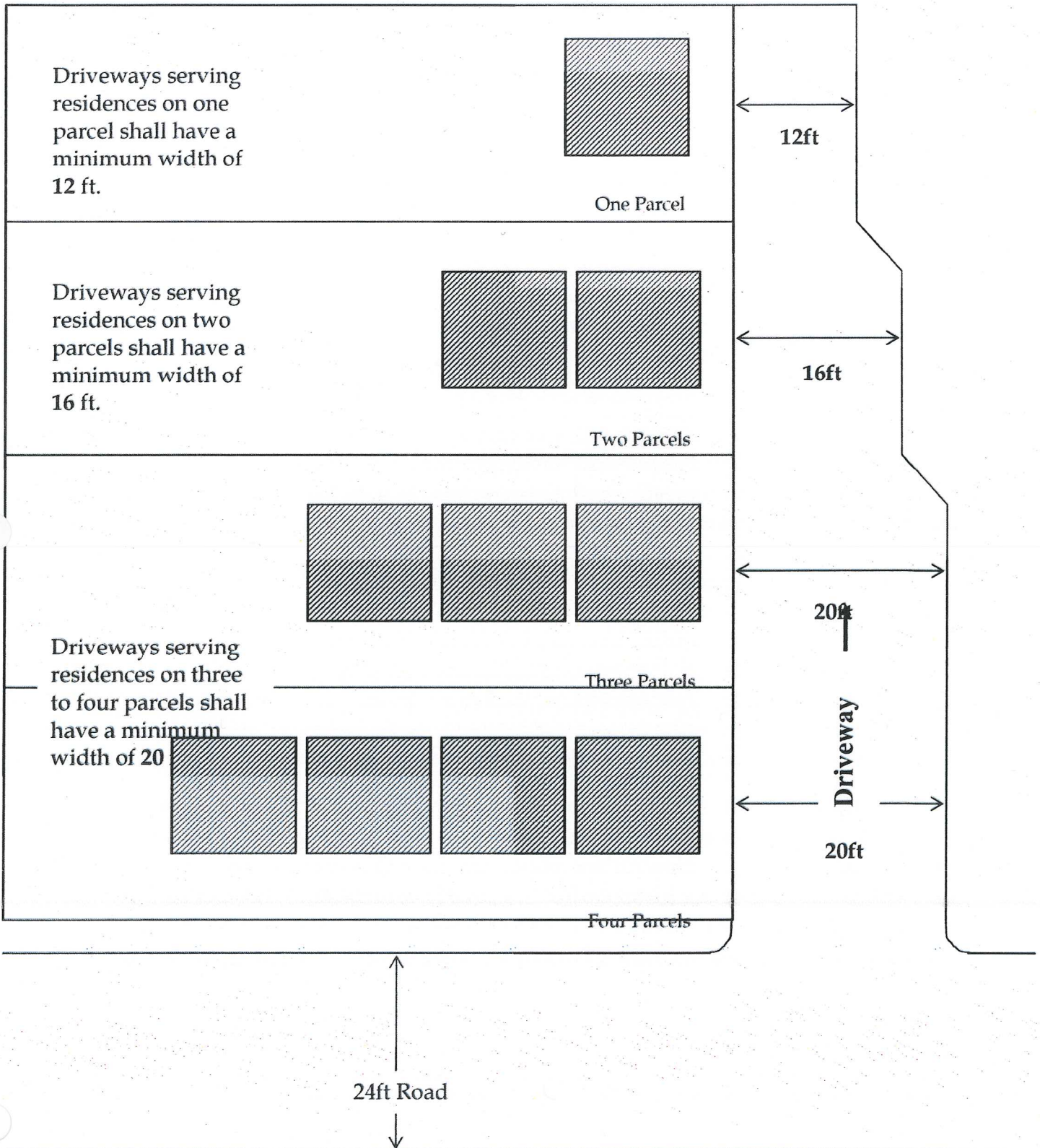


ldh:msw

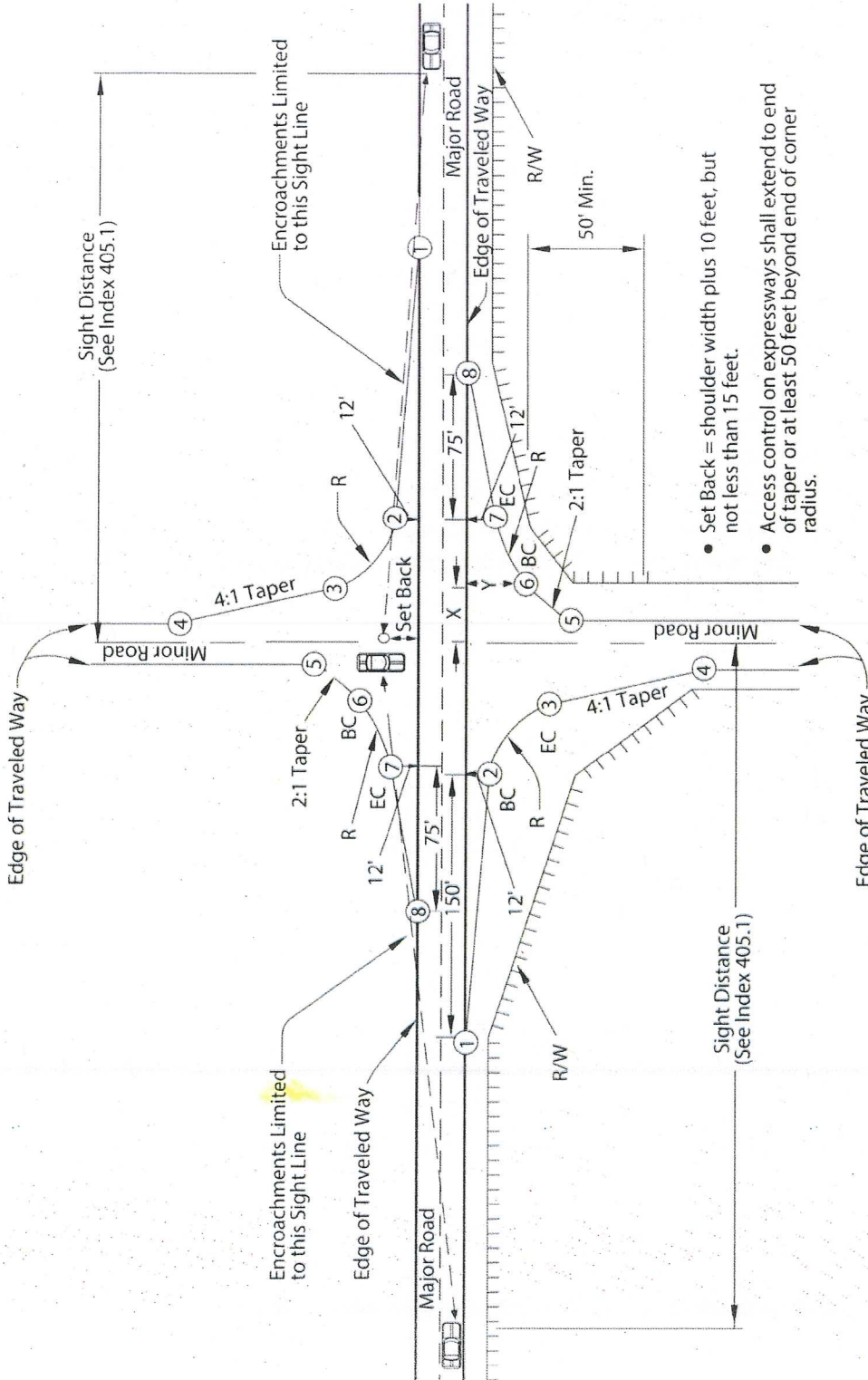
- Attachment Material: APN Map
County Fire Department Driveway Width Standards
Caltrans HDM - Figure 405.7 (Public Road Intersections)
Pictures of Private Driveway, Arizona Crossing & Secondary Access Road



