



February 6, 2020

*Via Overnight Courier & Electronic Mail*  
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*Via Overnight Courier & Electronic Mail*  
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California Department of Fish and Wildlife  
Habitat Conservation Planning Branch  
Attn.: Antelope Valley RCIS Comments  
1010 Riverside Parkway  
West Sacramento, CA 95605

**Re: Antelope Valley Regional Conservation Investment Strategy (“AVRCIS”)  
October 2019 Public Draft**

To Whom It May Concern:

Tejon Ranch Co., on behalf of itself and its subsidiary/affiliated entities Tejon Ranchcorp and Centennial Founders, LLC (collectively, the “Tejon Ranch”), submits the comments contained in this letter pursuant to California Fish & Game Code section 1854(c)(2).<sup>1</sup> The comments contained in this letter pertain to the October 2019 Public Draft AVRCIS. We understand that the Desert & Mountain Conservation Authority (“DMCA”) is statutorily obligated to respond to the comments contained in this letter. However, this letter should be independently considered and responded to by the California Department of Fish & Wildlife (“DFW”) as part of any determination to issue a final approval of the AVRCIS because the concerns expressed herein relate to the DMCA’s compliance with several statutory requirements contained in Sections 1850–1861 (hereafter, the “RCIS Statute”) and DMCA’s compliance with the *Regional Conservation Investment Strategies Program Guidelines (September 2018)* (hereafter, the “2018 Guidelines”), all of which are applicable to the AVRCIS.

## **I. Background and Summary of Comments**

Tejon Ranch is proud of the continuing role it plays in conserving land with ecological value. In 2008, Tejon Ranch voluntarily entered the Tejon Ranch Conservation and Land Use Agreement (the “Ranchwide Agreement”), which to date is the largest private land conservation commitment in California history.<sup>2</sup> At the time, DFW expressed strong policy level support for

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<sup>1</sup> All references to code sections in this letter are to the California Fish & Game Code unless otherwise noted.

<sup>2</sup> The Ranchwide Agreement is available at:

<https://www.sec.gov/Archives/edgar/data/96869/000119312508138009/dex1028.htm>. Signatories to the Ranchwide Agreement include the Tejon Ranch Conservancy, along with the Natural Resources Defense Council, the National Audubon Society, the Sierra Club, the Endangered Habitats League and the Planning and Conservation League (collectively, “resource groups”). Most of the resource groups participated in preparing the AVRCIS, with representatives serving on the Steering Committee and/or Advisory Committee. Also, several of AVRCIS’s leaders (such as Terry Watt, Graham Chisholm, Dan Silver and Gary George) are either current or past board members of the Tejon Ranch Conservancy. These facts, which raise serious conflict of interest concerns, are addressed below.

Tejon Ranch's commitment, as evidenced in a May 1, 2008 letter signed by the California Department of Fish and Wildlife. (See Attachment 1.) Pursuant to the Ranchwide Agreement, Tejon Ranch agreed to conserve 240,000 of its 270,000 acres (almost 90% of its landholdings) in perpetuity. To date, over 110,000 acres have been conserved through the recordation of conservation easements (including approximately 61,000 acres that were conserved with funding from the Wildlife Conservation Board). While Tejon Ranch is highly concerned with how the AVRCIS has been developed, and with the scientific modeling used to create it (especially in light, as discussed below, of the extensive ecological studies that underly the Ranchwide Agreement), Tejon Ranch's commitment to voluntarily conserve its land in perpetuity is consistent with some of the aspirational goals DFW seeks to achieve with the RCIS program.

Throughout the entirety of the AVRCIS process, Tejon Ranch has repeatedly requested that its lands not be included in the study area or in the scientific modeling on which the AVRCIS is based. Our request is based on well-reasoned (and previously articulated) justifications. Foremost among these reasons is that the inclusion of Tejon Ranch lands does not promote the primary stated purpose of the AVRCIS. This rationale is further discussed in Heading II.A below. Second, as explained in Heading II.B below, the scientific modeling underlying the AVRCIS is not even the best available science (insofar as AVRCIS modeling overlaps Tejon Ranch lands and other areas where project-level or planning-level ecological analysis have been conducted). On this point, as detailed further below, the RCIS Statute requires that the DMCA and DFW recognize recent project-level environmental analysis conducted for Tejon Ranch lands, and project-level and planning level analysis for other areas, is far more reliable than the scientific modeling used for the AVRCIS.

Separate from the rationale summarized in the previous paragraph, it is also appropriate to remove Tejon Ranch lands entirely from the scientific modeling because those preparing the AVRCIS previously committed on numerous occasions that this would occur, and doing so is consistent with the fact that Tejon Ranch lands are not located in the AVRCIS study area. Notwithstanding Tejon Ranch's numerous requests (which began in 2016 and have been re-made as recently as October 10, 2019), and notwithstanding promises by those preparing the AVRCIS,<sup>3</sup> Tejon Ranch lands were included in an early June 2017 "Administrative Draft" version of the AVRCIS. It was only after additional communication with the AVRCIS's preparers that Tejon Ranch lands were removed from the study area, consistent with the reasons expressed below in Section II. (See Attachment 2, email exchanges with AVRCIS preparers.) However, on October 11, 2019 Tejon Ranch representatives learned that those preparing the AVRCIS decided not to remove Tejon Ranch lands from the scientific modeling used for the AVRCIS because re-running the modeling would be "costly." The failure of those preparing the AVRCIS to re-run the scientific modeling contradicts express assurances made to Tejon Ranch that the AVRCIS would be revised so that "modeling results are not extended beyond the RCIS boundary." (See Attachment 2, quoting June 30, 2019 email response from Mr. Chisholm.) Therefore, Tejon Ranch lands should be removed entirely from the scientific modeling because assurances were made by those preparing the AVRCIS, and Tejon has relied on those assurances to its detriment. (See *HPT IHG-2 Properties Trust v. City of Anaheim* (2015) 243 Cal.App.4th 188.)

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<sup>3</sup> In a July 17, 2016 email, Ms. Terry Watt stated that "Tejon Ranch ownership has been taken out of the RCF [Regional Conservation Framework, the precursor to the AVRCIS] plan area . . . ."

Finally, as explained in Heading III below, the AVRCIS's preparers have ignored several statutory requirements. These deficiencies were previously brought to the attention of both the AVRCIS preparers and DFW. Furthermore, because AVRCIS preparers are operating under the incorrect assumption that the AVRCIS process was initiated by DMCA prior to January 1, 2017 (a point that is analyzed in more detail below and clearly refuted by documentary evidence), the AVRCIS does not conform to recommendations contained in the 2018 Guidelines. With respect to the comments made in Heading III, it seems clear that the AVRCIS process must start over and that DFW is not even able to approve the AVRCIS without the process beginning anew.

## **II. Tejon Ranch Lands Were Properly Excluded from the Study Area and Should Be Removed from the Scientific Modeling**

The AVRCIS study area appropriately does not include Tejon Ranch lands. To be consistent with that determination, to comply with requirements in the RCIS Statute and to honor the promises made by preparers of the AVRCIS that the AVRCIS would be revised so that "modeling results are not extended beyond the RCIS boundary," the AVRCIS's scientific modeling should not include Tejon Ranch lands.

### **A. Including Tejon Ranch Lands in the AVRCIS's Modeling is Contrary to Both the RCIS Statute and AVRCIS's Stated Purpose Because Tejon Ranch Lands are Already Subject to a Comprehensive Conservation Plan.**

The RCIS Statute identifies the legislative intent of the RCIS program: To "identify species and habitat conservation initiatives at a regional scale . . . in order to guide voluntary investments in conservation, and compensatory mitigation for impacts to ecological resources . . ." (§ 1850(a) (emph. supp.), *see also* subdiv. (b).) The AVRCIS is supposedly drafted to implement this statutory purpose and is intended to "guide voluntary conservation actions and mitigation actions . . . in conjunction with public infrastructure and forest management." (AVRCIS at p. 1-1.) In this regard, the AVRCIS's stated primary purpose is to aid in identifying "areas for compensatory mitigation for impacts to species and natural resources" and to "support mitigation needs" for various large-scale infrastructure, energy and development projects. (AVRCIS at p. 1-3; *see also* p. 4-1.) Said another way, the purpose of the AVRCIS is to provide a basis for voluntary investments in conservation and to encourage mitigation agreements in furtherance of development projects.

Notwithstanding the primary purpose for which the AVRCIS is being developed (and the legislative purpose identified in Section 1850), Tejon Ranch already has availed itself of, and is presently implementing, a comprehensive and binding mitigation and conservation strategy for its land. To this point and as mentioned above, the Ranchwide Agreement obligates Tejon Ranch to preserve approximately 240,000 acres of specifically identified land through the phased dedication of conservation easements. Identifying the location of the easements was subject to significant and detailed biological analysis and negotiation between Tejon Ranch and the resource groups during preparation of the Ranchwide Agreement.<sup>4</sup> Further, as noted in Section I above, of the total 240,000 acres that will be conserved, approximately 110,000 acres is already subject to recorded

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<sup>4</sup> Several of the AVRCIS's primary preparers and leaders (most notably Terry Watt and Graham Chisholm) were directly involved in the process of reviewing biological analysis and identifying the exact locations of land to be conserved at Tejon Ranch as part of developing the Ranchwide Agreement.

conservation easements (including approximately 61,000 acres preserved with funding from the Wildlife Conservation Board). Specific to the reasoned explanation for why Tejon Ranch lands should be entirely excluded from both the study area and the scientific modeling, the Ranchwide Agreement expressly states that the “commercial operation of a mitigation bank, or the sale or other transfer of mitigation ‘credits’” within conservation easements is prohibited. (*See* Ranchwide Agreement, Exh. M, § 2(a)(11).) As a result of this prohibition in the Ranchwide Agreement, there is no land on Tejon Ranch within which the primary purpose of the RCIS Statute or the AVRCIS can be achieved. Importantly, as reflected elsewhere in this letter, the unavailability of Tejon Ranch for commercial operation of mitigation banking is known to a primary preparer of the AVRCIS – Graham Chisholm was a signatory to the Ranchwide Agreement and a former director of the Tejon Ranch Conservancy.

Simply put, the Ranchwide Agreement (i) already establishes a binding and comprehensive framework on Tejon Ranch for mitigating impacts of development,<sup>5</sup> (ii) creates the funding mechanism by which such preservation will be maintained in perpetuity and (iii) prohibits operation of commercial mitigation banks or sale of mitigation credits. For these reasons, Tejon Ranch’s land was properly excluded from the AVRCIS study area and must be removed from the scientific modeling.

**B. The AVRCIS’s Scientific Modeling Fails to Include Best Available Science for Land Within the Modeling Area.**

The RCIS Statute requires that the AVRCIS incorporate and rely on “the best available scientific information regarding the strategy area and the surrounding ecoregion . . .” § 1852(b)(14) (emph. supp.). The AVRCIS does not reflect best available science for Tejon Ranch lands. On this basis, the AVRCIS’s modeling must either entirely exclude Tejon Ranch lands or be re-run to include best available scientific information.

The AVRCIS states that it is “based on the best available biological land use planning information.” (*See* AVRCIS at p. 1-4.) This is not accurate. In fact, there is no demonstrable proof provided in the AVRCIS that this claim is correct. The AVRCIS also asserts it was “developed in concert with other key planning efforts that overlap in the RCIS area. Primarily it builds on existing information provided in the State Wildlife Action Plan (SWAP), DRECP, California Desert Biological Conservation Framework, and the Significant Ecological Areas identified in the *Los Angeles County 2035 General Plan*.” (*Ibid.*) This is also inaccurate. Several facts contradict these statements and demonstrate the scientific modeling’s deficiency:

- The AVRCIS’s scientific modeling includes Tejon Ranch lands, but the modeling fails to utilize project-level habitat data from documents that were prepared pursuant to the California Environmental Quality Act (“CEQA”) for the Centennial Specific Plan. The Centennial Specific Plan was approved by the Los Angeles County Board of Supervisors in April of 2019, following certification of a Final

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<sup>5</sup> The DFW’s 2008 letter supporting the Ranchwide Agreement (*see Attachment 1*) acknowledges that Tejon Ranch’s commitment to conserve the vast majority of Tejon Ranch’s property was done for the purpose and with the intent to “meet the land conservation and corresponding natural resource mitigation requirements for the planned development and other activities within the Developed Areas,” including development in the Los Angeles portion of Tejon Ranch known as the Centennial Specific Plan that is adjacent to the AVRCIS study area.

Environmental Impact Report (SCH No. 2004031072), which documentation had been released for public comment in 2017.

