TEJON RANCH COMPANY

April 1, 2013

VIA HAND DELIVERY

Richard Bruckner, Director of Planning
Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

Emma Howard
Regional Planning Department
Room 1354
320 West Temple Street
Los Angeles, CA 90012

Re: ***Comments by Tejon Ranch Company on the County's proposed revisions to SEA designations and ordinances.***

Dear Mr. Bruckner and Ms. Howard:

The following comments on the County's proposed revisions to the Significant Ecological Area ("SEA") Program are being submitted on behalf the Tejon Ranch Company ("Tejon").

The Draft Los Angeles County General Plan Update 2035 contemplates a massive and unprecedented expansion of SEAs. According to statements made by a representative of the Department of Regional Planning at the January 29, 2013 Board of Supervisors hearing, the land identified as an SEA would more than quintuple, from approximately 125,000 acres under the existing General Plan to over 645,000 acres—that is, to over 1,000 square miles. Relevant to the Centennial Founders, LLC ("Centennial") project, the County proposes to change the criteria for SEA designations in proposed amendments to the SEA Ordinance and General Plan, which would expand the designation to native grasslands even when such grasslands do not have any plant or animal species that are protected as rare, threatened or endangered under the federal or state Endangered Species Acts. That would result in an SEA designation for the **entire** Centennial's project site. Under this designation, the Centennial project could not be developed even though the Centennial project has been successfully designed to address the *current* SEA Ordinance and designations.

When Tejon and the other Centennial partners began the entitlement process for the project, some of the project's land was at the time (as it still is) within SEA No. 58 and 59. The project was designed to avoid the vast majority of this SEA acreage, limiting development to only a very small portion of one large SEA in an area that lacks the natural resource (forest) for

which the SEA designation was established.[1] Furthermore, Centennial over the last 14 years has spent over $80 million (including millions for staff processing fees) in furtherance of application proceedings with the County, including extensive studies and mitigation designs required to satisfy the existing SEA "burden of proof" criteria needed to qualify for the conditional use permit so that Centennial can develop, as planned, within a small portion of the one SEA.

Changes to the SEA Ordinance would thwart reasonable development not just at the Centennial site, but throughout much of the Antelope Valley and unincorporated Los Angeles County. Over 1,000 square miles of LA County would be permanently excluded as future housing and employment centers. This may be part of the County's publicly disclosed goal to force all significant new development to be urban infill.[2] Whatever the motivation for the enormous expansion of the SEAs, the effect would be to prevent new development in unincorporated areas, including Centennial.

The fundamental problems with the proposed changes to the SEA Ordinance and designations are not, however, practical ones of restraints on development: They are scientific. The expanded SEA designations lack scientific justification, both within the Centennial site and the County as a whole. The expanded designations lack justification within the Centennial site because there is no evidence that they will accomplish the goals for which the San Andreas Rift Zone SEA is to be created. Indeed, there is evidence that they will *not* accomplish those goals. And the expanded designations throughout the County as a whole lack scientific justification because the methodology supporting them are scientifically unsound.

As discussed at the end of these comments, Tejon believes that not only must the County's proposed changes to the SEA Ordinance and designations be rejected because they are scientifically unjustified, but that the County's new overall approach to the SEA program—including having County-wide SEA criteria—needs to be rethought. This includes, as discussed below, making changes to the composition and procedures of the SEA Technical Advisory Committee ("SEATAC").

---

[1] The Centennial ADEIR took into account SEA 58 and SEA 59, and the planning and design of the Centennial project took into account the Biota Report. The Biota Report was approved by the County and approved by the Regional Planning Department's staff as part of the EIR. The Centennial project has been designed to entirely avoid currently configured SEA No. 59 (Tehachapi Foothills). The projects avoids approximately two-thirds of the onsite portion of SEA No. 58 (Portal Ridge/Liebre Mountains) so as to impact only 570 acres, or less than 2% of that nearly 30,000-acre SEA. Additionally, the impacted acres of SEA No. 58 are nearest to SR-138 and include almost no mixed oak woodlands for which this SEA was designated, and it was determined by County staff that development would not result in any biological fragmentation of this area.

[2] An authorized spokesperson from the Department of Regional Planning at the Urban Land Institute's recent VerdeXchange sustainability conference characterized the SEA expansion and the Draft General Plan's proposed down-zoning as rural preservation strategies designed to eliminate any significant future growth in most of Antelope Valley and other undeveloped areas of the County. Under this approach, major employment and residential development in the Antelope Valley would be precluded—and hundreds of thousands of people would have to be squeezed into the unincorporated areas adjacent to the County's existing cities.