Minimum Widths for Driveways Serving Residences From One to Four Parcels



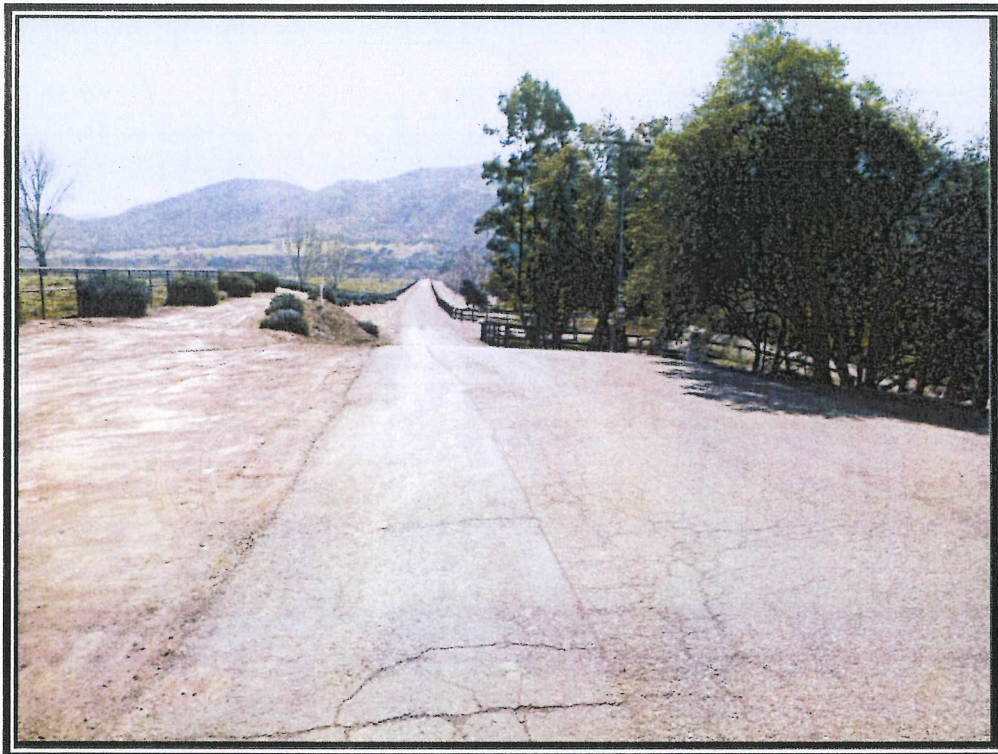
**Figure 405.7
Public Road Intersections**



- Set Back = shoulder width plus 10 feet, but not less than 15 feet.
- Access control on expressways shall extend to end of taper or at least 50 feet beyond end of corner radius.

X - Distance measured from centerline of minor road along major road - feet.
Y - Offset distance measured from edge of traveled way of major road to any given point - feet.

Radius of Curve	Design Vehicle	Pt ①		Pt ②		Pt ③		Pt ④		Pt ⑤		Pt ⑥		Pt ⑦		Pt ⑧		
		X	Y	X	Y	X	Y	X	Y	X	Y	X	Y	X	Y	X	Y	
30'	Bus	204.20	0.0	54.20	12.0	27.49	34.63	12.0	96.58	12.0	40.66	18.23	28.21	40.32	12.0	115.32	0.0	0.0
40'	California	215.08	0.0	65.08	12.0	29.46	42.17	12.0	112.03	12.0	53.35	21.87	33.61	51.33	12.0	126.33	0.0	0.0
50'	STAA	226.09	0.0	76.09	12.0	31.57	49.71	12.0	127.98	12.0	75.63	30.31	39.01	67.13	12.0	142.13	0.0	0.0



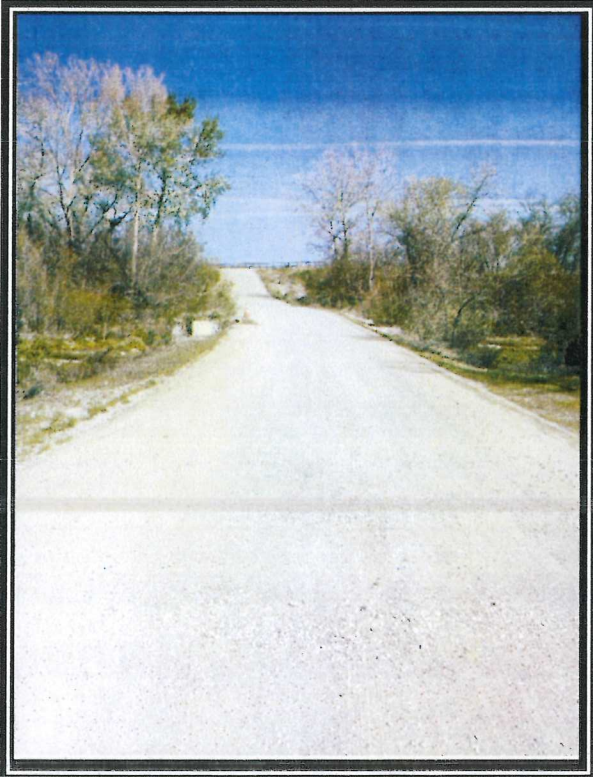
Private Driveway Looking South Towards Santa Ynez River (#739)