- The AVRCIS modeling and study area includes lands within the State Route 138 right of way, but neglects to utilize project-level habitat data from publicly-available documents that were prepared pursuant to CEQA for the California Department of Transportation (“CalTrans”) project to widen State Route 138 (SCH No. 2013111016).
- The AVRCIS modeling and study area includes lands that were subject to the Antelope Valley Area Plan (“AVAP”), but does not utilize planning-level habitat data from CEQA documents that were prepared for the AVAP, including a certified Final Environmental Impact Report (SCH No. 2014061043).

These three environmental documents – two of which are project-level and all of which are publicly available– provide the best available science for those projects. They are more refined, have higher accuracy and (as to the project level documents) offer localized ecological mapping and analysis. These documents, therefore, collectively provide better available scientific information than the information relied on for the AVRCIS’s modeling. As a result, not only are statements contained in the AVRCIS that its modeling represents “best available science” inaccurate, but such statements impact other characterizations and conclusions made in the AVRCIS. For instance:

- Statements made on AVRCIS page 1-5 in Items 3, 5 and 7 relating to the comprehensiveness and quality of AVRCIS analysis inaccurately suggest the AVRCIS’s modeling is the most reliable. In fact, the analysis and mapping contained in the environmental documents for Centennial, AVAP and the State Route 138 widening are more specific and more accurate.
- AVRCIS Section 2.1.4.3 (at p. 2-32) states that notwithstanding limitations inherent in species modeling, “[s]pecies habitat distribution modeling improves the RCIS planning process in the following ways [¶] • Extrapolates habitat distribution across areas lacking adequate data from field surveys.” However, in the project-level cases noted above there are field surveys that provide data and these studies are publicly available. The AVRCIS proponent, DMCA, must justify why such data is not being used given the statutory requirement that an RCIS rely on best available science.
- AVRCIS Section 2.1.4.3 (at p. 2-34) states that “We created an additional dataset called *species focal areas* to emphasize modeled species habitat that overlaps with known occupied habitat. . . . Species focal areas were created by buffering known point occurrences (since 2000) by distances that estimated the species’ primary activity areas (Table 2-5).” (Emph. supp.) However, there is no explanation in the AVRCIS of how occurrence data was vetted for species that can be observed in habitat that is not considered suitable (i.e., migration versus breeding habitat). Examples of species requiring explanation include the willow flycatcher and Swainsons hawk.
- AVRCIS Section 3, which describes the methodology and depicts areas of high conservation value, is not based on best available scientific information because the analysis does not include project-level data that is publicly available, including the

data identified above for Centennial and the State Route 138 expansion, nor does it include data derived from the planning-level analysis of the AVAP.

- AVRCIS Appendices F (Focal Species Habitat Models) and G (Modeling Methodology) suffer from similar infirmity as a result of the AVRCIS failing to use data from project-level environmental documents for Centennial and the State Route 138 widening and the planning-level analysis from the AVAP.

To its credit, the AVRCIS recognizes there are deficiencies and gaps in the modeling. (*See* AVRCIS at p. 2-36.) However, in the case of the data for the Centennial Specific Plan, the State Route 138 project and the AVAP, noted above, the omission of this information appears to be intentional. For example, at the June 15, 2016 meeting of the DMCA governing board (which is the public agency sponsor of the AVRCIS), a staff report notes that a privately funded “regional conservation framework” known as the Antelope Valley Conservation Framework (or “AVRCF”, which appears to be an early version of the AVRCIS) was in the process of being planned and prepared by Conservation Strategy Group, ICF, Conservation Biology Institute and Terry Watt Consulting. (Attachment 3, June 15, 2016 DMCA Staff Reports.) With respect to this early version of the AVRCIS, the DMCA staff report notes “very little new data will need to be collected or generated, with perhaps the exception of a number of additional species models.” (*Id.* at p. 3.) This statement made by DMCA staff is alarming. At the time, several of the entities preparing this early version of the AVRCIS had specific knowledge of the project-level approvals identified above, either because some of the preparers were litigants against the projects described above<sup>6</sup> or because some of the preparers owed fiduciary duties to parties that would benefit from the projects.<sup>7</sup> Thus, it would be expected that information related to the Centennial Specific Plan, the State Route 138 widening and the AVAP would be used instead of the less-specific modeling data described in the June 15, 2016 staff report. Yet, project-level data was not considered in the draft modeling.

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<sup>6</sup> The Center for Biological Diversity participated in preparing the AVRCIS (*see* AVRCIS at pp. 6-2 – 6-3) and unsuccessfully sued Los Angeles County to challenge its approval of the AVAP. Presently CBD and the California Native Plant Society (also a participant in preparing the AVRCIS, *see* AVRCIS at p. 6-3 and *see also* June 2017 Administrative Draft AVRCIS at p. 6-4) are challenging Los Angeles County’s approval of the Centennial Specific Plan. CBD and CNPS also misused the June 2017 Administrative Draft AVRCIS to negatively comment on the Centennial Specific Plan’s EIR. The Endangered Habitats League participated in preparing the AVRCIS (*see* June 2017 Administrative Draft AVRCIS at p. 6-3) and challenged the State Route 183 widening. The involvement of litigants of projects within the AVRCIS study in the AVRCIS process is just one example of a process tinged with conflicts of interest. As reflected above, that is especially the case where these litigant/AVRCIS participants then use the AVRCIS in the litigation they file.

<sup>7</sup> The Sierra Club, Audubon California, the Natural Resources Defense Council and the Endangered Habitats League are parties to the Ranchwide Agreement, and each had representatives that participated in preparing the AVRCIS. *See* June 2017 Administrative Draft AVRCIS at pp. 6-2 – 6-4. Several of the individuals representing these organizations were, or are currently, Board members of the Tejon Ranch Conservancy and owe fiduciary duties to that organization. Several of the primary leaders of the AVRCIS process are either current or past board members of the Tejon Ranch Conservancy. For instance, Terry Watt, who was a primary author and consultant of the AVRCIS until she “resigned” from the process (due to the objection by Tejon Ranch that she had conflicts of interest and her involvement was contrary to her fiduciary duties as a Conservancy director), is identified in the June 2017 Administrative Draft AVRCIS as a lead consultant and member of the Steering Committee. *See* June 2017 Administrative Draft AVRCIS at pp. 6-1 and 6-2. Likewise, Graham Chisholm, who is a signatory to the Ranchwide Agreement and a former Tejon Ranch Conservancy director, is leading preparation of the AVRCIS and its processing through DFW. *See* AVRCIS at p. 6-2.

Failure to use more recent, more refined and publicly available project-level data (and planning-level data as to the AVAP) is not excusable given the statutory mandate contained in Section 1852(b)(14) that an RCIS “shall include . . . best available scientific information regarding the strategy area and the surrounding ecoregion.” Inclusion of such data is not discretionary, it is mandatory. Here, not only is use of the project level data for the Centennial Specific Plan and the CalTrans State Route 138 expansion required (as is the planning level data for the AVAP), but failure to do so renders DFW unable to approve the AVRCIS. Doing so would be contrary to law and an abuse of discretion by DFW.

The simplest solution, therefore, is for Tejon Ranch lands to be removed from the AVRCIS’s scientific modeling. Removal from both the study area and the scientific modeling is what Tejon Ranch representatives were led to believe would occur and would be consistent with express promises made by those preparing the AVRCIS. *See Attachment 2.* Removal would also be consistent with the reasoning for omitting Tejon Ranch lands from the AVRCIS study area (which reasoning is explained above). Statements by those preparing the AVRCIS that doing so is too “costly” is, frankly, irrelevant given the statutory mandate requiring inclusion of project-level data as “best available scientific information.” Removal from the modeling to match the study area is likely less costly than revising the AVRCIS to account for this project-level and/or planning-level data.

### **III. Those Preparing the AVRCIS Failed to Comply with Applicable Law and the 2018 Guidelines**

To date, the AVRCIS process has been run almost entirely by private entities and conflicted individuals, not by a public agency that maintains responsibility for and control of the study. (*See AVRCIS, Appendix C, at pp. C-2 – C-4.*) Yet, Section 1852(a) only identifies two types of entities that are authorized to prepare and propose an RCIS – DFW or a public agency.

#### **A. The RCIS Statute Only Authorizes Public Agencies to Prepare an RCIS.**

Only the DFW or a public agency has statutory authority to “propose”, “develop”, “create” or “submit” an RCIS for DFW’s consideration. (§§ 1852(a), 1854(c).) The statute does not authorize a private party to prepare an RCIS (at least not without a public agency being “in control” of or “responsible” for the process).<sup>8</sup> Nor does the RCIS Statute contemplate, let alone authorize, the preparation of an RCIS by private parties who, at some later date and time, then “forum shop” an RCIS to a public agency that then enters the process to merely serve as the titular public agency

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<sup>8</sup> The 2018 Guidelines provide some elaboration on who may be an “RCA or RCIS proponent”, which these guidelines define to include a “public agency or group of public agencies developing an RCA or RICS for review and approval by CDFW and who is responsible for the technical and administrative updates of an RCA or RCIS.” 2018 Guidelines at p. 2-11, *emph. supp.* Additionally, the 2018 Guidelines acknowledge that an RCIS proponent (i.e., a public agency) can “prepare an RCIS collaboratively with other public agencies or other stakeholders, including non-profit organizations or other interested parties.” *See* 2018 Guidelines at 4-43. While this language does permit third parties to participate in the development of an RCIS, to comply with and not violate the RCIS Statute, such participation must be (as the 2018 Guidelines state) “collaborative” and maintain the public agencies ultimate responsibility for the process and documentation prepared. As reflected in this comment letter (which provides DMCA documents as support), the AVRCIS process not only started prior to DMCA’s involvement, but was well underway as to planning and preparation of a draft document prior to that time. The record fails to show that DMCA “initiated” the process, “led” the process or “prepared” the AVRCIS.

sponsor. Such a charade not only contradicts the RCIS Statute, but such dishonest maneuvering runs afoul of, if not is a blatant affront to, basic principles of governmental transparency, open record keeping, conflicts of interest and due process that apply to public agency operations.

As discussed below, the AVRCIS process did not involve the required public agency sponsorship until September 13, 2017 – at which time DMCA’s governing body acted, for the first time, to officially become the “public agency” proponent of the AVRCIS. (See Attachment 4, September 13, 2017 Staff Report.) Prior to this September 13, 2017 meeting, the DMCA governing board only received two briefings on the AVRCF, the early version of the AVRCIS. At no time did the DMCA governing board, prior to September 13, 2017, take any action that could remotely be viewed as authorizing the initiation, sponsorship, creation or preparation of the AVRCIS. As reflected below, prior to September 13, 2017, the DMCA was “invited” to participate in an already formed “Steering Committee” that, with authorship of private individuals and entities, and with funding from private sources, was already well underway in planning and preparing an early version of the AVRCIS. As quoted below, one of the two DMCA staff reports from June 15, 2016 makes it clear that DMCA’s role would have little influence, given major work and conclusions regarding the study’s modeling were already complete. (See Attachment 3.) The September 13, 2017 DMCA staff report is even more clear as to the timing and nature of DMCA’s involvement: (i) private consultants without any governmental oversight “produced all of the draft documentation and mapping to date and has run Steering Committee and Advisory Committee meetings” and (ii) prior DMCA discussion in June of 2016 was not to take action to be the proponent of the AVRCIS, rather it was “a discussion item about the evolving Antelope Valley Regional Conservation Investment Framework.” (See Attachment 4, *emph. supp.*)

1. The AVRCIS Process Has Been Led Almost Entirely by Private Entities and Conflicted Individuals, Not a Public Agency.

Prior to a September 13, 2017 meeting of DMCA’s governing board, there was no official action by DMCA to authorize preparation or initiation of the AVRCIS process. This is evident from the staff report for the September 13, 2017 DMCA meeting. Additionally, records from DMCA meetings prior to that date demonstrate that the AVRCIS process began well before DMCA’s involvement. One of the staff reports prepared in conjunction with the June 15, 2016 DMCA governing board meeting indicates that DMCA did not “initiate” the process but, rather, was “invited to be on the AVRCF steering committee” preparing the AVRCF, a precursor and early version of the AVRCIS. (See Attachment 3.)