I. No Changes to the SEA Designations or SEA Ordinance Should Be Proposed Pending the Report to the Supervisors Regarding the Area Planning Process

The proposed change to the SEA Ordinance is part of a suite of dramatic revisions to the draft General Plan that would **eliminate over 1,000 square miles of the County** from future economic development. This represents an unacceptable departure from the County's long tradition and successful practice of making land use decisions—including changing land use designations—as part of the community-based Area Plan development process. The Area Plan development process, in turn, allows for community-based input on design standards and other appropriate conditions to be applied to lands within an Area Plan.

The SEA Ordinance upends this approach by creating a "one-size-fits-all" approach to SEAs. From a land use policy, legal, and biological perspective, this simply makes no sense. Measures that are appropriate in the steep slopes of Santa Monica mountains have little relevance on flat grazing or agricultural lands, and measures appropriate to a forest bear little resemblance to measures appropriate to a desert. In the past, the County has used the Area Planning process to tailor policies that respond to each area's unique geographic, economic, environmental, and community priorities and constraints. This is the correct approach, and it should be retained.

While the draft General Plan includes some text that recognizes and respects the Area Planning process, including for example mandating that separate Environmental Impact Reports ("EIRs") be prepared for each Area Plan, the General Plan's sweeping designation of 1,000 square miles of the County as an SEA steamrolls this Area Planning process. The SEA Ordinance then adds insult to injury by adopting "one-size-fits-all" criteria for future activities within an SEA, regardless of the unique physical, economic, and community priorities and attributes that currently apply to these areas under the existing General Plan, Area Plans, and SEA designations.

The failure of the SEA Ordinance to recognize and respect these differences is possibly one of many reasons that the Board of Supervisors recently directed County Counsel to report back on issues relating to the continued use of Area Plans (with accompanying EIRs), which have long been used to make land use designations—and should be used to make changes to existing SEA designations. The draft SEA Ordinance is untimely, and should be indefinitely delayed, pending further consideration and direction from the Board as to the acceptability of staff's proposed "top-down" approach of subverting the Area Planning process.

II. The Proposed SEA Expansion In The Centennial Site Lacks Scientific Justification.

The proposed expansion of the San Andreas Rift Zone SEA to cover the entirety of the Centennial site with an SEA designation is supposedly designed to do the following: protect endangered native grasslands; maintain macrobiotic diversity resulting from the area's confluence of desert, mountain, and coastal influences; protect threatened or endangered species; and protect corridors and connectivity for wildlife movement linkages. In fact, none of these goals require the proposed designations, which would prevent the completion of the Centennial project. A review of the biological resources at the Centennial site and the surrounding area show that:

- Approval of the current application for the Centennial project would result in the permanent preservation of approximately 14,302 acres of grasslands within preserve areas of approximately 26,992 acres—most of which are contiguous to larger permanent open space areas—thereby preserving and enhancing the biological resource viability of these areas without the need to designate the site as an SEA.
- Substantial areas of grassland, including native grasslands, will continue to exist within Los Angeles County and the region even if the Centennial project is approved. In addition to the approximately 20,000 acres of grasslands in the northwest portion of Los Angeles County, grassland resources extend across County lines and are thus preserved on a regional scale, with 70,000 acres of grasslands in Kern County and another 2,300 acres in Ventura County.
- The most probable reason the Centennial site contains primarily "grasslands" is because it has been grazed for approximately the last 150 years so the shrubs and other grasses that would otherwise dominate the site have not been allowed to grow. The area's grassland habitat is, therefore, likely the result of its land use, not its native condition.
- The grasslands on the site are fairly homogenous and do not contain the kind of macrobiotic diversity the SEA was designed to protect. In fact, substantial portions of the Centennial site have limited ecological values, including the California aqueduct, a cement plant road, State Route 138 and other roadways, agricultural areas, and areas that have been subjected to more than a century and a half of livestock grazing.
- The Centennial site is not a confluence of desert, mountain, and coastal climates. Instead, desert influences (including, for example, Joshua tree woodlands) are not present on the site and have given way instead to coastal influences.
- In 2000, biological resource experts (the PCR Steve Nelson project team) under contract with Los Angeles County, studied the Centennial site again and found that the majority of the site failed to meet criteria worthy of an SEA designation.
- Since publication of the County's Draft General Plan 2035, which relied on a study conducted in 2000, additional data have been made available showing that areas even west of the aqueduct on the Centennial site no longer meet SEA criteria and that proposed designation as an SEA are no longer appropriate. Even less scientific evidence justifies an SEA expansion east of the aqueduct.
- Several years of focused plant and wildlife surveys have found no evidence of state- or federally-listed threatened or endangered species residing on the site.
- Over many years, the Centennial biology team, with peer reviews by numerous other scientists, extensively evaluated wildlife corridors and connectivity. The current biology section of the unreleased EIR—prepared with extensive oversight and approval by a series of County Biologists—concludes that the project would

not create a significant adverse impact on regional wildlife movement or wildlife corridors.