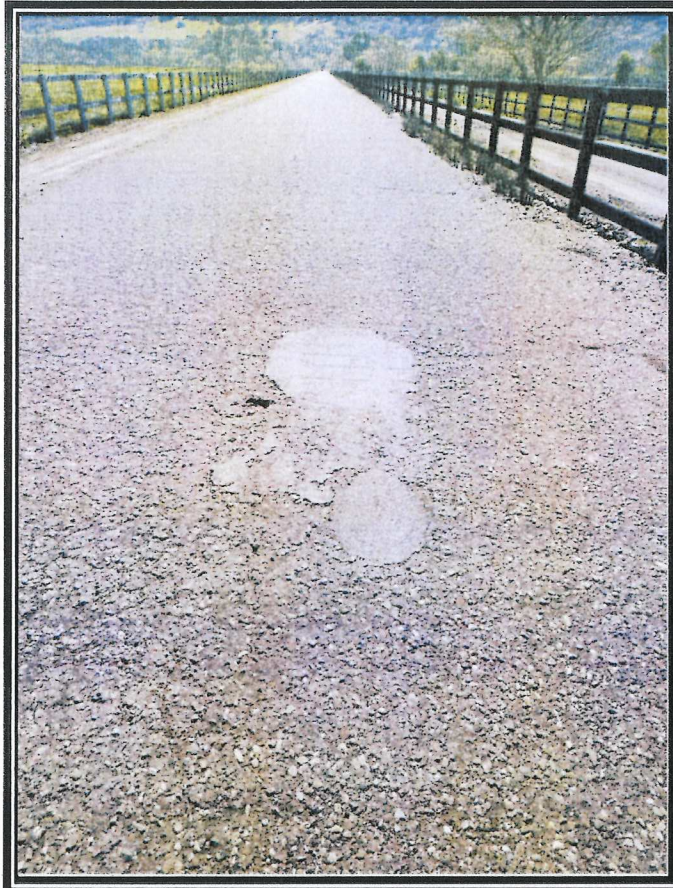
Private Driveway Looking South of Santa Ynez River (#795)



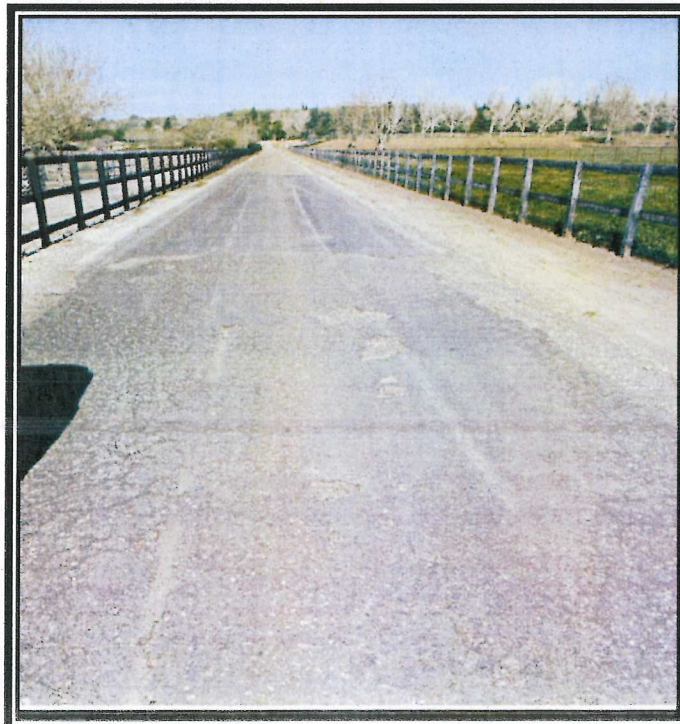
Private Driveway Looking South Towards Arizona Crossing (#772)