The “Steering Committee” mentioned in the two June 15, 2016 staff reports was comprised of numerous entities and individuals that used the AVRCIS process for their own individual interests, not the public’s interest (which is the statutory rationale for having a public agency initiate and prepare an RCIS). The conflicts of interest of the AVRCIS Steering Committee, Advisory Committee and Technical Subcommittee membership was previously communicated to DMCA and DFW. These concerns are now reiterated by attachment of Tejon Ranch’s May 21, 2019 letter (which letter is incorporated by this reference for DMCA’s response and DFW’s consideration). (See Attachment 5, May 21, 2019 Tejon Ranch letter to DFW re conflicts.) At the very least, and to prevent further violation of public ethics and conflict of interest laws, those individuals with conflicts of interest in the outcome of the AVRCIS (including, without limitation, those individuals identified in footnotes 6 and 7) must not participate further in the AVRCIS process in any manner,



including as members of the Steering Committee, Advisory Committee or Technical Subcommittee.<sup>9</sup>

Since September 13, 2017, when the DMCA officially determined it would prepare and sponsor the AVRCIS, there has been virtually no official action or public process undertaken by DMCA in furtherance of the AVRCIS process. Records demonstrate the AVRCIS process was – and continues to be – run almost entirely by private consultants and entities (with funding from private entities) that have no contractual obligation to DMCA. This means that DMCA cannot really be deemed to be the entity preparing or initiating the AVRCIS. These facts are evidenced by the public agenda and agenda material from the DMCA meetings between 2016 and 2019<sup>10</sup> and the audio recording of the September 13, 2017 DMCA governing board meeting.

Preparation of the AVRCIS by private entities and individuals without the meaningful oversight or control of a public agency is not what the RCIS Statute contemplates (or allows). Yet, as reflected in statements by Mr. Edelman, an executive officer of DMCA (who himself was involved in the AVRCIS process), that is exactly what the private entities and conflicted individuals who prepared the AVRCIS desired. The result was a process that lacked transparency, accountability and the real opportunity for the public, property owners and other stakeholders to have input, contrary to the intent of the RCIS Statute.

During the September 13, 2017 governing board meeting, staff for DMCA stated that (a) the AVRCIS process to that date had been purely private in nature and (b) it was the intention of those actually preparing the AVRCIS to avoid public scrutiny of their work product until it was submitted to DFW. A copy of the audio recording of the September 13, 2017 DMCA governing board meeting, which was provided by DMCA to Tejon Ranch in response to a Public Records Act request, is included as Attachment 6 to this letter. Statements made at the September 13, 2017 meeting demonstrate an intentional desire to sugarcoat a public process and maintain secrecy:

Mr. Edelman: “It’s really a decision of . . . Well, I guess it’s ultimately . . . *If the DMCA sponsors the regional conservation investment strategy*, the DMCA will have some say in that. *But right now, it’s a private document that’s moving forward through this planning team hired by Bechtel and the Windward Foundation.*” (Minute 21:58, emph. supp.)

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<sup>9</sup> Tejon Ranch presumes that several of the individuals or entities listed in Chapter 6 of the AVRCIS will comment on the AVRCIS. This will only serve to highlight Tejon Ranch’s concern that conflicts of interest have and continue to permeate the AVRCIS process. Insofar as Steering Committee, Advisory Committee or Technical Advisory Committee members or their organizations comment on the AVRCIS, it is wholly inappropriate for these individuals and entities to provide input into any “response” to their own comments. It is also inappropriate for such individuals or entities to assist in responding to the comments contained in this letter.

<sup>10</sup> The DMCA governing board did not meet at all in 2015 and only met twice in 2016 – on June 15, 2016 and on September 9, 2016. (See [http://dmca.ca.gov/agenda\\_archive.asp](http://dmca.ca.gov/agenda_archive.asp) [agenda and agenda material hyperlinks].) Furthermore, neither of the meetings held in 2016 by the DMCA governing board created a “DMCA Steering Committee” or took any action to authorize or “initiate” preparation of the AVRCIS. In fact, the two staff reports for the June 15, 2016 meeting are both admissions that an early version of the AVRCIS was already in the process of being planned and prepared by private individuals and entities. See Attachment 3. DMCA’s governing board met only once in 2017, did not meet at all in 2018 and met only once in 2019 ([http://dmca.ca.gov/agenda\\_archive.asp](http://dmca.ca.gov/agenda_archive.asp)). At some point one must question whether the private individuals and entities preparing the AVRCIS (including those with conflicts of interest) intentionally chose to use a nominal government agency that hardly ever meets. Doing so certainly makes public input with decisionmakers virtually impossible.

Unknown Speaker: “And part of the process around the work that we're doing is having a team of advisors from different nonprofits and conservation entities, and to take it entirely out of their hands by letting every landowner opt in or opt out I think would be difficult to do without including these nonprofits and organizations to weigh in on how we exclude or include land, when the main goal is to the conservation priorities not landowner priorities. (Minute 22:22, emph. supp.)

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Mr. Edelman: “And this process has been going on for a year and a half, and the staff has been involved in it, and Chair Olesh is involved in it through the Transition Habitat Conservancy. . . . It [the AVRCIS] even got going *before* the legislation occurred.” (Minute 32:08, emph. supp.)<sup>11</sup>

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Mr. Edelman: “So, our recommendation is after this discussion is to take that role [to become the proponent], and go with the momentum of the program, and show the flag, and become authorized, becoming a sponsor, and potentially one thing we talked about internally was that if . . . Since you haven't seen the final draft of it, and that the people who are preparing it don't want that final draft to go public until it goes to the Department of Fish and Wildlife, that you could make it so that the chair could get final approval of it, potentially to... Before it gets submitted to Fish and Wildlife. . . . But that the planning team really thought it would be better, and move the process along farther, if it could go to that stage without being widely distributed public wide.” (Minute 34:40, emph. supp.)

What is evident from the AVRCIS process, as reflected above in statements of DMCA's own executive staff, is the intentional failure of those preparing the AVRCIS to comply with several requirements in the RCIS Statute that are intended to provide a transparent process. What is also obvious is (i) that September 13, 2017 was the first time that the DMCA's governing body actually considered and discussed its formal involvement in the AVRCIS process and (ii) prior to that time, private entities and conflicted individuals, and not DMCA as the “public agency” proponent, had been conducting all work and making all decisions relative to the AVRCIS.

Further, it is evident (as demonstrated by the quotations above) that DMCA staff urged the DMCA governing board to continue shielding the AVRCIS from public light by (i) not reviewing a final draft before submittal to DFW and (ii) authorizing the DMCA Chair, who himself had personal conflicts as a director of one of the private entities preparing the AVRCIS, to give final approval of any submittal to DFW. This suggestion was ultimately what the DMCA governing board approved, thus carrying on its legacy of inaction and inattention to the AVRCIS, which continues to this day to be controlled by private individuals and entities.

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<sup>11</sup> This is yet another example of conflicts of interest that are inherent in the AVRCIS process. Mr. Olesh is a public official (and is the Chair of DMCA's governing board). Yet in this case, DMCA's staff admits that Mr. Olesh has participated in the AVRCIS process in his private capacity as a director of the Transition Habitats Conservancy. “Wearing two hats” is a classic conflict of interest. While Mr. Olesh is unable to correct any past actions, going forward it is inappropriate for him to continue participating in the AVRCIS process.

2. The AVRCIS Was Not “Initiated” by DMCA and DMCA Was Not Involved Until Long After the AVRCIS Was Drafted.

The AVRCIS makes several factual statements that would lead DFW to believe that the document has been initiated, prepared and proposed by a public agency in compliance with Sections 1852(a) and 1854(c). For example, the AVRCIS states:

- “The Antelope Valley RCIS development process began in March 2016. The process was initiated by the Desert and Mountain Conservation Authority (DMCA) in collaboration with the California Energy Commission.” (*See* AVRCIS at p. 1-6, *emph. supp.*)
- “As the RCIS applicant, DMCA led preparation of this RCIS with generous funding from the Stephen D. Bechtel, Jr. Foundation.” (*Id.* at 1-7, *emph. supp.*)
- “The coordination and development of this Antelope Valley RCIS was guided by a Steering Committee. The Steering Committee, led by DMCA, was composed of representatives from DMCA, the Nature Conservancy, California Department of Transportation, California Energy Commission, U.S. Fish and Wildlife Service (USFWS), and Transition Habitat Conservancy.” (*Ibid.*, *emph. supp.*)
- “[T]he effort is being led by a Steering Committee, convened by the Desert and Mountains Conservation Authority, and comprised of . . .” (*Id.* at Appendix C-1 [Notice of Public Meeting on the Proposed Antelope Valley Regional Conservation Investment Strategy], *emph. supp.*)

None of these statements are accurate. Audio recordings of the September 13, 2017 DMCA governing board meeting (which are quoted above) make that abundantly clear. (*See, Attachment 6 and* quotations above.) Additionally, both DMCA staff reports, dated June 15, 2016, relating to DMCA involvement in the AVRCF (the early version of the AVRCIS) note that private entities and individuals, with private funding support, had organized a group to prepare the AVRCF document and that DMCA was being “invited” to participate in a process that was already underway. (*See Attachment 3.*) One of these staff reports goes on to indicate that “Staff will know a lot more about the potential DMCA roles and timing after the June 13<sup>th</sup> meeting.” (*Ibid.*) The remainder of this staff report consists of a consultant-prepared summary of the AVRCF. The two staff reports for June 15, 2016 and the consultant-prepared summary indicate that planning and preliminary preparation of the AVRCF was already underway – obviously long before DMCA’s governing board considered on June 15, 2016 whether to even participate in the precursor to the RCIS pilot program. This was also nearly 18 months before the September 13, 2017 DMCA meeting where, for the first time, DMCA’s governing board determined it would become the public agency that is supposed to prepare an RCIS as provided in Section 1852(a) and 1854(c).

These facts demonstrate that DMCA was “invited” into a process that was not only well underway, but had already (i) resulted in the planning and decision to prepare an early version of the AVRCIS and (ii) made conclusions on the nature of the scientific modeling that would be used. In sum, DMCA’s role has been minimal, lacking in oversight of those preparing the AVRCIS, and devoid of independent review of the work product prepared by the private individuals and entities submitting the AVRCIS. In fact, in taking the only and last recorded action on the AVRCIS, the DMCA Board moved to become the public agency applicant and authorized the body’s chair (who also happened to be participating in the AVRCIS process in his personal capacity as a member of

the Transition Habitat Conservancy, *see* footnotes 10 and 11 above) to conduct any necessary final review and sign off for submittal to DFW because “the people who are preparing it don’t want that final draft to go public.” (*See Attachment 6*, at min. 34:40.) It is evident that DMCA’s Board was not interested in engaging in any meaningful control or oversight of the AVRCIS process, mainly because (to date) it has been driven by private entities and individuals.

For the reasons in Section III.A, it is improper for DFW to take any action to approve the AVRCIS. Action by DFW to approve the AVRCIS would do nothing more than condone a secretive process.

**B. Those Preparing the AVRCIS Have Not Complied with Provisions of the RCIS Statute Meant to Ensure Public Participation.**

In order for there to be sufficient public input, at a minimum, there must be compliance with provisions of the RCIS Statute that are designed to afford the public and interested parties the opportunity to participate.

The RCIS Statute requires that, unless a public agency initiated an RCIS before January 1, 2017, the public agency must publish a notice of intent to create an RCIS and file such notice with the Office of Planning and Research and the county clerk of counties where the RCIS is found. (§ 1854(c)(1); *see also* Gov. Code § 6040 [specifying method of publication applicable to all public agency publication obligations].) The AVRCIS concedes that the DMCA did not publish a notice of intent “[b]ecause development of this Antelope Valley RCIS began in June 2016.” (*See AVRCIS* at p. 1-15.) While it is true that there were entities preparing what later became the AVRCIS prior to January 1, 2017, those entities were private organizations and conflicted individuals who were not authorized, directed or approved by DMCA’s governing board to do so. Even the June 15, 2016 action by DMCA does not render the AVRCIS’s statement accurate because, as noted in the June 15, 2016 staff reports, at that time a private group was already in the process of planning and preparing the AVRCF (an early version of the AVRCIS). Indeed, it was this private group that was “inviting” DMCA in June of 2016 to sit on a steering committee as one member among many other participants. It was only on September 13, 2017, at the end of this closed group process that DMCA’s governing board took official action to become the public agency sponsor of the AVRCIS.

This notice of intent is required by the RCIS Statute. It was not published by DMCA or those actually preparing the AVRCIS. As a result, the AVRCIS may not move forward absent compliance with this requirement.