III. The Proposed SEA Expansions Throughout The County Lacks Scientific Justification.

The lack of basis for the SEA expansion is not limited to Centennial. When the County makes a "generally applicable requirement imposed as a condition of development," the requirement must bear a reasonable relationship to the deleterious public impact it seeks to ameliorate. *Building Indus. Ass'n of Cent. Cal. v. County of Stanislaus*, 190 Cal.App.3th 582, 590 (2010). The County's SEA expansion does not meet this standard because the County does not have scientific evidence showing its proposed SEA expansion is warranted based on SEA criteria.

The 61 existing SEAs were originally designated in the 1980 General Plan Update based on a 1976 study. As one of the County's biological consultants who prepared the 1976 study, Steve Nelson, noted in an April 1996 memorandum, the original 1976 study was meant to be used as a "general planning tool" and was "not designed to serve as the basis for reviewing specific project plans." This is because of the study's inherent limitations, which Mr. Nelson pointed out: (1) The study relied on existing information (based on literature and interviews), rather than field verifications; (2) the total budget for the study was a scant $10,500; and (3) boundaries were drawn based on topographic features, rather than technical criteria. Given these limitations, the County may not rely on the 1976 study—much of whose information is now out of date and possibly inaccurate—to justify expanding designated SEAs.

In 2000, an SEA update study was conducted by the PCR Project Team, which was led by Steve Nelson of the 1976 study. The criteria used to identify prospective SEAs (or adjustments to the "original" SEAs) were similar to those used in 1976. The methods used to identify and delineate prospective SEAs included: an outreach program that involved government resource agencies, academic institutions, conservation groups, and the general public; a database and literature review; evaluation of existing SEAs in the unincorporated County; interpretation of aerial photography; and windshield surveys. Critical field studies were not conducted. Further, in November 2010, the Department of Regional Planning convened a supposed "expert panel" of biologists to review the proposed County Significant Ecological Program. This meeting of experts is touted as validating *in one day* all the work that had been done over supposed 12 years of study and to justify covering **1,000 square miles** of the County as an SEA.

The Draft General Plan Update 2035 proposes a further SEA expansion, drawing the SEA boundaries to include thousands of acres that do not have any habitat of importance and do not meet the County's own criteria for SEA designation. Further, while the Draft General Plan Update was recently revised to include a description of each SEA, and proposed SEA boundaries have been depicted in detail on the GIS maps included in the Draft General Plan Update, much of the land proposed for inclusion within SEAs has never been studied and verified for actual confirmation of resources on the ground. It appears that the method of designating these areas

was undertaken by review of photographs and documents rather than actual biological surveys, resulting in an overly presumptive approach to regulation.

Thus, there is still no evidence that the expanses of land proposed for inclusion in these SEAs was ever actually studied to confirm that the resources exist, thereby perpetuating the inherent limitations of the 1976 study. Accordingly, neither the 1976 study—which is nearly 40 years out of date—nor the 2000 SEA update study, which suffers the same flaws in the 1976 study, nor the rubber-stamping 2010 "expert" panel, nor the Draft General Plan Update 2035, provides scientific justification for the current SEA expansion.

IV. The SEA Expansion Does Not Conform To The Approved Regional Plan For Attaining Greenhouse Gas Reductions As Mandated By SB 375.

As directed by the California Legislature in AB 32 (the Global Warming Solutions Act) and SB 375 (the Sustainable Communities and Climate Protection Act), the Southern California Association of Governments ("SCAG"), recently completed a landmark plan to reduce greenhouse gas ("GHG") emissions from land use and transportation patterns in the vast Southern California region comprised of six counties, 191 cities, and more than 18 million residents. This carefully crafted "Sustainable Communities Strategy" ("SCS"), developed with extensive input from SCAG's member counties, cities, and other stakeholders, was reviewed and approved in 2012 by the California Air Resources Board as well as federal transportation and environmental agencies, each of which independently evaluated and validated the SCS. Under SB 375, local agencies are strongly encouraged to adopt land use plans and make land use decisions that are consistent with an approved SCS. Violation of an SCS risks loss of federal transportation funding and other consequences. The SCS process is designed to enshrine "smart growth" principles into agency policies.

The Centennial project has long been a cornerstone of the region's plan for economic growth and was included in the approved SCS. Now, the County is proposing to amend its General Plan and Antelope Valley Area Plan to reject, rather than implement, state and regional mandates in conformance with the approved SCS. It is also noteworthy that in the EIR for the SCAG SCS, SCAG documented scores of adverse impacts to existing communities by allowing growth only in "infill" areas. Representatives of the Department of Regional Planning were unsuccessful in their effort to lobby SCAG to adopt this "infill-only" approach generally, and to exclude Centennial from the SCS specifically. The proposed new SEA Ordinance is just one more domino in the row of dominos that Department staff have proposed to eviscerate Area Planning and impose a one-size-fits-all, infill-only vision for Los Angeles County.

V. The Composition of SEATAC Must Also Be Modified, and the SEATAC Review Process Must Be Prescribed, to Achieve the County's Diverse Policy Objectives.

The County must weigh and balance many competing policy objectives and economic realities. Tejon believes that there are general structural problems with the proposed SEA program which, if changed, would solve many of the specific problems already discussed.

First and foremost, as described above, Tejon believes that it is imprudent to have a blanket, County-wide set of SEA criteria with resulting County-wide SEA designations. The better approach is to have local areas determine the SEA criteria and designations for their area. This is based on the general principle of devolving decisions down to local areas that are more attuned to local issues and concerns. SEA criteria and designations should, therefore, appear not in the General Plan but in the Area Plans.

Second, the SEA Technical Advisory Committee ("SEATAC") process is also fundamentally flawed in that it has been designed to thwart, rather than advance, County policy objectives and economic needs. Specifically, the composition of SEATAC should change to better reflect the constituencies of the areas it administrates. As it stands, SEATAC is comprised overwhelmingly of biologists who, not surprisingly given their professional focus, have for years uniformly advocated for the preservation of all lands brought to their attention, and routinely advocate against authorizing development permits within any SEA without regard to County land use laws and policies (including the existing SEA Ordinance). Asking a panel of biologists to approve development is, simply, a waste of time given the County's need to weigh and balance many competing needs. Thus, SEATAC should have a greater representation of business people, developers, and (particularly relevant to the Antelope Valley) farmers.

Third, there have been documented conflicts of interests involving SEATAC members. Formal rules to avoid such conflicts have not been developed or implemented, yet the Ordinance proposes to give SEATAC vast new jurisdiction over 1,000 square miles of the County. The SEATAC conflict of interest problem must be remedied before any proposed revisions to the SEATAC Ordinance are proposed or considered.

Fourth, the SEATAC review and approval process should have a finite schedule and relate to the already-required biological review process required under the California Environmental Quality Act. Centennial's development application has had language for nearly a decade based on repeated and ongoing delays in completing the EIR process. Now the proposed Ordinance would add yet another layer—a "SEA Site Assessment Report" and an "SEA Impacts Report." Only if these reports are completed "to the satisfaction of SEATAC" can a permit decision be made and, even then, the Ordinance specifies no deadline for SEATAC's completion of its review process.

In short, the draft Ordinance creates a new abyss of uncertainty—uncertain new study and reporting requirements, uncertain scheduling and processing requirements—that is layered onto the already-lengthy and costly study process required by CEQA.

There is no legitimate purpose or need for this elaborate and indefinite new SEATAC process, although it is consistent with statements made by representatives of the Department of Regional Planning that they are taking all available steps to restrict future growth to only transit-oriented, infill areas that are already burdened with significant impacts.

VI. Conclusion.

Tejon believes that, in light of the problems discussed above, it is premature to close the public comment period on this Ordinance. In addition, until the County can conduct thorough and meaningful scientific investigations on all proposed property covered by the SEA expansion, the boundaries of the SEA should remain the same as the original SEA 58 and 59, which is what Tejon and thousands of property owners affected by the sweeping new SEA designations have relied upon for their property interests. And the decisions on SEA designations should remain at the Area Planning level, not imposed top-down in an General Plan.

Accordingly, Tejon requests that the Department of Regional Planning significantly extend the time for public comment on proposed changes to the SEA program. Tejon also requests that the Department refrain from implementing any proposed changes to the SEA program until the composition of SEATAC has changed and the new members have been given the opportunity to evaluate and suggest modifications to the changes being proposed.

Sincerely,

Greg Tobias
Vice President, General Counsel
Tejon Ranch Company

cc: Jennifer Hernandez, Holland & Knight
Carla Christofferson, O'Melveny & Myers