Private Driveway Looking North Towards Arizona Crossing (#783)



Private Driveway Looking South Towards Santa Ynez River (#744)



Private Driveway Looking North Towards SR 246 (#753)



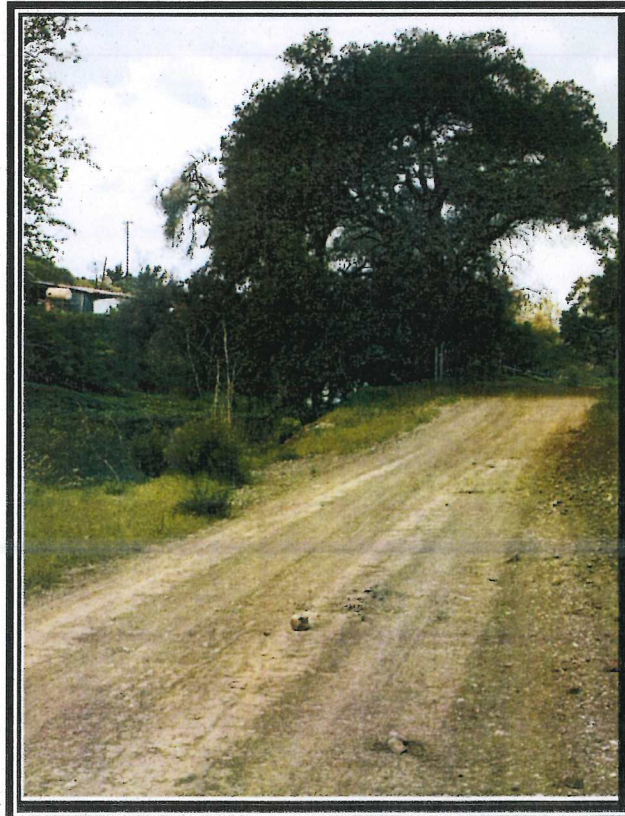
Looking South at Arizona Crossing (#784)



Looking North at Arizona Crossing (#788)



Secondary Project Access Road (#1603)



Secondary Project Access Road (#1606)

Attachment 5



April 21, 2016

Mr. Steve Kirby
Hollister & Brace
2933 San Marcos Avenue, Suite 201
P.O. Box 206, Los Olivos, CA 93441

RE: Biological Peer Review of the Sierra Grande Rural Recreation Project (project), Solvang, California, 93463

Per your request, Terra Verde Environmental Consulting, LLC (Terra Verde) has completed a peer review of the above referenced project located south of Highway 246 in Solvang, California, 93463. The review was specific to the Pandion Environmental Biological Assessment (BA) dated July 21, 2014 and the December 2015 revision of the Final Mitigated Negative Declaration (MND), 15NGD-00000-00002. The reports were reviewed for their adequacy in addressing potential impacts to sensitive biological resources. The following provides an overview of Terra Verde's comments:

Major Findings

Issue 1: Project description

The BAs coverage area does not appear to incorporate the full MND Project Description. Specifically, the MND description, site plans, and figures show construction beyond the Zip Line and Ropes Course, and it is not clear that these areas were covered in the BA. The author of the report does not cite acreages of proposed impacts and it appears he conducted a general survey of the area versus covering all the specific project components. The following activities/components do not appear to be addressed:

- Septic tank replacement
- Renovations/upgrades to existing ranch/barn structures
- Development/use of parking areas
- Primary access and maintenance of the existing Santa Ynez River crossing
- Shuttle routes throughout the Zip Line and Ropes Course
- Long-term maintenance impacts of the project area, including roads and trails
- Secondary access route via Nojoqui Creek
- Driveway taper
- Location of proposed oak tree loss mitigation

The BA specifically describes the vegetation survey area as "a buffer zone of about 100 feet along both sides of the Zip Lines and around the perimeter of the Ropes Course." Breeding bird surveys also cover only the Zip Line and Ropes Course with up to a 150-foot buffer. No other surveys are listed in the BA or MND.



Significance:

The BA field surveys and recommendations appear to be deficient in their coverage area of the project. Potential habitat and/or impacts to sensitive biological resources in the above areas may not have been identified, and a more comprehensive assessment of the project area would be appropriate.

Issue 2: Sensitive plant species

The BA notes that vegetation and California plant surveys were conducted in mid-July (possibly in August if they were conducted concurrently with breeding bird surveys as is noted in the report); this is outside a time-sensitive window for plant identification.

The peak blooming period for the list of sensitive plants provided in the BA is February through May; conducting fieldwork during this time is crucial to accurately identifying many botanical species. Dry conditions present outside this survey window prevent their accurate detection and identification; therefore, surveys for sensitive plants are inconclusive during the described survey period. The summer of 2014 was also within a significant drought period, further reducing plant species detectability.

The industry standard and resources agency-accepted (e.g., California Native Plant Society survey guidelines) method for determining presence/absence of special-status plant species includes a survey of the project area during the appropriate annual timeframes, enabling plant identification to the species level during the blooming period. An analysis of soils and site elevations can further assist in determining the potential for individual species to occur; however, this analysis was not provided in the BA or MND.

Significance:

The survey results for sensitive plants are inconclusive due to the survey timing and lack of justification. Impacts cannot be determined "likely not to be significant" at this time.

Stipa sp. was noted in small numbers during the field surveys, however no estimate of cover for this species was provided. In sufficient quantities this is a sensitive plant community (needle grass grassland); therefore this may require additional assessment during the appropriate time of year. Surveys should also include all project areas (Issue 1).

Issue 3: Sensitive wildlife species

The BA notes a list of 3 fish, 1 insect, 7 amphibian, 4 reptile, and 4 mammal species from a USGS 9-quadrant search of the California Natural Diversity Data Base (CNDDDB). Six species have state or federal status as either Threatened and/or Endangered (T & E). The BA notes conducting breeding bird surveys; however, the surveys occurred after the standard nesting period for most all avian species (i.e., typical window is February 1 through September 15, with a peak of nesting occurring March through July).



Species found during a 9-quadrant CNDDDB search are typically assumed to have potential to occur on site unless site-specific conditions limit or exclude their potential (e.g., lack of suitable habitat, outside known distribution, etc.). Silvery legless lizard and coastal whiptail were discussed in the BA; however, justification for excluding the remainder of wildlife from discussion is lacking. For T & E species (e.g., California red-legged frog [*Rana draytonii*]), resources agencies have established protocols for determining presence/absence. Justification for the absence of these species and/or the inclusion of mitigation measures for avoiding impacts to them has not been provided in the BA or MND.

The MND notes that sensitive wildlife species having potential to occur along the riparian corridor of the Santa Ynez River have been assessed in a 2007 (renewed in 2012) Streambed Alteration Agreement (SAA). The 2012 SAA has not been provided; however, it can be reasonably assumed that this SAA permits only the previously described work (i.e., culvert installation) within the channel; the assessment of future impacts to wildlife species in this area as a result of project implementation, such as repair or widening of the Santa Ynez River crossing, has not been conducted. As noted in the 2007 SAA, "If the Operator's work changes from that stated in the notification specified above, this Agreement is no longer valid and a new notification shall be submitted..."

Terra Verde's review of aerial imagery suggests that the following species may have potential to occur and further discussion is warranted in the reports:

Species	Reasoning
Southern steelhead (<i>Oncorhynchus mykiss irideus</i>) Federal: Endangered	<ul style="list-style-type: none"> • CNDDDB records nearby; this species is assumed present within the Santa Ynez River • Critical habitat present • Increased use/maintenance/protection of primary access crossing has not been discussed
California tiger salamander (<i>Abystoma californiense</i>) Federal: Threatened State: Threatened	<ul style="list-style-type: none"> • Freshwater pond appears to be present southeast of main access and along shuttle route; potential suitable habitat • Dispersal occurs into upland habitats up to 1.5 miles
California red-legged frog (<i>Rana draytonii</i>) Federal: Threatened State: Species of Special Concern (SSC)	<ul style="list-style-type: none"> • CNDDDB record in Santa Ynez River, directly adjacent to access route; this species is assumed present • Freshwater pond (potential suitable breeding habitat) appears to be present southeast of main access and along shuttle route • Dispersal of this species is common within 1 mile, including into upland habitats
Coast Range newt (<i>Taricha torosa</i>) State: SSC	<ul style="list-style-type: none"> • Occurs in slow moving streams, ponds, and lakes with surrounding evergreen/oak forests along coast
Western pond turtle (<i>Actinemys marmorata</i>)	<ul style="list-style-type: none"> • CNDDDB records within the Santa Ynez river; this species is assumed present



State: SSC	<ul style="list-style-type: none"> Utilize upland areas for breeding and migrating between aquatic resources
Two-striped garter snake (<i>Thamnophis hammondi</i>) State: SSC	<ul style="list-style-type: none"> Associated with aquatic habitat, surrounding riparian woodland, and leaf litter
Townsend's big-eared bat (<i>Corynorhinus townsendii</i>) State: SSC Federal: Candidate	<ul style="list-style-type: none"> May be present within barn structures planned for construction/renovation Roosts are highly sensitive to human disturbances
Pallid bat (<i>Antrozous pallidus</i>) State: SSC	<ul style="list-style-type: none"> May be present within barn structures planned for construction/renovation Roosts are highly sensitive to human disturbances
San Diego desert woodrat (<i>Neotoma lepida intermedia</i>) State: SSC	<ul style="list-style-type: none"> Suitable habitat includes woodland, mixed chaparral and desert habitats. Forms dens using gathered materials, such as twigs and leaves in cracks of boulders

Significance:

The BA and MND assessments of biological resources do not address all wildlife species with potential to occur on site. Under the California Environmental Quality Act (CEQA), potential impacts to sensitive resources must be assessed concurrently with the environmental review process and not deferred to a later date. Further evaluation of habitats of the Santa Ynez River crossing, riparian corridor, and the remainder of the project area (Issue 1), is warranted. Breeding bird surveys appear to be inconclusive partially due to being conducted very late in the standard avian nesting season.

National Marine Fisheries Service (NMFS)-designated critical habitat for Southern steelhead is present within the Santa Ynez River.

Additional work proposed beyond the limitations of the current SAA (e.g., road and crossing repair, potential widening, improvement work, increased maintenance, and/or installation of environmentally sensitive area boundaries) may require re-evaluation by California Department of Fish and Wildlife (CDFW) and may trigger additional water resources agency permits (e.g., CWA Section 401 and 404), and wildlife agency consultation (e.g., USFWS, NMFS, etc.). Documentation of previous agency consultation has not been provided.

Issue 4: Discussion of hydrological features

The project is located within 0.25-mile of the Santa Ynez River and natural land contours appear to generally drain water from the property to the main river channel. Typically, a discussion of site topography and potentially jurisdictional hydrological features (i.e., wetlands, Waters of the United States, and/or state-jurisdictional features) are included in a BA. They may not appear on site; however, the discussion of hydrological features presence and potential indirect impacts to water resources (i.e., silt and sedimentation) are absent from the BA and MND.



Significance:

Potential impacts to the Santa Ynez River, including the increased use of the channel as a public access and further assessment of the full project description (Issue 1) with an emphasis on hydrological features and their protection (e.g., delineation of sensitive areas) would be appropriate.

It is important to note that if County road safety requirements, Cal Fire access needs, or other agency requests trigger additional action at the Santa Ynez River Crossing or other hydrological features, then additional regulatory bodies should be contacted for their respective approvals. At this time it appears that U.S. Army Corps of Engineers, Regional Water Quality Control Board, USFWS, and NMFS permits/consultation would be required in addition to a new SAA.

Hydrological features may be present at additional components of the project area (e.g., shuttle routes). Impacts may require additional permitting.

Other Issues:

Issue 1: Clarification of survey dates

The BA states that breeding bird and vegetation surveys were conducted concurrently; however, it notes that breeding bird surveys were conducted on August 11 and vegetation surveys in mid-July. The document was submitted in July 2014.

Issue 2: Special Condition 2: Pre-construction Surveys for nesting birds

This condition appears to be a cut and paste from another project. The measure should apply to any construction, plus use of the course in suitable habitat areas during the nesting season.

Issue 3: Special Condition 4: Preconstruction Surveys for legless lizards

This condition appears to be missing a word in the first sentence that appears to be "grading."

Summary

Further analysis of biological resources of the project is warranted per CEQA requirements to more comprehensively include the project description and adhere to industry standards of assessing and justifying the presence/absence of sensitive biological resources, including any associated avoidance, minimization, and mitigation measures.

Most notably, discussion of potential impacts to the Santa Ynez River and associated sensitive wildlife species including several T & E and State species of special concern are lacking in the project's overall biological review.

The following is a summary of the key focus points that have not been addressed:

- Appropriately timed botanical surveys to determine the presence/absence of sensitive plant species.
- Appropriately timed breeding bird surveys.



- Review and discussion of potential for sensitive reptiles and amphibians to occur based on the project components occurring next to aquatic resources and known/documented occurrences of sensitive species adjacent to the project.
- Review and discussion of potential impacts to the Santa Ynez River and associated sensitive wildlife species including the potential for secondary impacts from site runoff.

Please contact me if you should have any questions or need further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Halden Petersen".

Halden Petersen
Biologist



General Firm Information

- Firm Name: Terra Verde Environmental Consulting, LLC
- Address: 3765 South Higuera Street, Suite 102
San Luis Obispo, California 93401
- Year Established: 2007
- State of California DBE: Woman-owned and small (micro) business certifications
- DUNS Number: 931912161
- Ownership Type: Partnership LLC
- Services: Environmental consulting, biological assessments, botanical assessments, wetland delineation, permitting, planning, constructability assessments, environmental compliance inspection, biological/botanical monitoring, habitat restoration plans, technical peer review

Terra Verde Environmental Consulting, LLC (Terra Verde) is a small environmental consulting firm located in San Luis Obispo, founded in 2007 by Principal Biologist Brooke Langle. Ms. Langle was joined by Principal Biologist Brian Dugas in 2011. Ms. Langle and Mr. Dugas together have more than 40 years of environmental consulting experience on the Central Coast. Terra Verde consistently provides high quality environmental consulting services to our clients as they negotiate the environmental review, permitting, and compliance processes. We have developed our reputation and the trust of our clients by providing a thorough, unbiased, and professional evaluation of every project that we awarded.

Terra Verde holds on-call contracts with the San Luis Obispo County Public Works Department, Planning Department, and General Services Agency, as well as Pacific Gas and Electric Company. We are currently assisting the San Luis Obispo County Parks Department with National Environmental Policy Act (NEPA) compliance, associated environmental documents, and permitting for the Morro Bay to Cayucos Connector Project, which is also a Caltrans/FHWA-funded project. Terra Verde also has provided technical peer review services to the County of San Luis Obispo since 2008.

Our team provides the depth of local experience and knowledge that benefits our clients as they navigate the regulatory environment of California.



Staff Overview

The following table provides an overview of our qualified technical staff.

Name/Title	# Years of Experience	Education Level	Area of Expertise
Brooke Langle <i>Principal Biologist</i>	20 years	Bachelor of Science	Project management, wildlife biology, regulatory permitting, land conservation, environmental compliance, botany, technical writing, restoration
Brian Dugas <i>Principal Biologist</i>	20 years	Master of Science	Project management, wildlife biology, fisheries biology, regulatory permitting, environmental compliance, wetland delineations, restoration/erosion control, technical writing
Halden Petersen <i>Wildlife Biologist</i>	4 years	Bachelor of Science	Wildlife biology, environmental compliance, habitat assessments, monitoring, acoustic bat surveys, avian surveys, erosion control, environmental compliance and training
Rhett Blanton <i>Wildlife Biologist</i>	4 years	Bachelor of Science	Biological surveys, habitat assessment, monitoring, habitat restoration, restoration/erosion control, permitting, technical writing, training
Kristen Nelson <i>Botanist</i>	5 years	Master of Science	Environmental compliance, permitting, botany, technical writing, GIS



Name/Title	# Years of Experience	Education Level	Area of Expertise
Sean Ryan <i>Botanist</i>	2 years	Master of Science	Botanical surveys, habitat restoration, revegetation monitoring, technical writing
Amy Golub <i>Botanist</i>	4 years	Bachelor of Science	Environmental compliance, permitting, botany, technical writing, revegetation monitoring
Nick Burton <i>Resource Specialist</i>	4 years	Bachelor of Science	Environmental planning, coordination, permitting, compliance, GIS