**C. Those Preparing the AVRCIS Have Not Complied with the 2018 Guidelines.**

DFW promulgated the 2018 Guidelines to provide guidance to public agencies preparing RCIS. There have been several prior iterations of DFW guidance, including guidelines published in June of 2017. The 2018 Guidelines govern an RCIS if it was initiated on or after January 1, 2017 or if a public agency published a notice of intent for an RCIS after September 13, 2018. (*See Guidelines* at p. 4-1, fn. 117.) An RCIS initiated prior to January 1, 2017 is exempt from the Guidelines (as would be an RCIS for which a public agency published a notice of intent prior to September 14, 2018), in which case the RCIS may use DFW guidelines adopted in June of 2017.

In order to avail itself of the June 2017 guidelines, a public agency “must provide CDFW with adequate written documentation that they have met either one of the criteria.” In this case, DMCA is unable to provide the written documentation that is required by the 2018 Guidelines. As discussed above, all action taken by DMCA relative to the AVRCIS occurred exclusively at the June 15, 2016 and September 13, 2017 governing board meetings. As part of the June 15, 2016 meeting documentation, the staff reports demonstrate that DMCA did not initiate the AVRCIS process (or AVRCF process, for that matter) – private entities and conflicted individuals initiated the process and were already underway planning and preparing the draft study. It was only at the September 13, 2017 DMCA governing board meeting that DMCA, for the first time, took official action to become the “public agency” proponent of the AVRCIS. Accordingly, the 2018 Guidelines – not earlier DFW guidance – are applicable to the AVRCIS.


The AVRCIS proponents fail to comply with provisions in Section 4.2.4 of the 2018 Guidelines. The record does not indicate any outreach by AVRCIS proponents to “tribes with cultural interests in the RCIS area,” as is recommended in the 2018 Guidelines. (*See* Guidelines at p. 4-6.) This omission also contradicts the DFW’s adopted Tribal Communication and Consultation Policy. (*See* Department Bulletin 2014-07.) Oddly, the various committees that comprised the AVRCIS’s “decisionmakers,” which were mainly environmental organizations, individuals from government agencies and public utilities, could have easily communicated with and included the cultural perspective of other communities and valued stakeholders, such Native American tribes. Unfortunately, AVRCIS preparers appear not to have conducted this important consultation and good faith outreach.

#### **IV. Conclusion**

Tejon Ranch lands should be removed from the AVRCIS’s scientific modeling, as those preparing the AVRCIS indicated would occur and as Tejon Ranch representatives were led to believe would happen. Removal from the modeling is consistent with the reasoning for removing Tejon Ranch lands from the AVRCIS study area. The cost of doing so is irrelevant given the statutory mandates that require inclusion of project-level data as “best available scientific information”. If the AVRCIS’s preparers will not remove Tejon Ranch lands from the modeling (as previously promised), then the scientific modeling must be re-run because it does not include the best available scientific information, which as demonstrated by this letter is contained in publicly-available project level environmental documentation.

Regardless of the points above, the AVRCIS’s preparers failed to comply with various aspects of the RCIS Statute, including most notably, the failure of a public agency to initiate the AVRCIS and to publish a notice of intent. These infirmities are highly problematic because DMCA is unable to demonstrate its compliance with the RCIS Statute and the 2018 Guidelines. As a result, it is difficult for DFW to approve the AVRCIS.

Sincerely,

  
Michael R.W. Houston,  
Senior Vice President, General Counsel & Secretary

Attachments: 1. May 1, 2008 Letter supporting the Ranchwide Agreement  
2. Email excerpts regarding removal of Tejon Ranch lands  
3. June 15, 2016 DMCA Staff Reports regarding AVRCF (two staff reports)  
4. September 13, 2017 DMCA Staff Report regarding AVRCIS  
5. May 21, 2019 Letter from Tejon Ranch to DFW re conflicts (with attachments)  
6. Audio recording of September 13, 2017 DMCA meeting (Thumb-drive)

cc: Nathan Voegeli, Esq., DFW Tribal Liaison (*via email, nathan.voegeli@wildlife.ca.gov*)  
Tejon Ranch Conservancy Board of Directors (*via email by way of Conservancy counsel*)  
Graham Chisholm (*via email*)

*Note: Audio file appended as Attachment 6 only sent to primary recipients*

**Attachment 1**

May 1, 2008 Letter supporting the Ranchwide Agreement

**EXHIBIT R**

**Resource Agency Letter re Mitigation**



*California Environmental  
Protection Agency*



May 1, 2008

Mr. Robert A. Stine  
President & CEO  
Tejon Ranch Company  
4436 Lebec Road  
Lebec, CA 93243

Dear Mr. Stine:

As you know, representatives of the Tejon Ranch Company (TRC) have had a number of meetings with California Resources Agency staff to discuss TRC's long-term plans for conservation and development of the 270,000-acre Tejon Ranch (Ranch). TRC has also met with the California Environmental Protection Agency to discuss the outline of TRC's project plans. Because of the exceptional natural resource values of the Ranch, both of our agencies have been delighted to learn that you have worked with various environmental groups (Resource Groups) to develop a conservation and land use agreement (Ranchwide Agreement) that identifies and designates planned conservation areas (Conserved Areas), planned development areas (Developed Areas) and the permitted activities within those areas. As it has been described to us, the Ranchwide Agreement would foster the orderly conservation and development of the Ranch and provide for the permanent conservation of almost 90 percent of the Ranch. We understand that the Ranchwide Agreement is at a conceptual level at this time, but that you expect to have final agreement with environmental groups sometime in early May.

In connection with the proposed Ranchwide Agreement, we understand that TRC is seeking policy level recognition of this historic accord from State and Federal agencies and departments. The purpose of this letter is to provide that policy recognition exclusively in relation to this planned transaction for the Ranch.

Because of the unique factors involved in this project, this policy recognition is not intended to, and does not, serve as precedent for lands other than those within the Ranch.

To that end, we offer the following policy statements in support of the Ranchwide Agreement:



Mr. Robert A. Stine  
May 1, 2008  
Page 2

- Based on your description of the Ranchwide Agreement, we understand that of the approximately 270,000 acres comprising the Ranch, the Ranchwide Agreement would provide for the permanent preservation of at least 178,000 acres and for the option to preserve an additional 62,000 acres through the purchase of conservation easements, or potentially fee title, for an anticipated total of approximately 240,000 acres, or almost 90 percent of the total Ranch acreage. Because of the many unique factors noted above, including the sheer magnitude of this conservation effort and the significant resource values attributed to this property, and in viewing the 240,000 acres in the Conserved Areas in a holistic manner, we expect that TRC will be allowed to use those Conserved Areas and corresponding natural resource values associated with these Conserved Areas to meet the land conservation and corresponding natural resource mitigation requirements for and the planned development and other activities within the Developed Areas, including the designated planned development projects of Tejon Mountain Village, Centennial and Grapevine, subject to potential limitations for Conserved Areas acquired using public funds as described below.
- Though actual mitigation requirements for the planned development and other activities within the Developed Areas cannot be known prior to regulatory review, given the large amount and high natural resource values in these Conserved Areas, we do not anticipate that TRC would be required to acquire or use lands outside of Ranch property to satisfy natural resource mitigation requirements. Only after a full evaluation of these lands, and a determination is made that the required mitigation can not be found on the Ranch, would we look outside the Ranch for mitigation.
- For portions of the Conserved Areas that are permanently preserved by conservation easements, or potentially fee title, acquired using public funds, the use of these lands for mitigation purposes would not be allowed unless the potential mitigation use of these lands is taken into account in the price paid and unless mitigation uses are allowed by applicable laws including those governing the public funding source(s) used to fund the acquisition.
- In order to provide an integrated and comprehensive approach to the management of lands and resources within the Conserved Areas, we understand that the parties have agreed to create an independent conservancy (Tejon Conservancy) as part of the Ranchwide Agreement. Provided that the Tejon Conservancy meets applicable legal requirements for holding mitigation land and conservation easements and assuming corresponding long-term mitigation monitoring and other mitigation obligations, the Tejon Conservancy could serve as the appropriate and preferred entity to hold conservation easements and/or title to mitigation lands granted by TRC, and to manage those lands, subject to regulatory requirements imposed pursuant to project permitting for the Developed Areas.

Mr. Robert A. Stine  
May 1, 2008  
Page 3

- We appreciate the commitment of TRC and the Resource Groups to work with California State Parks and other stakeholders toward creation of a State Park within the Ranch. A large park, extending from the Mojave Desert, across the Tehachapi Mountains, and into the grasslands of Tejon Valley, would be an extraordinary addition to California's state park system, providing meaningful public access to the Tehachapi Mountains. The Tejon Conservancy would be a valued partner in planning and supporting this State Park.

This letter is intended to set forth policy statements in support of the Ranchwide Agreement. As specific projects are proposed, TRC and other parties engaged in the planned development or other activities on the Ranch will be required to apply for and obtain all permits, licenses and approvals required under applicable law, including compliance with the California Environmental Quality Act and all other state laws. Final determinations regarding permit and mitigation requirements for those activities will be decided by the appropriate agencies and departments as part of, and in accordance with, those processes.

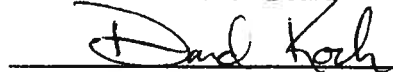
The policy statements in this letter presume that the terms of the final Ranchwide Agreement are substantially consistent with the above description and will in fact be reached. If, for some reason, TRC and the environmental groups are unable to reach a final agreement, we expect that TRC will notify us. Again, we applaud the Tejon Ranch Company for working to reach such a significant and historic agreement to address the long-term future of Tejon Ranch.

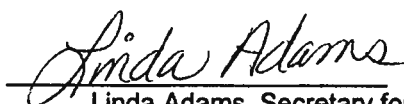
Sincerely,

  
Mike Chrisman, Secretary for Resources

  
Ruth Coleman, Director  
California State Park

  
John Donnelly, Director  
Wildlife Conservation Board

  
Don Koch, Director  
Department of Fish and Game

  
Linda Adams, Secretary for  
Environmental Protection

  
Tam Doduc, Chair, State Water  
Resources Control Board

**Attachment 2**

Email excerpts regarding removal of Tejon Ranch lands

**From:** Graham Chisholm <[graham.chisholm@gmail.com](mailto:graham.chisholm@gmail.com)>  
**Sent:** Tuesday, August 20, 2019 3:28 PM  
**To:** Greg Medeiros <[gmedeiros@tejonranch.com](mailto:gmedeiros@tejonranch.com)>  
**Cc:** Hunt Gary <[ghunt@calstrat.com](mailto:ghunt@calstrat.com)>; Michael Houston <[mhouston@tejonranch.com](mailto:mhouston@tejonranch.com)>  
**Subject:** [External] Re: Fwd: AVRCIS

Greg, I double checked dates, and wanted to clarify that I mean Thursday, Oct. 10th (not the 11th).

Thanks. Graham

On Wed, Aug 14, 2019 at 8:55 AM Graham Chisholm <[graham.chisholm@gmail.com](mailto:graham.chisholm@gmail.com)> wrote:

Greg, thanks for the follow up. We would propose October 11th (Thursday). Scott Fluery (ICF) is the only one of us based in southern California and at this point we'd propose that we either meet in person in Sacramento/San Francisco or convene a call with web access to carefully go over maps that will indicate how we will have addressed the concerns that have been raised about the display of model results. Obviously in person is preferable.

Due to the prior experience, we will not be circulating a copy of the revised draft to any stakeholders prior to resubmission, but are happy to walk through in specific detail the issues the Tejon Ranch Company has raised.

Thanks. Graham

On Tue, Aug 6, 2019 at 5:38 PM Greg Medeiros <[gmedeiros@tejonranch.com](mailto:gmedeiros@tejonranch.com)> wrote:

Hello Graham,

Thank you for the follow up email. The dates you propose are fine with my schedule. However, I would prefer to move the meeting to the Los Angeles area. Also, to make the meeting as productive and efficient as possible. I would like a copy of the draft AVRCIS Report for my review prior to the meeting. Do you have a preferred date during the week of October 7?

Greg

Greg Medeiros

*Vice President of Community Development - Centennial*



27220 Turnberry Lane, Suite 190

Valencia, CA 91355

(661) 705-4460 Direct

[www.TejonRanch.com](http://www.TejonRanch.com)

**From:** Graham Chisholm <[graham.chisholm@gmail.com](mailto:graham.chisholm@gmail.com)>  
**Sent:** Tuesday, August 6, 2019 5:27 PM  
**To:** Hunt Gary <[ghunt@calstrat.com](mailto:ghunt@calstrat.com)>; Michael Houston <[mhouston@tejonranch.com](mailto:mhouston@tejonranch.com)>; Greg Medeiros <[gmedeiros@tejonranch.com](mailto:gmedeiros@tejonranch.com)>  
**Subject:** [External] Fwd: AVRCIS

Greg, Gary and Michael, confirming that you received my email regarding getting together to review how the draft was reviewed prior to our next submission. Thanks. Graham

----- Forwarded message -----

**From:** Graham Chisholm <[graham.chisholm@gmail.com](mailto:graham.chisholm@gmail.com)>  
**Date:** Tue, Jul 30, 2019 at 11:57 AM  
**Subject:** Re: AVRCIS  
**To:** Greg Medeiros <[gmedeiros@tejonranch.com](mailto:gmedeiros@tejonranch.com)>  
**Cc:** Paul Edelman <[edelman@smmc.ca.gov](mailto:edelman@smmc.ca.gov)>, ronald.unger@wildlife.ca.gov <[ronald.unger@wildlife.ca.gov](mailto:ronald.unger@wildlife.ca.gov)>, Beale Chris <[cbeale@resourceslawgroup.com](mailto:cbeale@resourceslawgroup.com)>, Gary Hunt <[ghunt@calstrat.com](mailto:ghunt@calstrat.com)>, Michael Houston <[mhouston@tejonranch.com](mailto:mhouston@tejonranch.com)>

Dear Greg,

Following up on my earlier email, I wanted to see if we can organize a meeting to discuss the Antelope Valley draft RCIS that is being revised. Given the challenge of schedules, I wanted to see if one of the follow dates would work for a meeting in Sacramento: Oct. 7, 10, or 11 (Mon, Thurs, Friday). The ICF team would describe the draft and share maps that will indicate how the modeling results are not extended beyond the RCIS boundary (which exclude TRC lands). Unfortunately, Chris Beale will not be able to join on those dates.

Let me know if those dates would work for you and anyone else you'd like to have join the meeting.

Thanks. Graham

On Tue, Jun 18, 2019 at 1:51 PM Graham Chisholm <[graham.chisholm@gmail.com](mailto:graham.chisholm@gmail.com)> wrote:

Dear Greg, thanks for your email, once the technical consultant completes the work and before we are prepared to resubmit, we will set up a time to do a webinar to review. Chris Beale also confirmed this with Jennifer Hernandez. I don't expect that that will occur until at least mid-August due to work flow.

Thanks. Graham

On Tue, Jun 18, 2019 at 1:48 PM Greg Medeiros <[gmedeiros@tejonranch.com](mailto:gmedeiros@tejonranch.com)> wrote:

Hello Graham,

In response to your offer to meet to confirm removal of Tejon Ranch from maps and the scientific re-modeling in the draft AVRCIS, as noted in the attached email exchange between our general counsel and you, I am writing to touch base on the status of your update and revision of the AVRCIS.

When do you think you will be in a position to share the changes to the maps and scientific re-modeling that you have offered to implement to fully remove Tejon Ranch from the AVRCIS (consistent with the removal of the Ranch from the study area)? As we understand it from your attached email, and as is our expectation, the study will be revised to update the mapping and scientific re-modeling to not have Tejon Ranch land included. I am available at a time that is convenient for both of us to discuss this and to review the updated draft.

Thank you,

**Greg Medeiros**

**Greg Medeiros**

*Vice President of Community Development - Centennial*



27220 Turnberry Lane, Suite 190

Valencia, CA 91355

(661) 705-4460 Direct

[www.TejonRanch.com](http://www.TejonRanch.com)

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**Graham Chisholm**

c. 510-409-6603

e. [graham.chisholm@gmail.com](mailto:graham.chisholm@gmail.com)

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**Graham Chisholm**

c. 510-409-6603

e. [graham.chisholm@gmail.com](mailto:graham.chisholm@gmail.com)

## Michael Houston

---

**From:** Michael Houston  
**Sent:** Friday, May 24, 2019 10:33 AM  
**To:** Graham Chisholm  
**Cc:** Paul Edelman; ronald.unger@wildlife.ca.gov; Beale Chris; Gary Hunt  
**Subject:** RE: Letter pertaining to Antelope Valley Regional Conservation Investment Strategy  
**Attachments:** FW: Call Status; Fwd: Letter pertaining to Antelope Valley Regional Conservation Investment Strategy

Mr. Chisolm,

I think our most significant concern regarding the lack of communication to date relates to the fact that Tejon Ranch had no prior understanding of what had been done in the most recent AVRCIS submittal, given that we'd previously been told that the study area and modeling would exclude Tejon Ranch (and really should exclude all area outside the study area) and for all the reasons raised in my prior letters. As reflected in Gary Hunt and Jennifer's responses (both attached), our awareness occurred only after the May 7<sup>th</sup> DMCA meeting and both have no record of being contacted.

Having said that, I appreciate your willingness to implement changes that are consistent with the fact that Tejon Ranch is outside the study area, as noted in your email below. Since you've offered, it probably would be appropriate at some point for us to evaluate the changes to modeling in depictions or narrative to ensure that your commitments are being lived up to.

Of course, we reserve all our rights and remain concerned about the AVRCIS process in general.

Thank you,  
Mike

Michael R.W. Houston  
*Senior Vice President and General Counsel*



P.O. Box 1000 | 4436 Lebec Road  
Tejon Ranch, CA 93243

(661) 663-4230 Direct

[www.TejonRanch.com](http://www.TejonRanch.com)

[www.TejonOutlets.com](http://www.TejonOutlets.com)

Bio: <http://tejonranch.com/company-executives/senior-vice-president-general-counsel/>



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**From:** Graham Chisholm <graham.chisholm@gmail.com>  
**Sent:** Wednesday, May 22, 2019 10:50 AM  
**To:** Michael Houston <mhouston@tejonranch.com>  
**Cc:** Paul Edelman <edelman@smmc.ca.gov>; ronald.unger@wildlife.ca.gov; Beale Chris <cbeale@resourceslawgroup.com>; Gary Hunt <ghunt@calstrat.com>  
**Subject:** Re: Letter pertaining to Antelope Valley Regional Conservation Investment Strategy

Mr. Houston,

Thanks for your response, I will discuss with those involved in preparing the next revised draft.

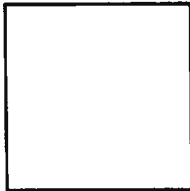
To correct and update your message indicating the lack of response, please note that I did not reach out to Mr. Hunt, please see my email on May 14th (below). I would have to go through phone records to find the date/time when I left Mr. Hunt a message seeking to discuss the Antelope Valley RCIS earlier this year. Further, Chris Beale left Ms. Hernandez a voice on the afternoon of May 17, 2019 and did not receive a response as of today.

Further to my message, we'd be happy to meet with you or representatives to walk through how we intend to revise the draft, otherwise we will move forward and ensure that the depiction of the modeling results only cover the RCIS area.

Regards, Graham Chisholm

**Graham Chisholm <graham.chisholm@gmail.com>**

to Hunt



Gary, hopefully you haven't lost my number, I left you a message regarding Antelope Valley several months ago, a d never heard back.

Please let me know if you like to speak.

Thanks.

On Wed, May 22, 2019 at 10:26 AM Michael Houston <mhouston@tejonranch.com> wrote:

Mr. Chisolm and Mr. Edelman,

Initially, thank you both for the responses you provided. I've included an email that Mr. Edelman separately sent me yesterday, as an attachment to this email chain, for ease of communication. As reflected in my correspondence over the past year and a half (primarily directed to DMCA, and most recently to the Department of Fish & Wildlife), the most concerning aspect of this process has been attempting to understand what is occurring. I'll let my earlier correspondence speak for itself, in regard to what I think has been a less than clear or transparent process, but I pin that concern on the fact that nominally private entities have been managing and preparing a study that should really be undertaken through a governmental process (as statutorily required). I sincerely hope that your respective recent responses are an indication that the commitment made to us in 2017 will, in fact, be honored.

Permit me to clarify several points and raise them in a manner that is responsive to each of your comments.

1. As mentioned in my letter yesterday to Mr. Unger, we are aware that the current AVRCIS study area does not include Tejon Ranch. The concern, however, as expressed in my letter, is that the mitigation priority modeling and visualizations depicting this modeling extend beyond the study area and such depictions include Tejon Ranch and other lands outside the boundary. The letter sent to Mr. Unger included several examples from the February 2019 Draft AVRCIS that demonstrate this point (which are also attached to this email). The August – September 2017 correspondence from Mr. Beale and Mr. Chisolm and our September 2017 follow-up (all of which were noted and attached to our letter to DFW) made it clear that our expectation was not just to be removed from the formal study area, but to ensure that any graphical or textual discussion of mitigation modeling also excluded Tejon Ranch. Indeed, it makes sense to delimit the modeling to the study area, and our letters have provided several reasoned and practical reason to do so.
2. As a result, the current February 2019 Draft AVRCIS includes graphical depictions that can and should be modified so as not to extend the modeling beyond the study area. As Mr. Chisolm notes below, this is likely a “relatively easy solution” that probably involves modification to the multiple figures and depictions throughout the draft AVRCIS. I will defer to those that prepared the document as to whether any text or tables also need modification.
3. Bear in mind that we understood this issue was being resolved and it was only after we received notice of the May 7th DMCA meeting, attended that meeting, made a public records request to both DMCA and DFW, and received the February 2019 Draft AVRCIS that we thereafter learned the commitment made to us in 2017 was not entirely followed through. In that regard, and for clarity, let me correct Mr. Chisolm's comments below that (1) Jennifer Hernandez did not hear from anyone on this topic since the May 7<sup>th</sup> meeting and (2) only after Mr. Hunt reached out to others who have been involved in the AVRCIS process did Mr. Chisolm indicate on May 15th he was going to contact Mr. Hunt (which did not happen, although it bears mentioning that Mr. Hunt was out of the country for the past two weeks). At no point prior to our attending the May 7<sup>th</sup> DMCA meeting did we hear from any representatives preparing the AVRCIS before the AVRCIS's submittal to DFW in February.

I am happy to discuss further how you intend to implement the “relatively easy solution” you think can be accomplished. I do believe the solution is an easy one that involves revising the depictions so that modeling is only depicted within the AVRCIS boundary.

Sincerely,

Mike

Michael R.W. Houston

*Senior Vice President and General Counsel*



P.O. Box 1000 | 4436 Lebec Road

Tejon Ranch, CA 93243

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**From:** Graham Chisholm <[graham.chisholm@gmail.com](mailto:graham.chisholm@gmail.com)>

**Sent:** Tuesday, May 21, 2019 1:27 PM

**To:** Michael Houston <[mhouston@tejonranch.com](mailto:mhouston@tejonranch.com)>; Hunt Gary <[ghunt@calstrat.com](mailto:ghunt@calstrat.com)>

**Cc:** [ronald.unger@wildlife.ca.gov](mailto:ronald.unger@wildlife.ca.gov); Beale Chris <[cbeale@resourceslawgroup.com](mailto:cbeale@resourceslawgroup.com)>; Paul Edelman

<edelman@smmc.ca.gov>

**Subject:** Re: Letter pertaining to Antelope Valley Regional Conservation Investment Strategy

Dear Mr. Houston, thank you for copying me on your letter addressed to Ron Unger. In initial review it seems like there could be a relatively easy solution to addressing the concern related to underlying modeling data that appears outside the RCIS boundary.

In the past week, we have reached out to Gary Hunt and Jennifer Hernandez without response, but we'd be happy to work with you to arrange a time to meet either in person or by phone to see if your issue of concern can be resolved.

Please let me know what would be most convenient for you.

Regards,

Graham Chisholm

On Tue, May 21, 2019 at 9:57 AM Michael Houston <mhouston@tejonranch.com> wrote:

Mr. Unger,

Please see the attached letter of today's date.

Thank you,

Michael R.W. Houston

*Senior Vice President and General Counsel*



## Michael Houston

---

**From:** Graham Chisholm <graham@csgcalifornia.com>  
**Sent:** Monday, September 18, 2017 7:46 AM  
**To:** jennifer.hernandez@hklaw.com; ghunt@calstrat.com  
**Cc:** Michael Houston; Paul Edelman; Spencer Eldred; elemke@counsel.lacounty.gov; scoleman@counsel.lacounty.gov  
**Subject:** Tejon Ranch & the Antelope Valley RCIS

Jennifer and Gary,

This follows up on our August 14th call, on which we shared that we would be taking a recommendation to remove the Tejon Ranch from the RCIS to the RCIS steering committee and that Chris Beale would let Jennifer know the recommended action.

Chris Beale confirmed with me that he spoke with Jennifer on August 18th and let her know that the steering committee was comfortable with the recommendation to remove Tejon Ranch from the draft Antelope Valley Regional Conservation Investment Strategy (AVRCIS). ICF International is modifying the draft AVRCIS in order to implement the recommendation, including removing references to the Tejon Ranch from the draft AVRCIS' narrative analysis and maps.

When the draft AVRCIS is submitted to CDFW for review it will not include the Tejon Ranch.

Thanks and with regards,

Graham Chisholm

Cc:

Paul Edelman

Elain Lemke

Starr Coleman

Michael Houston

## Michael Houston

---

**From:** CBeale@resourceslawgroup.com  
**Sent:** Tuesday, August 15, 2017 1:57 PM  
**To:** Jennifer.Hernandez@hklaw.com  
**Subject:** AV RCIS study area

Jennifer, after consulting with the AV RCIS steering committee, ICF will be removing Tejon Ranch from the AV RCIS study area, as requested by Tejon Ranch.

### **Chris Beale**

RESOURCES LAW GROUP, LLP  
555 CAPITOL MALL, SUITE 1090  
SACRAMENTO, CA 95814  
916.442.4880  
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This email may contain confidential or privileged information, or attorney work product. Only the intended recipient may disclose, copy, distribute, or otherwise use its contents or attachments. If you received this email in error, please contact Chris Beale immediately at the telephone number or email address above.

**Attachment 3**

June 15, 2016 DMCA Staff Reports regarding AVRCF (two staff reports)

# DESERT AND MOUNTAIN CONSERVATION AUTHORITY

## MEMORANDUM

**TO:** The Governing Board

**FROM:** Joseph T. Edmiston, FAICP, Hon. ASLA, Executive Officer

**DATE:** June 15, 2016

**SUBJECT:** **Agenda Item XIII: Discussion and possible action regarding the Antelope Valley Regional Conservation Framework (RCF) project and official Desert and Mountain Conservation Authority involvement.**

Staff Recommendation: That the Governing Board receive a briefing on the proposed Antelope Valley Regional Conservation Framework (RCF) project and provide any direction to staff.

Background: The California Department of Fish and Wildlife (CDFW) working with other State agencies and private groups is working on pilot projects called Regional Conservation Frameworks (RCF). This working group has determined that the Antelope Valley is an ideal location for such a project. A grant from the Windward Fund to a company called ICF has funded the preparation of an Antelope Valley Regional Conservation Framework. The study area will include most of Antelope Valley but the initial plan most likely would concentrate on the southwest corner of the valley. A Regional Conservation Assessment (RCA) will be part of the RCF.

The DMCA has been invited to be on the AVRCF steering committee that will meet for the first time on June 13<sup>th</sup>. Staff will be attending that meeting. On the June 22<sup>nd</sup> a meeting for an advisory committee will be held in Lancaster. Staff will be attending that meeting. The tentative schedule calls for the submittal of a draft RCF to CDFW in January 2017.

The DMCA is positioned to play a key role in the implementation of the RCF as an entity to hold and acquire properties and conservation easements. Staff will know a lot more about potential DMCA roles and timing after the June 13<sup>th</sup> meeting. The text on the following page was prepared by the consultants as a brief project description.



### **Antelope Valley Regional Conservation Framework Description**

The Antelope Valley Regional Conservation Framework (RCF) is part of a state-wide effort to pilot a new flexible conservation planning tool, to identify high priority conservation areas within a region that can be proactively protected, restored, and managed. These RCFs will identify wildlife, fisheries, and habitat conservation needs including conservation actions needed to address climate change and protect wildlife corridors on a regional scale. The RCFs will be an important tool to guide and coordinate public and private investments in habitat conservation, wildlife and fisheries recovery strategies, infrastructure planning and development, and compensatory mitigation for impacts to threatened and endangered species and other natural resources.

The RCFs are voluntary, non-regulatory tools that will serve a number of beneficial purposes, including support proactive conservation planning in advance of development pressures, which will help reduce potential conflicts that may arise at the individual project stage. In addition, RCFs may guide conservation investments by state, federal, local and private entities and provide a basis for the development of advance mitigation agreements.

Regional Conservation Frameworks can also be used as a foundation for future action for communities that want to develop more comprehensive plans such as Natural Community Conservation Plans (NCCPs) or regional Habitat Conservation Plans (HCPs).

With private foundation support and coordination by the Conservation Strategy Group, ICF has teamed with the Conservation Biology Institute (CBI) and Terry Watt Consulting to develop the draft Antelope Valley Regional Conservation Framework. CBI will provide support on key technical tasks including management of GIS data; providing consultant team, client, and stakeholder access to GIS information; an assessment of climate change vulnerability; and general advisory support on conservation issues in the Antelope Valley and greater West Mojave Desert. CBI will manage all relevant existing data and any new data in Data Basin, an online mapping interface that provides visual tools so that stakeholders and technical participants are able to easily interpret the data being used in the planning process. Terry Watt Consulting will lead stakeholder facilitation for the Antelope Valley RCF, with logistical support from ICF public outreach staff.

The Antelope Valley RCF will build on the data, analyses, and conservation strategies that were developed as part of the Desert Renewable Energy Conservation Plan (DRECP). This RCF will also dovetail with the stakeholder engagement that has been so important to the DRECP process. This RCF will distill the information in the DRECP for the RCF study area and create a framework that will expand the utility of that information beyond its current application for renewable energy planning. An important driver in the

Agenda Item XIII

June 15, 2016

Page 3

development of an RCF is the information contained in a Regional Conservation Assessment (RCA). The DRECP along with other regional assessments such as the Mojave Desert Ecoregional Assessment (TNC 2010) will provide the key information for the RCA, and will be integrated into the Antelope Valley RCF. ICF assumes that very little new data will need to be collected or generated, with perhaps the exception of a limited number of additional species models. Where possible we attempt to identify presumed gaps in data that will need to be filled. In some cases, those gaps may not be apparent until the RCF is under development.

# DESERT AND MOUNTAIN CONSERVATION AUTHORITY

## MEMORANDUM

**TO:** The Governing Board

**FROM:**  Joseph T. Edmiston, FAICP, Hon. ASLA, Executive Officer

**DATE:** June 15, 2016

**SUBJECT:** **Agenda Item XIV: Consideration of resolution authorizing: 1) an application for, and acceptance of, a Windward Fund grant for staff involvement in the Antelope Valley Regional Conservation Framework project, and 2) entering into a contract with the Mountains Recreation and Conservation Authority for staff services.**

Staff Recommendation: That the Governing Board adopt the attached resolution authorizing: 1) an application for, and acceptance of, a Windward Fund grant for staff involvement in the Antelope Valley Regional Conservation Framework project, and 2) entering into a contract with the Mountains Recreation and Conservation Authority for staff services.

Background: The California Department of Fish and Wildlife (CDFW) working with other State agencies and private groups is working on pilot projects called Regional Conservation Frameworks (RCF). This working group has determined that the Antelope Valley is an ideal location for such a project. A grant from the Windward Fund to a company called ICF has funded the preparation of an Antelope Valley Regional Conservation Framework.

The DMCA has been invited to be on the AVRCF steering committee that will meet for the first time on June 13<sup>th</sup>. On the June 22<sup>nd</sup> a meeting for an RCF advisory committee will be held in Lancaster. The tentative schedule calls for the submittal of a draft RCF to CDFW in January 2017.

The DMCA is positioned to play a key role in the implementation of the RCF as an entity to hold and acquire properties and conservation easements. Staff will know a lot more about potential DMCA roles and timing after the June 13<sup>th</sup> and 22<sup>nd</sup> meetings.

The working group desires to provide DMCA with a \$20,000 grant to fund staff involvement in the preparation of the RCF. To provide such staff services the DMCA would contract with the Mountains Recreation and Conservation Authority.

**Attachment 4**

September 13, 2017 DMCA Staff Report regarding AVRCIS

# DESERT AND MOUNTAIN CONSERVATION AUTHORITY

## MEMORANDUM

**TO:** The Governing Board

**FROM:**  Joseph T. Edmiston, FAICP, Hon. ASLA, Executive Officer

**DATE:** September 13, 2017

**SUBJECT: Agenda Item VII: Consideration of resolution authorizing public agency sponsorship and submission of an Antelope Valley Regional Conservation Investment Strategy (RCIS) to the California Department of Fish and Wildlife for review and approval.**

**Staff Recommendation:** That the Governing Board adopt the attached resolution authorizing both public agency sponsorship and submission of an Antelope Valley Regional Conservation Investment Strategy (RCIS) to the California Department of Fish and Wildlife for review and approval.

**Background:** At the Governing Board's last meeting in June 2016, there was a discussion item about the evolving Antelope Valley Regional Conservation Investment Framework. Since that time staff has been an active member of the nine entity Steering Committee for the Antelope Valley Regional Conservation Investment Strategy planning effort. The RCIS program evolved out recently approved State legislation to create comprehensive pilot conservation planning programs for specific areas in the State. The program is run through the California Department of Fish and Wildlife (CDFW). The CDFW project web home page and recently released RCIS guidelines are attached. The Antelope Valley was selected as one of the initial projects.

A private foundation has generously funded ICF Corporation to prepare the Antelope Valley RCIS. ICF has a dedicated planning team that has produced all of the draft documentation and mapping to date and has run Steering Committee and Advisory Committee meetings. The team includes experienced biologists and a GIS specialist that has worked extensively on the compilation and creation of data layers for the subject area. The ICF team has done an incredible job to date and continues to work on the project using the best available science and substantial public stakeholder input.

The planning team's goal was to submit a draft RCIS to CDFW this August. Currently, CDFW is reviewing a draft Santa Clara County RCIS. The planning team has wisely decided to wait for CDFW comments on that document to improve the efficiency of producing the first AV RCIS draft submitted to CDFW. The program requires a public agency sponsor for each RCIS. As discussed at the 2016 DMCA meeting, for a host of reasons the DMCA appears to be the best positioned agency to be the public sponsor. To avoid any delay in the progress of the Antelope Valley RCIS program, staff brings before the Governing Board the opportunity to authorize the DMCA as the public agency sponsor for the program.

To date, the RCIS Advisory and Steering committees have had multiple meetings to shape the RCIS approach and draft documents. In March the DMCA convened a publicly noticed meeting in Lancaster. Materials are on the DMCA website AND attached. In April the RCIS planning team, held a public meeting with the Association of Rural Town Councils. The planning team has incorporated over 700 comments to date. The public meeting presentation and an overview presentation of the current administrative draft are attached for background. Additional draft figures showing the project methodologies, mapping, and processes are also attached.

Once the planning team submits the first draft to CDFW, there will be a minimum 30 day public comment period. Following that period, the planning team and CDFW will work to improve the document. It must be emphasized that this is a science based planning document with no regulatory authority. It will be a guide to both development and mitigation efforts. Participation is one hundred percent voluntary and any individual or entity can participate or not. The first step--of getting CDFW to approve the AV RCIS--does not involve any mitigation agreements, credits, deals, or anything of that nature. After an approved RCIS is in place, any entity can work with CDFW on Mitigation Credit Agreements that must be consistent with the RCIS.

Having had access to the most recent administrative draft, staff is confident that the document submitted to CDFW will be of high caliber and reflective of the missions of the DMCA and most stakeholders. The Steering Committee will continue to provide input on the document. The Steering Committee is composed of the DMCA, Transition Habitat Conservancy, Conservation Strategies Group, California Energy Commission, Los Angeles County Regional Planning, SoCal Edison, LA Metro, The Nature Conservancy, and the Sierra Club.

The planning team's desire is to submit the first complete draft to CDFW and let public comment shape the document at that juncture. Staff concurs with the importance of moving the document forward so that the important scientific and planning information is available and recognized by CDFW. The staff recommendation is for the Governing Board to authorize the DMCA being the official public sponsor agency for the AV RCIS and

to potentially submit the document. However, more likely the planning team will submit the document.

Both Los Angeles County and the Tejon Ranch, Corporation have submitted objections on the inclusion of areas in the RCIS. The County wanted designated Economic Opportunity Areas be excluded. That request has been rejected because it would completely warp the scientific modeling and outright exclude critical habitat areas. Some of those EOAs are in County-designated Significant Ecological Areas. The planning team has not made a decision (to staff's knowledge) as of yet about Tejon Ranch's request. Item 6(e) on this agenda addresses Tejon Ranch's concerns both about the RCIS and the DMCA's participation in the RCIS process.

The RCIS process is entirely new. The guidelines regarding implementation are not detailed. Much of how the RCIS program will actually work must be flushed out over time. Without question it will provide an unparalleled level of scientific and land use data on a single platform. Without question it will provide a powerful science based tool to expand the quality and quantity of biological mitigation in the study area. All of this must occur with the approval of the CDFW. Apprehensions about exactly how the implementation will play out should be outweighed by the above guaranteed advantages. In perspective, the existing process and available planning and mitigation tools are woefully inadequate to protect one of the most unique ecosystems in California.

The planning team and committees are shouldering the burden and expense of the work. To get through the CDFW RCIS approval process will not strain DMCA staff. All projected RCIS submission fees will be paid through other sources. The extent to which the DMCA gets involved in the preparation of Mitigation Credit Agreements can be determined in the future. There are no DMCA obligations involved. The RCIS will require scientific updating in ten years to remain valid. Hopefully the success of the program will make that update effort a non-issue at that juncture.

**Attachment 5**

May 21, 2019 Letter from Tejon Ranch to DFW re conflicts (with attachments)





May 21, 2019

*Via Electronic Mail (ronald.unger@wildlife.ca.gov)*

California Department of Fish and Wildlife  
Attn.: Ron Unger, Environmental Program Mgr.  
Habitat Conservation Planning Branch  
Landscape Conservation Planning Program  
1416 9th Street, 12th Floor  
Sacramento, CA 95814

**Re: Antelope Valley Regional Conservation Investment Strategy ("AVRCIS")**

Dear Mr. Unger,

Tejon Ranch Company, on behalf of itself and its subsidiary/affiliated entities Tejon Ranchcorp and Centennial Founders, LLC (collectively, the "Tejon Ranch"), sends this letter to insist that the California Department of Fish & Wildlife ("DFW") take no further action on the AVRCIS until such time as those involved in its preparation unequivocally and entirely remove lands owned by Tejon Ranch not just from the AVRCIS study area (as has already been done in the most recent draft of the AVRCIS), *but also from all purported scientific modeling and/or mitigation prioritization descriptions or visualizations contained in the AVRCIS.*

As will be explained below, removing Tejon Ranch's lands from the study area, while retaining mapping and descriptions in the AVRCIS that continue to overlay purported scientific modeling and/or mitigation prioritization descriptions or visualizations on Tejon Ranch lands (as well as surrounding areas) confounds not just the purpose of the RCIS statute, but also effects demonstrable harm and damage to Tejon Ranch, other property owners, and public agencies that are outside of the study area. Retaining Tejon Ranch lands in such visualizations and descriptions also is contrary to the written commitments that the AVRCIS preparers have given us, and on which we have relied, as we continue to pursue our entitlements and development of the Centennial project in Los Angeles County. DFW should not countenance such conduct.

Sending this correspondence is not taken lightly by Tejon Ranch. Indeed, we have undertaken significant effort with those preparing the AVRCIS to avoid sending this correspondence. We very much value and appreciate the longstanding relationship that Tejon Ranch shares with the DFW. This correspondence is sent in that spirit of partnership because, unfortunately, Tejon Ranch feels that its concerns as a stakeholder in the AVRCIS process have not been heard by those preparing the document that is being presented to DFW for consideration.

1. The AVRCIS is Unnecessary on Tejon Ranch Lands and Contradicts Contractual Requirements

It bears noting that when Tejon Ranch voluntarily agreed to conserve 90% of its 270,000 acre landholdings pursuant to the Tejon Ranch Conservation and Land Use Agreement (the "Ranchwide

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Agreement”), it did so with the support of DFW. At the time, DFW joined other state agencies to acknowledge and support Tejon Ranch’s actions. (See Attachment 1.) The Ranchwide Agreement itself involved countless hours of on-site biological study, analysis and consensus between Tejon Ranch and five well-respected environmental organizations.<sup>1</sup> The result of this extensive study was the development of a conservation plan that protected areas of Tejon Ranch with some of the highest conservation priorities, while identifying the remaining 10% as areas where development would be more appropriate.

The Ranchwide Agreement obligates Tejon Ranch to preserve and conserve approximately 240,000 acres of its property through the phased dedication of conservation easements to the independent Tejon Ranch Conservancy; to date over 100,000 acres have been put under conservation easements in furtherance of the Ranchwide Agreement. Locating these easements was the subject to significant analysis and negotiation between Tejon Ranch and the resource groups during preparation of the Ranchwide Agreement. Additionally, and specific to Tejon Ranch’s request for exclusion from *both* the AVRCIS study area and from any mapping of mitigation priorities undertaken by the AVRCIS, the Ranchwide Agreement states that the “commercial operation of a mitigation bank, or the sale or other transfer of mitigation ‘credits’” within conservation easements is prohibited. (See Ranchwide Agreement, Exh. M, § 2(a)(11).)

As a result of the Ranchwide Agreement, there is no land on Tejon Ranch to achieve the AVRCIS’s primary purpose – nor does it therefore make sense to include purported scientific modeling and/or mitigation prioritization descriptions or visualizations that extend beyond the AVRCIS boundary. Simply put, the Ranchwide Agreement (i) already establishes a binding and comprehensive framework on Tejon Ranch for mitigating impacts of development, (ii) creates the funding mechanism by which such preservation will be maintained in perpetuity and (iii) does not authorize conservation on Tejon Ranch lands as described in the proposed draft AVRCIS.

For this reason alone, Tejon Ranch’s land must be *entirely* excluded from both the AVRCIS study area (as has already occurred) *and* from purported scientific modeling and/or mitigation prioritization descriptions or visualizations from the AVRCIS.

## 2. The AVRCIS Process is Plagued by Conflicts of Interest, Precluding its Consideration by DFW

The AVRCIS has been prepared by a number of non-governmental organizations and a nominal governmental agency known as the Desert & Mountain Conservation Authority (“DMCA”). It bears noting that several of the organizations involved in preparing the AVRCIS, such as the Center for Biological Diversity and the California Native Plant Society, are presently litigating or will soon be litigating against Tejon Ranch. These (and other) conflicts of interest permeate the AVRCIS process and caution against DFW considering further the AVRCIS.

As referenced in the prior paragraph, the Center for Biological Diversity and California Native Plant Society have both played an active role in development of the AVRCIS, as reflected in Appendix C of the most recent draft AVRCIS (the “February 2019 Draft AVRCIS”). Appendix C of the February 2019 Draft AVRCIS indicates that, as members of the AVRCIS Advisory Committee, these organizations were heavily involved in preparing the draft versions of the AVRCIS by providing information on “ecological resources” and reviewing and commenting on interim AVRCIS work product. This Advisory Committee

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<sup>1</sup> See <https://www.sec.gov/Archives/edgar/data/96869/000119312508138009/dex1028.htm>. Signatories to the Ranchwide Agreement include the Tejon Ranch Conservancy, along with the Natural Resources Defense Council, the National Audubon Society, the Sierra Club, the Endangered Habitats League and the Planning and Conservation League (collectively, “resource groups”).

met at least four times, as noted in Appendix C. In addition, the representative of the California Native Plant Society also served on the AVRCIS Technical Subcommittee. As reflected in Appendix C, the Technical Subcommittee met seven times and appears to have been heavily involved in decisions on how resources were characterized and prioritized in the AVRCIS. This record indicates that these organizations were able to influence the preparation of the AVRCIS in its earlier as well as current iterations, which documentation was eventually used and acted on in a governmental capacity by DMCA.

Unsurprisingly, the Center for Biological Diversity turned its participation in the AVRCIS process to its advantage by submitting to Los Angeles County a June 2017 “administrative draft” AVRCIS as part of a comment letter that was critical of Tejon Ranch’s Centennial Specific Plan.<sup>2</sup> Effectively, the Center for Biological Diversity weaponized an administrative draft document *that it participated in creating* for its self-serving purpose of opposing a development project within the draft document’s initial study area – a study area that now nominally does not include Tejon Ranch. It should not be surprising, then, *having used a draft document it helped create*, that the Center for Biological Diversity has mentioned multiple times since the Los Angeles County Board of Supervisor’s December 11, 2018 approval that it intends to file suit over approval of the Centennial project. The Center for Biological Diversity is also presently a named plaintiff in two other suits against Tejon Ranch projects.

Separately, the California Native Plant Society has also been vocally critical of the Centennial project and has submitted written comments to Los Angeles, indicating its intention to file suit on approval of the Centennial project. The individual representative of the California Native Plant Society who has participated in the AVRCIS process and is listed in Appendix C of the most recent draft AVRCIS, Greg Suba, has sought to influence other state agencies to oppose Centennial. See Attachment 2.

Separately, each of the resource groups (who are signatories to the Ranchwide Agreement) participated in preparing the draft AVRCIS. Members of these resource groups served either on the AVRCIS Steering Committee or the AVRCIS Advisory Committee at some point during the process. Subsequently, many of these resource groups resigned from these committees when confronted with the evident conflict of interest in (i) serving in a governmental or quasi-governmental capacity to approve the AVRCIS, on one hand, and (ii) the potential that their service in preparing the AVRCIS constituted a breach of their fiduciary and contractual obligations under the Ranchwide Agreement, on the other hand.

One example of an obvious conflict was the participation and leadership of Ms. Terry Watt in the development of the AVRCIS. While there is only one reference to Ms. Watt in the most recent draft of the AVRCIS, her leadership in the AVRCIS is extensively documented in the June 2017 administrative draft AVRCIS (including multiple references in Section 6 of that document). During the timeframe Ms. Watt was providing consulting services to DMCA and those preparing the AVRCIS, she concurrently served a member of the Board of Directors of the Tejon Ranch Conservancy *and, further*, shortly before such activity regarding the AVRCIS she had received reimbursement for professional services from Tejon Ranch for her work with the Tejon Ranch Conservancy. Only after Tejon Ranch objected to these obvious conflicts of interest does it appear Ms. Watt recused herself (belatedly and without legal effect to

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<sup>2</sup> The County of Los Angeles responded to these comments, and specifically addressed and contradicted the analysis of the mitigation and prioritization concepts contained in the June administrative draft AVRCIS. This contradiction is even more forceful in light of the fact there is no pending draft AVRCIS, let alone a complete and approved study. Further, Los Angeles County has similarly objected multiple times to inclusion of “economic opportunity areas” within the approved Antelope Valley Area Plan (AVAP), adopted by the Los Angeles County Board of Supervisors. The AVAP was challenged by the Center for Biological Diversity, but Los Angeles prevailed entirely, resulting in an appellate court decision upholding the AVAP and its environmental analysis. Most recently, Los Angeles County submitted a letter to DMCA reiterating its objections, which is included with this letter as Attachment 4.

the prejudice already created and which permeates the AVRCIS process to this date, we might add). Recent correspondence from Ms. Watt is an admission of this conflict. See Attachment 3.

These blatant conflicts of interest do not appear to have been disclosed to the DMCA, DFW or others. Governmental decisions, such as DMCA's decision to act as the "public agency" submitting the AVRCIS or its decision to approve a draft AVRCIS, or such as DFW's decision to approve an RCIS should not involve the participation of such heavily self-interested individuals or groups. Allowing a study to proceed that was tainted at its formative stage, and continuing through the majority of the work being conducted, by these conflicts poses grave public ethics concerns; these concerns cannot be resolved at this late stage by the recusal of those conflicted individuals and groups.

### 3. The AVRCIS Must be Revised to Reflect the Commitments Made to Tejon Ranch

On May 8, 2019, Tejon Ranch learned that the DMCA submitted the February 2019 Draft AVRCIS to the DFW. At that time, Tejon Ranch also learned that the Santa Monica Mountains Conservancy (which itself negatively commented on the Centennial project that was approved by the Los Angeles County Board of Supervisors) acted to become the "state sponsor" of the AVRCIS (pursuant to Fish & Game Code § 1850(a)).

Until it received the agenda for the May 8<sup>th</sup> DMCA meeting, Tejon Ranch was unaware of any ongoing activity pertaining to the AVRCIS. In fact, we had been told that the AVRCIS process was on an indefinite hold. So, we were grateful that DFW provided a copy of the February 2019 Draft AVRCIS to us. Upon review of this draft, it became clear that commitments made by those preparing the AVRCIS to *entirely* remove Tejon Ranch from the AVRCIS had not been honored.

In August and September of 2017, Tejon Ranch communicated its demand to be removed from not just the AVRCIS study area but also from the purported scientific modeling and mitigation priority analysis. As stated in our September 5, 2017 letter to the DMCA and the AVRCIS Steering Committee:

Tejon Ranch understands the AVRCIS will now (and in any future version prepared by DMCA) exclude any reference or depiction of Tejon Ranch lands as being within the AVRCIS study area, and will exclude any discussion of Tejon Ranch lands from substantive analysis. It is our further understanding that any modeling used in the AVRCIS is being revised to account for exclusion of Tejon Ranch lands and such revised modeling will not include discussion, depiction, analysis or reference to Tejon Ranch lands. (See Attachment 5.)

The aforementioned statement confirming our understanding was based on *written representations* from DMCA representatives on August 15, 2017 stating that, following "consulting with the AV RCIS steering committee, ICF will be removing Tejon Ranch from the AV RCIS study area . . ." (See Attachment 6.) Thereafter, on September 18, 2017, Graham Chisolm, a primary author and consultant of DMCA for the AVRCIS, *confirmed in writing* Tejon Ranch's understanding:

[T]he steering committee was comfortable with the recommendation to remove Tejon Ranch from the draft Antelope Valley Regional Conservation Investment Strategy (AVRCIS). ICF International is modifying the draft AVRCIS in order to implement the recommendation, *including removing references to the Tejon Ranch from the draft AVRCIS' narrative analysis and maps.* (See Attachment 7 (emph. supp.))

Thus, Tejon Ranch not only understood, but detrimentally relied on, the written commitments of DMCA and AVRCIS proponents that the next version of the AVRCIS would not include Tejon Ranchlands in the AVRCIS study area *and* would not include any mapping overlay on Tejon Ranch lands.

To our surprise the February 2019 Draft AVRCIS demonstrates that DMCA and those preparing the AVRCIS did not honor their written commitments.<sup>3</sup> Tejon Ranch strongly urges DFW, DMCA and those preparing the AVRCIS to consider taking immediate steps to remove all mapping, depiction, visualization and other analysis or narrative from Tejon Ranch lands. In this case, Tejon Ranch has and is undertaking significant activity and incurring costs in relation to the planning and development of the Centennial project in reliance of the prior commitment that Tejon Ranch is being *entirely* removed from the AVRCIS. Not abiding by DMCA's commitment creates significant risk to DFW, DMCA and those preparing the AVRCIS. (See *HPT IHG-2 Properties Trust v. City of Anaheim* (2015) 243 Cal.App.4th 188.)

#### 4. Other Infirmities Plague the AVRCIS Process, Rendering it Unlawful

The process to prepare and submit *any version* of the AVRCIS has been tainted by violations of state law. Without fully cataloguing these violations, which we reserve our right to do at a later date, there are several concerns that call into question the AVRCIS process to date and which preclude DFW from taking any action on the current AVRCIS.

First, *only* a public agency has statutory authority to "propose", "develop", "create" or "submit" an RCIS for DFW's consideration. (Cal. Fish & Game Code §§ 1852(a), 1854(c).) The statute does not contemplate or authorize the preparation of an RCIS by private parties. Nor does the statute contemplate or authorize private party preparation of an RCIS to avoid compliance with applicable law, such as governmental transparency statutes found in the Brown Act, the Public Records Act or the Political Reform Act.<sup>4</sup> (Compare, Cal. Fish & Game Code § 1854(c) subdiv. (3)(A) with (D) (speaking to circumstances for holding a meeting where a "public agency proposing a strategy" has initiated an RCIS either before or following January 1, 2017).) For similar reasons, the statute does not permit private preparation of an RCIS, which is later "adopted" by a public agency in an effort to skirt applicable laws.

Notwithstanding the clear statutory requirement that an RCIS be developed, created and submitted by a public agency, the AVRCIS process did not involve the required public agency sponsorship until September 13, 2017 – at which time DMCA's governing body acted, *for the first time*, to interject itself as the sponsor of the AVRCIS.<sup>5</sup>

The agenda for the September 13, 2017 regularly scheduled meeting of the DMCA included an item to officially (*and for the first time*) authorize DMCA to be the "sponsor" for the AVRCIS and to authorize submittal of "an AVRCIS" to the Department. As part of a staff report and discussion on this agenda item, staff for DMCA stated that (a) the AVRCIS process to that date had been purely private in nature and (b) it was the intention of those actually preparing the AVRCIS to avoid public scrutiny of their work

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<sup>3</sup> Numerous maps in the February 2019 Draft AVRCIS continue to include purported scientific modeling and mitigation prioritization overlaid on Tejon Ranch lands. As examples, attached hereto at Attachment 8 are several maps from the February 2019 Draft AVRCIS. These maps, all other maps, and any other narrative or analysis must be revised to remove any such overlay from Tejon Ranch lands.

<sup>4</sup> Based on analysis to date by Tejon Ranch, including review of records provided by DMCA, we believe that the AVRCIS process has encountered violations of all three of these statutes. As examples, this letter identifies conflicts of interest in those who have participated in preparing the AVRCIS. For the time being we reserve our rights with respect to these issues. It does bear noting, however, that each of these statutes includes private attorney general provisions and the ability to seek advice from (or bring complaints to) other independent state agencies.

<sup>5</sup> Prior to this September 13, 2017 meeting, the DMCA governing board only received two briefings on the "regional conservation framework" (the precursor to the RCIS process, which precursor had no basis in statute) and acted to receive a grant to assist with the RCF. At no time did the DMCA governing board, prior to September 13, 2017, take any action that could remotely be viewed as authorizing sponsorship, creation or preparation of the AVRCIS.

product until it was submitted to the Department. A full transcript of the September 13, 2017 meeting has been prepared by Tejon Ranch from audio files provided by DMCA. This transcript can be provided to DFW later, if needed. However, those statements made at the September 13, 2017 meeting that are germane to demonstrating the *intentional* desire to maintain secrecy are as follow:

Mr. Edelman: "But right now, it's a private document that's moving forward through this planning team hired by Bechtel and the Windward Foundation." (Minute 21:58)

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Mr. Edelman: "Since you haven't seen the final draft of it, and that the people who are preparing it don't want that final draft to go public until it goes to the Department of Fish and Wildlife, that you could make it so that the chair could get final approval of it, potentially to... Before it gets submitted to Fish and Wildlife." . . . "But that the planning team really thought it would be better, and move the process along farther, if it could go to that stage without being widely distributed public wide." (Minute 34:40.)

Against this factual background, it is also important to note that the February 2019 Draft AVRCIS inaccurately represents to DFW that the AVRCIS process was initiated by DMCA in 2016 – which it was not. The February 2019 Draft AVRCIS states, the "Antelope Valley RCIS development process began in March 2016." (February 2019 Draft AVRCIS at § 1.4.2.) The February 2019 Draft AVRCIS goes on to claim that "[t]he process was initiated by the Desert and Mountains Conservation Authority (DMCA) in collaboration with the California Energy Commission (CEC)." (*Ibid.*) This statement is not accurate.

The DMCA governing board did not meet at all in 2015 and only met twice in 2016. The only two meetings of the DMCA governing board occurred *after* March of 2016, on June 15, 2016 and on September 9, 2016. (See [http://dmca.ca.gov/agenda\\_archive.asp](http://dmca.ca.gov/agenda_archive.asp).) Furthermore, neither of the meetings held in 2016 by the DMCA governing board created a "DMCA Steering Committee" or took any action to authorize or "initiate" preparation of the AVRCIS.<sup>6</sup>

Comparing (1) the action taken at the DMCA's September 13, 2017 meeting, the quoted statements of DMCA staff at this meeting describing the secretive nature of the AVRCIS process to date, and the omission of DMCA taking *any* action whatsoever until September 13, 2017 to become the "sponsoring" public agency for the AVRCIS with (2) the statements made in the February 2019 Draft AVRCIS, which are patently inaccurate, is itself sufficient basis to reject any further effort to process the AVRCIS.<sup>7</sup>

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<sup>6</sup> The June 15, 2016 DMCA governing board meeting included several agenda items pertaining to a "regional conservation framework" for the Antelope Valley, and consideration of a resolution accepting grant funding for involvement in the "regional conservation framework" See [http://smmc.ca.gov/Agendas\\_DMCA/agenda\\_527.pdf](http://smmc.ca.gov/Agendas_DMCA/agenda_527.pdf) (agenda); [http://smmc.ca.gov/Agendas\\_DMCA/minute\\_527.pdf](http://smmc.ca.gov/Agendas_DMCA/minute_527.pdf) (minutes). The September 9, 2016 DMCA governing board meeting included consideration of a resolution supporting AB 2087, which legislation created the regional conservation investment strategy process. See [http://smmc.ca.gov/Agendas\\_DMCA/agenda\\_534.pdf](http://smmc.ca.gov/Agendas_DMCA/agenda_534.pdf) (agenda); [http://smmc.ca.gov/Agendas\\_DMCA/minute\\_534.pdf](http://smmc.ca.gov/Agendas_DMCA/minute_534.pdf) (minutes).

<sup>7</sup> As noted above, only a public agency has statutory authority to "propose", "develop", "create" or "submit" an RCIS to the Department for consideration. Cal. Fish & Game Code §§ 1852(a), 1854(c). The statute does not contemplate, let alone authorize the preparation of an RCIS by private parties who, at some later date and time, then "forum shop" an RCIS to a public agency that later enters the process to serve as the nominal public agency sponsor. Such a charade not only contradicts the Fish & Game Code (*compare*, § 1854(c) subdiv. (3)(A) with (D) [describing circumstances for holding a meeting where a "public agency proposing a strategy" has initiated an RCIS either before or following January 1, 2017]), but such shenanigans run afoul of, if not are a blatant affront to, basic

Second, unless a public agency initiated a RCIS before January 1, 2017, the public agency must first publish a notice of intent to create an RCIS and file such notice with the Office of Planning and Research and the county clerk of counties where the RCIS is found. (Cal. Fish & Game Code § 1854(c)(1); *see also* Govt. Code § 6040 (specifying method of publication applicable to all public agency publication obligations).) DMCA, as the sole public agency that has initiated this activity to create the AVRCIS (which it did not do until September 13, 2017) has not complied with this requirement. Nor, as summarized above, does Tejon Ranch believe the statute authorizing creation of RCIS permit private third parties to prepare these studies on their own for later submittal to DFW.

Specifically, in this regard, Tejon Ranch made a public records request seeking proof of publication and a copy of this required notice. Tejon Ranch sought: “The notice of intention to create the AVRCIS published by DMCA (as provided and required by Fish & Game Code § 1854(c)(1)). . . . Proof of publication for the notice of intention referenced in Item 2 above in an adjudicated newspaper of general circulation. See Gov. Code § 6041. . . . Proof of filing of the notice referenced in Item 2 above with the Governor’s Office of Planning and Research and the County Clerk of Los Angeles County (as provided and required by Fish & Game Code § 1854(c)(1)).” No responsive documents were provided by DMCA to Tejon Ranch. Thus, the requirements of Fish & Game Code § 1854(c)(1) were not complied with.

For these and other reasons DFW lacks statutory authority to act on the AVRCIS. As also discussed, at a minimum, Tejon Ranch lands must be removed from all purported scientific modeling and/or mitigation prioritization descriptions or visualizations contained in the AVRCIS. Further, the study itself is flawed as a result of the participation of those with self-serving interest in its contents, including those who participated in the process to gain litigation advantage over land-owners.

Very Truly Yours,



Michael R.W. Houston  
Senior Vice President, General Counsel & Secretary

cc: Mr. Charlton H. Bonham (*via electronic mail*)  
Desert & Mountain Conservation Authority (*via electronic mail*)  
Santa Monica Mountains Conservancy (*via electronic mail*)  
Mr. Graham Chisolm (*via electronic mail*)  
Resource Groups (*via electronic mail*)

**Attachments:**

1. May 1, 2008, Letter from California environmental agencies in support of Ranchwide Agreement
2. September 18, 2019, Email exchange between California Native Plant Society members and state agency representatives
3. May 15, 2019, Email from Ms. Watt
4. May 7, 2019, Letter from Los Angeles County to DMCA (with additional attachments)
5. September 5, 2017, Letter from Tejon Ranch to the DMCA and the AVRCIS Steering Committee
6. August 15, 2017, Email from AVRCIS representative to Tejon Ranch
7. September 18, 2017, Email from Mr. Chisolm to Tejon Ranch
8. Examples of depictions in February 2019 Draft AVRICS

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principles of governmental transparency, open record keeping, conflicts of interest and due process that apply to public agency operations.

**Attachment 1**

May 1, 2008, Letter from California environmental agencies in support of Ranchwide Agreement

(omitted)



**Attachment 2**

September 18, 2019, Email exchange between California Native Plant Society members and state agency representatives

**From:** Nick Jensen [njensen@cnps.org]  
**Sent:** 9/19/2018 8:48:55 AM  
**To:** Rabinowitsh, