

SHUTE MIHALY  
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102  
T: (415) 552-7272 F: (415) 552-5816  
www.smwlaw.com

CATHERINE C. ENGBERG  
Attorney  
Engberg@smwlaw.com

June 11, 2025

**Via E-Mail**

Mr. Christopher Jacobs  
Land Use/Environmental Planner  
Planning & Development Services  
San Diego County  
5510 Overland Avenue, Suite 310  
San Diego, CA 92123  
E-Mail: [christopher.jacobs@sdcounty.ca.gov](mailto:christopher.jacobs@sdcounty.ca.gov)

Re: Cottonwood Sand Mining Project (PDS2018-MUP-18-023),  
(PDS2018-RP-18-001); Log No. PDS2018-ER-18-19-007; SCH#  
2019100513

Dear Mr. Jacobs:

This firm represents the Sierra Club San Diego Chapter (“Sierra Club”), in connection with the proposed Cottonwood Sand Mining Project (“Project”). We submit this letter to protest the approval of this Project, specifically to (a) express our agreement and support for staff’s conclusion that the County’s Major Use Permit Findings for the Project cannot be met<sup>1</sup> and (b) to state our position that the final environmental impact report (“FEIR”)<sup>2</sup> fails to correct the inadequacies of the Draft EIR (“DEIR”) and Recirculated DEIR (“RDEIR”).

We previously submitted extensive comments on behalf of the Sierra Club regarding the deficiencies in the original DEIR and on the RDEIR. *See*, comments on the Cottonwood Sand Mining Project DEIR dated February 28, 2022; comments on the Project RDEIR dated August 19, 2023; and supplemental comments on the RDEIR dated September 1, 2023. Since those comments remain applicable to the County’s analysis of

---

<sup>1</sup> See, Staff Report for Planning Commission Hearing of June 13, 2025, at page 2.

<sup>2</sup> The DEIR, Recirculated DEIR, and the FEIR, are hereafter referred to as “EIR” unless further specified.

the Project, Sierra Club expressly incorporates its earlier comments and all accompanying exhibits by reference as if fully set forth herein.

Additionally, the EIR prepared for the Project violates the California Environmental Quality Act (“CEQA”), for all the reasons set forth in our prior comments and below, and therefore does not provide the legal basis for Project approval. The County received copious comments on the DEIR and RDEIR on this project from resource agencies, community members, and technical experts enumerating the EIR’s flaws. Unfortunately, the FEIR for the Project fails to correct the EIR’s flaws and remains inadequate.<sup>3</sup>

As explained in our prior comments, the Project as proposed will have significant, adverse impacts on both the natural and the human environment in San Diego County. The Project would result in potentially devastating effects, including but not limited to: significant long-term traffic, air quality, and noise impacts to thousands of residents and schoolchildren in the immediate vicinity; substantial harm to sensitive riparian habitat and to multiple sensitive species and their habitat; substantial harm to the wildlife linkages to open space that the site provides; and the potential to threaten the safety of the drinking water supply of the surrounding community. In addition, the Project also remains inconsistent with the San Diego County Multiple Species Conservation Program (“MSCP”).

The County recirculated portions of the DEIR largely due to changes made to the project description (additional trucks to facilitate import of additional fill) and analysis of biological resource impacts. As explained further below, both the RDEIR and the FEIR fail to correct the flaws in the DEIR. To ensure that the public and County decisionmakers have adequate information to consider the proposed Project, County staff would need to prepare and recirculate a revised EIR that conducts the necessary analysis with current data and provides an accurate disclosure of the Project’s impacts, identifies feasible mitigation to address those impacts, and adequately considers a full range of alternatives.

---

<sup>3</sup> The FEIR was released on May 20, 2025, allowing only limited time to review the thousands of pages long document prior to the deadline for comments for the June 13, 2025 Planning Commission meeting. Considering these time constraints, we provide these high-level comments and several examples of the document’s deficiencies. We reserve the right to supplement these comments if the Planning Commission’s decision is appealed to the Board of Supervisors.

Sierra Club urges the County to do something far simpler: use its discretion to lawfully deny the Project. Rather than contort its CEQA review process to justify approval of this mine, the County should instead reject this project in favor of other uses that are not in fundamental tension with the existing conditions and uses on and surrounding the proposed Project site.

**I. The County Cannot Make the Required Findings to Approve the Required Major Use Permit.**

As explained in the Staff Report for the June 13, 2025, Planning Commission Hearing (“Staff Report”), the County is unable to make the required findings to grant a Major Use Permit (“MUP”) for the Project pursuant to Section 7358 of the County Zoning Ordinance, which states that:

“Before any use permit may be granted or modified, it shall be found:

a. That the location, size, design, and operating characteristics of the proposed use will be compatible with adjacent uses, residents, buildings, or structures, with consideration given to:

1. Harmony in scale, bulk, coverage and density;
2. The availability of public facilities, services and utilities;
3. The harmful effect, if any, upon desirable neighborhood character;
4. The generation of traffic and the capacity and physical character of surrounding streets;
5. The suitability of the site for the type and intensity of use or development which is proposed; and to
6. Any other relevant impact of the proposed use; and

b. That the impacts, as described in paragraph "a" of this section, and the location of the proposed use will be consistent with the San Diego County General Plan.

c. That the requirements of the California Environmental Quality Act have been complied with.

Planning Department Staff correctly conclude that MUP Findings a.3 and a.5 above cannot be made because the Project would have a harmful effect on desirable

neighborhood character and the site is not suitable for the proposed type of development. Staff Report at 2. The public comments on the EIR and associated technical reports on the DEIR and FEIR provide ample evidence to support staff's conclusion. For example, regarding section a.3 harmful effects on neighborhood character, the EIR determines that the project would result in unmitigated aesthetic impacts as well as sustained noise, vibration, and dust impacts throughout the Project's duration. DEIR at 2.1-46 to 48. Regarding the finding required under section a.5 suitability of the proposed development, the proposed Project would adversely impact scenic views and designated scenic corridors. DEIR at 2.1-22, 2.1-32, 2.1-46 to 2.1-47. Further, the FEIR concludes that the proposed Project would be inconsistent with the goals and policies of relevant plans and policies due to

“notable physical changes in the composition of the visual environment, as viewed from Willow Glen Drive, Steele Canyon Road, and surrounding recreational and residential areas, would result in reduced visual quality of the site and surrounding area and detract from the existing character of the community.”

FEIR, Topical Responses, Topical Response 11 – Consistency With Plans and Policies. Therefore, the proposed Project would not be a suitable development for the site. These shortcomings provide evidence that the Project is not compatible with area neighborhoods.

Based on the evidence in the record, the Staff Report recommends denial of the MUP and denial of the Reclamation Plan because the County is unable to make the required findings. *Id.* Sierra Club supports staff's conclusion and recommendations to deny the Major Use Permit and to deny the Reclamation Plan. In addition, as discussed further below, the County also cannot make required findings required under section a.6 (any other relevant impact of the proposed use) and sections b. (consistency with the County General Plan) and c. (compliance with CEQA).

The County cannot make finding a.6. As discussed at length in our prior comments and in this letter below, the EIR fails to accurately describe baseline conditions of biological resources on the proposed Project site. The FEIR persists in mischaracterizing substantial areas of healthy Southern Willow Scrub and Non-native grassland, both of which provide important habitat for myriad species. FEIR, Responses to RDEIR Comments, Comment R-O7-13 at page 60-63 and R-O7-49 at p. 101. The proposed Project would have significant unmitigated impacts on arroyo toad (a federally endangered species), which is found in the Sweetwater River watershed. Specifically, there is evidence in the record that the arroyo toad has made a resurgence in the area. *See,*

SMW Supplemental Comments on the RDEIR on behalf of Sierra Club dated September 1, 2023, attached as Attachment A. The proposed Project would result in significant unmitigated impacts on this species. Therefore, the County cannot make the findings required under section a.6 due to impacts to arroyo toad and other species that inhabit the proposed Project site.

Nor can the County make finding b. As explained in our prior comments, the Project and the resulting impacts would be inconsistent with the County's General Plan and applicable Community Plan. For example, the Project is inconsistent with General Plan Policy COS.11.1 requiring protection of scenic resources and with many Valle de Oro Community Plan goals and policies regarding preservation of community character and conservation and protection of natural resources. Specifically, the proposed mining operation would excavate more than 214 acres of land along the Sweetwater River, all of which is designated in the community plan as Resource Conservation Area ("RCA"). Valle De Oro Community Plan at Appendix A Designated Resource Conservation Areas at pages 50 and 51 and Figure 7 at page 53. Denuding the area of vegetation and excavating the natural sand and soils to a depth of forty feet would not conserve the riparian area and other vegetation in the area but would instead destroy habitat for dozens of special status plants and animals. Valle De Oro Community Plan at Appendix A, RCA 77 at page 50. Restoration of these areas would take multiple decades to return to the existing conditions. Therefore, the County cannot make the finding required under section b related to the proposed Project's consistency with the General Plan.

Finally, the County cannot make finding c. Similarly, as discussed in our prior letters and throughout this letter, because the EIR remains inadequate under CEQA, the County cannot find that CEQA's requirements have been met. As demonstrated in this letter and throughout our comments on the DEIR, and RDEIR, Sierra Club and others have demonstrated that the EIR is fundamentally inadequate in several respects, including the analysis of biological resources, hydrology, and water quality. Therefore, the County cannot make the finding required under section c. As it stands, the EIR fails as an informational document and violates CEQA.

For the reasons set forth herein, we support Staff's recommendations and request that the County deny the Project. Sierra Club specifically protests a scenario where the County would approve the MUP and Reclamation Plan for this Project.

## **II. The FEIR Failed to Recirculate Substantial New Analysis in Several Topical Areas.**

As the FEIR acknowledges, under CEQA, “[R]ecirculation is generally required when new information is added to an EIR that would deprive the public of a meaningful opportunity to comment on substantial adverse environmental impacts. (California Environmental Quality Act [CEQA] Guidelines, Section 15088.5.) The purpose of recirculation is to give the public and agencies the opportunity to evaluate changes in the project, new information or analysis, or new conclusions relating to the significance of impacts, and submit comments on the same.” FEIR All Topics Responses, Topical Response 1 at pages 1 and 2. The County recirculated portions of the DEIR including analysis of impacts from additional trucks needed to transport additional fill necessary at the site; additional biological surveys for certain species that were not adequately evaluated prior, and a Stormwater Quality Management Plan (SWQMP) for Priority Development Projects. *Id.* Yet the RDEIR failed to recirculate data supporting the substantial number of addenda to the EIR’s technical appendices. *See*, FEIR, Topical Responses to Comments, Topical Response 3 – EIR Errata and Updated Technical Reports, pages 5 to 12. This approach works directly against the stated purpose of recirculation, to give the public and agencies a change to evaluate changes, new information, analysis, or new conclusions.

For example, in their comments on the RDEIR, the San Diego County Air Pollution Control District (“District”) pointed out that although the RDEIR indicates that operational emissions were re-modeled to account for more truck trips, sand extraction activities, and fugitive dust emissions, the supporting data and analysis were not provided. FEIR, RDEIR Responses to Comments Federal and State Agencies, comment and response R-A2-2 at pages 4 and 5. The FEIR response refers readers to review the Air Quality Technical Report, Appendix I, which contains data and analysis dated 2021 and 2022, and FEIR Topical Response 3 – EIR Errata and Updated Technical Reports. The latter contains only a summary of the modeling conclusions rather than the revised data sheets and full analysis requested by the District. Holding back the data prevents reviewers from evaluating the accuracy of it and from asking additional clarification questions.

Similarly, the California Department of Fish and Wildlife (“CDFW”) DEIR comments pointed out that several of their comments related to hydrological design were not incorporated into the RDEIR. FEIR, RDEIR Responses to Comments Federal and State Agencies, comment and response R-A4-3 at page RTC-11. Instead, the requested changes and responses to the agency’s comments are included in the FEIR. This approach



of withholding data from recirculation circumvents the public's and responsible agency's opportunity to review the new analysis in detail and provide comments on the changes.

In another example, the Sweetwater Authority provided DEIR comments expressing concern about the Project impacting water transfers from Loveland Reservoir to Sweetwater Reservoir and pointing to necessary revisions to the EIR Drainage Study (Appendix O). FEIR, Responses to RDEIR Comments, Comment R-A3-2 at page 7. The Sweetwater Authority requested additional water transfer data, which were not provided in the RDEIR. *Id.* The FEIR includes revisions to the Drainage Study, which include changes to the river channel design capacity, which affect the amount of flow in the river, and in turn, the aforementioned water transfers. Yet, these revisions were not provided in the RDEIR, curtailing the commenter's ability to review and comment on the changes. *Id.*

The FEIR also includes addenda to other technical appendices, yet the public did not have the benefit of a formal comment period to review those changes and responses to the comments. For instance, the Acoustical Assessment, and the Transportation Analysis both have addenda, but were not included in the RDEIR. *See*, FEIR, Topical Responses to Comments, Topical Response 3 – EIR Errata and Updated Technical Reports, pages 5 to 12. In sum, the EIR's failure to recirculate all substantive changes to the Project and analysis of the Project's impacts with the RDEIR results in limiting the public's review of the new information and frustrating the public comment process.

### **III. The FEIR Inadequately Responds to Comments Raised on the EIR.**

In an FEIR, a lead agency must respond to all comments made on the DEIR. Pub. Res. Code § 21091(d); CEQA Guidelines §§ 15088(a), 15132. When a comment objects to the DEIR's analysis and raises significant environmental issues, the FEIR's response must give a reasoned, good-faith analysis and “describe the disposition of significant environmental issues raised,” such as how revisions to the project will mitigate anticipated impacts. CEQA Guidelines § 15088(c). Comments must be “addressed in detail giving reasons why specific comments and suggestions were not accepted.” *Id.*

Detailed responses are required to “ensure that the lead agency will fully consider the environmental consequences of a decision before it is made.” *City of Long Beach v. Los Angeles Unified Sch. Dist.* (2009) 176 Cal.App.4th 889, 904. The required level of detail “depends on factors such as the significance of the issues raised, the level of detail of the proposed project, the level of detail of the comment, and the extent to which the matter is already addressed in the DEIR or responses to other comments.” *Id.* at 901. Generally, the level of detail in the response must match the level of detail in the comment. *Pfeiffer v. City of Sunnyvale* (2011) 200 Cal.App.4th 1552, 1568. “Conclusory

statements unsupported by factual information” are never an adequate response. Guidelines § 15088(c); *City of Maywood v. Los Angeles Unified Sch. Dist.* (2012) 208 Cal.App.4th 362, 391.

In numerous instances, the FEIR’s responses to comments fail to meet these requirements. Some responses do not sufficiently address the comment. In other cases, the responses ignore comments entirely or refer the reader to unrelated responses, none of which address the comment.

The FEIR includes many instances of this incongruity between valid comments and inadequate responses. For instance, Comment D-08-2 comments on the EIR’s failure to adequately describe baseline conditions, including the fact that portions of the site are within Multi-species Conservation Plan (“MSCP”) areas, are identified as Biological Resource Core Area (“BRCA”), and/or identified Pre-Approved Mitigation Areas (“PAMAs”). See, FEIR, DEIR Responses to Comments, comment D-08-2, at page 80. The FEIR response fails on several fronts. First it states that the “comment is not in disagreement with Project analyses, and no response is necessary,” when in reality the comment describes a baseline flaw, and a response is indeed required. Second, the response states that the areas designated under the MSCP would not be “touched,” presumably meaning they would not be mined. *Id.* This response fails to consider indirect impacts such as changes in surface water and groundwater levels that would impact vegetation and habitat in adjacent areas. Finally, the response fails to address the portion of the comment related to habitat corridor linkage between preserved BRCA’s. *Id.* at p. RTC-81.

This approach runs afoul of CEQA’s mandate that in responding to comments, an agency must provide a reasoned analysis supported by factual information. CEQA Guidelines § 15088(c). The County has not shown a good faith effort to consider public input, much less modify the EIR as a result.

#### **IV. The FEIR Fails to Correct Errors and Omissions in the Analyses of and Mitigation for the Project’s Environmental Impacts.**

Rather than comprehensively correcting the errors and omissions in the EIR and providing meaningful disclosure of the Project’s environmental impacts, the FEIR largely seeks to defend the erroneous assertions and conclusions of its predecessors. This letter does not reiterate the comment from our prior submittals or from the respective attachments. Instead, we focus on the flawed discussion of the baseline conditions. Failing to correct the discussion of baseline conditions infects the remainder of the EIR and leads to the EIR’s failed analyses of the Project’s broader environmental impacts.



One of the key areas where the FEIR fails to correct the faulty baseline is for biological resources. As explained in our prior comments, the environmental review for this project has been protracted. It began with the issuance of a Notice of Preparation (NOP) on October 24, 2019. Two years later, the Notice of Availability for the Draft EIR was published on December 16, 2021. A year and a half after that, the Notice of Availability for the Recirculated Draft EIR was published on June 29, 2023. A year later, the FEIR was published, *six years* after the start of the environmental review process.

CEQA provides that the date of the Notice of Preparation (“NOP”) is “normally” the date upon which the DEIR’s baseline conditions should be set. CEQA Guidelines § 15125. However, as the courts have emphasized, “in some cases, conditions closer to the date the project is approved are more relevant to a determination whether the project’s impacts will be significant.” *Save Our Peninsula Comm. v. Monterey County Board of Supervisors* (2001) 87 Cal.App 4th 99, 125. In addition, CEQA allows that a lead agency may define the baseline differently where existing conditions change or fluctuate over time, and where necessary to provide the most accurate picture practically possible of the project’s impacts. CEQA Guidelines § 15125(a)(1).

In the case of this Project, the use of a more current baseline for the purposes of assessing impacts to sensitive habitat is not only acceptable, but imperative. First, the EIR continues to describe site conditions largely based on surveys conducted in 2018 and 2019 (e.g., RDEIR at 2.2-2 and 2.2-3) with some additional surveys in 2022. *See also*, FEIR Technical Appendix C, Biological Resources Report Par 1, at pages S-1, 6,7, and 9. The EIR continues to mischaracterize site conditions and to describe conditions during and following one of the worst droughts in California history. *See*, SMW RDEIR comments on behalf of Sierra Club, dated August 19, 2023, at page 6. As we explained in that comment letter, current site conditions are dramatically different than described in the DEIR or RDEIR. For example, changes in rainfall have resulted in substantial areas of healthy Southern Willow Scrub and Non-native grassland and have altered and improved the Sweetwater River channel. *Id.* at Appendix A, Hamilton Report at 9 and photos at pages 11-17. The changed conditions on the site warrant an updated description of existing conditions and use of a different baseline to evaluate the Project’s impacts.

For the evaluation of impacts to the arroyo toad in particular, the EIR still relies on survey data from 2019. FEIR at p. 2.2-3. This approach is untenable. As we explained in our comments dated August 19, 2023, and as Hamilton Biological pointed out in the DEIR and RDEIR comments, the surveys for arroyo toad (a federally endangered species) are inadequate and cannot be used to rule out the presence of this species. The EIR fails to remedy this failure. The RDEIR provides inadequate information to evaluate the adequacy of the 2019 survey, and no reassessment was made in 2023 after large areas

of willow-riparian scrub naturally regenerated throughout the Sweetwater River channel. SMW RDEIR comments on behalf of Sierra Club, dated August 19, 2023, at Appendix A, Hamilton Report at 20 and 36. Moreover, as discussed above, there is evidence in the record that this species is inhabiting the Project area. According to Sweetwater Authority Biologist, Pete Famolaro, who has spent decades studying arroyo toads, “[T]his is perfect habitat for the arroyo toad.” Dr. Robert Fisher, a biologist with the U.S. Geological Survey – Western Ecological Research Center, who has also spent his career studying the arroyo toad, indicates that “[The watershed] was occupied by toads and by phenomenal numbers of toad.” *See*, SMW Supplemental Comments on the RDEIR on behalf of Sierra Club dated September 1, 2023, attached as Attachment A.

The FEIR completely ignores this information, which is new since the surveys for the arroyo toad were conducted in 2019. *Id.* Given this evidence, the EIR should have performed updated surveys and should have fully evaluated impacts to this species. Instead, the FEIR perpetuated the DEIR and RDEIR’s failure to accurately document the existing setting of the site.

Under CEQA, knowledge of the regional setting is critical to the assessment of environmental impacts. “Special emphasis should be placed on environmental resources that are rare or unique to that region and would be affected by the project.” CEQA Guidelines § 15125 (c). Especially here, where the project site is an important wildlife movement linkage between established reserves, correcting these errors is crucial. The EIR’s continued use of outdated and incorrect baseline conditions ignores reality and virtually ensures that the resultant analysis is uninformative and inaccurate.

Without consideration and analysis of these baseline conditions, the EIR lacks the substantial evidence necessary to show that the Project will not impact the abundant biological resources at the proposed Project site.

## **V. The FEIR Prematurely Dismisses Alternatives.**

The EIR fails to comply with the requirements of CEQA because it fails to undertake a legally sufficient study of alternatives to the Project. A proper analysis of alternatives is essential to comply with CEQA’s mandate that, where feasible, significant environmental damage be avoided. Pub. Resources Code § 21002 (projects should not be approved if there are feasible alternatives that would substantially lessen environmental impacts); CEQA Guidelines §§ 15002(a)(3), 15021(a)(2), 15126(f).

The primary purpose of CEQA’s alternatives requirement is to explore options that will reduce or avoid adverse impacts on the environment. Pub. Res. Code § 21002;

CEQA Guidelines §§ 15002(a)(3), 15021(a)(2), 15126(d); *Watsonville Pilots Assn. v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1089. Therefore, the discussion of alternatives must focus on project alternatives that are capable of avoiding or substantially lessening the significant effects of the project, even if such alternatives would impede to some degree the attainment of the project objectives or would be more costly. CEQA Guidelines § 15126.6(b).

As a preliminary matter, the EIR's perpetuation of its failure to disclose the extent and severity of the Project's broad-ranging impacts, as discussed in this letter and in our prior comments, necessarily distorts the document's analysis of Project alternatives. As a result, the alternatives are evaluated against an inaccurate representation of the Project's impacts. The FEIR fails to correct these flaws. Proper identification and analysis of alternatives is impossible until Project impacts are fully disclosed. Moreover, as discussed above, the document's analysis is incomplete and/or inaccurate so that it is simply not possible to conduct a comparative evaluation of the Project's and the alternatives' impacts.

Sound planning principles dictate that the County carefully consider alternatives in the present case because the proposed Project would result in significant impacts to thousands of homes and would adversely impact habitat and wildlife linkages for dozens of special status plant and animal species. Furthermore, the Project would result in extensive impacts related to visual resources, noise, and air quality. As pointed out in our prior comments, this EIR's analysis of only two alternatives is insufficient under CEQA because the document fails to consider a reasonable range of options that would reduce Project impacts. CEQA Guidelines § 15126.6(c); *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d at 566. Especially in this case, the County has an obligation to analyze a broader range of options to reduce impacts.

The fact that the applicant proposes a particular use for the site, does not relieve the County from exploring alternatives that would be more appropriate for the location. In our prior comments on the DEIR, Sierra Club proposed that the EIR should evaluate an alternative use of the site as a mitigation land bank providing mitigation credits for habitat restoration. See FEIR, Responses to DEIR Comments, Comment D-08-64 at page 123. Such an alternative would allow for a lucrative business while avoiding the myriad impacts to the surrounding residents, impacts to sensitive habitat and species, impacts to established wildlife preserves and the linkages to open space they provide, and hydrological impacts resulting from mining of the riverbed and surrounding floodplain. The FEIR response summarily states that "the Project Applicant has indicated that such an alternative would not be financially feasible for this site and would not achieve the Project objectives." *Id.* However, cost alone is not a legitimate basis for rejecting an

alternative from EIR consideration. CEQA Guidelines § 15126.6(f)(1); *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1460 (“[T]he willingness or unwillingness of a project proponent to accept an otherwise feasible alternative is not a relevant consideration.”). Moreover, the FEIR fails to provide any research or analysis as supporting evidence to show that a mitigation bank alternative would not be financially feasible.

In sum, the EIR fails to provide evidence that other alternatives are infeasible and offers only unsupported irrelevancies instead of any legitimate justification for rejecting the alternative proposed by Sierra Club. The EIR fails to provide estimated costs and/or cost/benefit analyses evaluating the proposed alternative. Therefore, the EIR fails to support its conclusion with substantial evidence.

## **VI. Conclusion**

As discussed throughout this letter, the EIR’s analysis understates the severity of the potential harm to area residents, protected sensitive habitat and special status biological resources, groundwater resources and water quality, and air quality, among others as described in Sierra Club’s prior comments. Having failed to rigorously evaluate the impacts, the EIR neglects to identify sufficient mitigation to minimize these impacts. The Project’s impacts were not adequately analyzed and mitigated, nor are they remedied in the FEIR. The EIR can support neither the findings required by CEQA nor a determination of General Plan consistency. For the foregoing reasons, Sierra Club protests any approval of the proposed Project, supports staff’s recommendations, and urges the County to deny the Project.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Catherine C. Engberg  
Kevin P. Bundy  
Carmen J. Borg, AICP  
Urban Planner

Christopher Jacobs  
June 11, 2025  
Page 13

cc: Susan Wynn, USFWS  
Jonathan Snyder, USFWS  
David Mayer, Regional Supervisor, CDFW  
Heather Schmalbach, CDFW  
Dahvia Lynch, Director, County Planning & Development Services  
Bethany Principe, Coordinator, County Parks and Recreation MSCP Program  
Stephanie Neal, County, Sustainability Planning Division  
Peter Andersen  
Dave Hogan  
Lisa Ross  
Elizabeth Urquhart  
Dan Weber  
Barry Jantz  
Richard Miller

# ATTACHMENT A



SHUTE MIHALY  
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102  
T: (415) 552-7272 F: (415) 552-5816  
www.smwlaw.com

CATHERINE C. ENGBERG  
Attorney  
Engberg@smwlaw.com

September 1, 2023

**Via E-Mail**

Mr. Christopher Jacobs  
Land Use/Environmental Planner  
Planning & Development Services  
5510 Overland Avenue, Suite 310  
San Diego, CA 92123  
E-Mail: [christopher.jacobs@sdcounty.ca.gov](mailto:christopher.jacobs@sdcounty.ca.gov)

Re: Cottonwood Sand Mining Project (PDS2018-MUP-18-023),  
(PDS2018-RP-18-001); Log No. PDS2018-ER-18-19-007; SCH#  
2019100513

Dear Mr. Jacobs:

We submit this letter on behalf of the Sierra Club San Diego Chapter (“Sierra Club”). As you know, we submitted comments on behalf of Sierra Club on the Recirculated Draft Environmental Impact Report (“RDEIR”) for the proposed Cottonwood Sand Mining Project (“Project”) two weeks ago on August 19, 2023. Our letter included comments regarding the need to employ a different baseline for biological resources due to changed conditions on the Project site that have resulted in substantial areas of healthy Southern Willow Scrub and Non-native grassland, and have altered and improved the Sweetwater River channel. Since then, news articles have been aired and/or published about the Project and the existing biological setting of the project site. As discussed further below, we are writing to inform the County of the relevant news article and to request that you consider these supplemental comments. We request that this letter be entered into the Administrative Record for the Project.

NBC 7 San Diego aired a television news segment and published a news article, both of which discuss the status of endangered arroyo toads in the Sweetwater River downstream from the Loveland Reservoir, where the proposed Cottonwood Sand Mining Project would be located. See the television news segment at this link: <https://www.nbcsandiego.com/videos/storms-water-district-give-hope-to-endangered-san-diego-county-arroyo-toad->

[species/3290679/?fbclid=IwAR3uoUAsTpyNt\\_F6xL3jAsurfDavG0JuLbzq2MNQRsbLBmzEDRQ7ZpXMUVs](https://species/3290679/?fbclid=IwAR3uoUAsTpyNt_F6xL3jAsurfDavG0JuLbzq2MNQRsbLBmzEDRQ7ZpXMUVs); and the news article attached to this letter as Attachment A. The segment and article (henceforth referred to as “news article”) explain that water releases from the Loveland Reservoir, combined with a rainy winter, resulted in resurgence of the arroyo toad population, because the toads rely on water for breeding habitat. Id. The water flow from Loveland Reservoir, above the golf course to the east, flows through the golf course, and then to the Sweetwater Reservoir below the golf course to the west.

According to Sweetwater Authority Biologist, Pete Famolaro, who has spent decades studying arroyo toads, “[T]his is perfect habitat for the arroyo toad.” Dr. Robert Fisher, a biologist with the U.S. Geological Survey – Western Ecological Research Center, who has also spent his career studying the arroyo toad, indicates that “[The watershed] was occupied by toads and by phenomenal numbers of toad.”

Despite the fact that the County recirculated the biological resources section of the DEIR, the document continued to rely on old surveys. For that reason, mischaracterizes site conditions and describes conditions during and following one of the worst droughts in California history. As evidenced by the attached news article, had the RDEIR conducted updated surveys, the altered conditions described in the attached news article would have been documented and considered in the revised analysis. The changed conditions on the Project site is important information from which to establish a baseline. Once an accurate baseline is established, the County should once again revise the biological resources analysis to accurately analyze the impacts of the proposed mine on the various habitat types and species found within them.

For the foregoing reasons, the Sierra Club urges the County to delay further consideration of the Project unless and until the County prepares and recirculates a revised draft EIR that fully complies with CEQA and the CEQA Guidelines.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Catherine C. Engberg  
Carmen J. Borg, AICP  
Urban Planner

Christopher Jacobs  
September 1, 2023  
Page 3

Attachment A – *NBC 7 San Diego*, “This endangered toad is experiencing a resurgence thanks to storms like Hilary and a San Diego water district,” August 23, 2023.

[https://www.nbcsandiego.com/videos/storms-water-district-give-hope-to-endangered-san-diego-county-arroyo-toad-species/3290679/?fbclid=IwAR3uoUAsTpyNt\\_F6xL3jAsurfDavG0JuLbzq2MNQRsbLBmzEDRQ7ZpXMUVs](https://www.nbcsandiego.com/videos/storms-water-district-give-hope-to-endangered-san-diego-county-arroyo-toad-species/3290679/?fbclid=IwAR3uoUAsTpyNt_F6xL3jAsurfDavG0JuLbzq2MNQRsbLBmzEDRQ7ZpXMUVs)

cc: Susan Wynn, USFWS  
David Mayer, Regional Supervisor, CDFW  
Heather Schmalbach, CDFW  
Dahvia Lynch, Director, County Planning & Development Services  
Bethany Principe, Coordinator, County Parks and Recreation MSCP Program  
Stephanie Neal, County, Sustainability Planning Division  
Peter Andersen  
George Courser  
Dave Hogan  
Lisa Ross  
Elizabeth Urquhart  
Dan Weber  
Barry Jantz  
Richard Miller

1685767.1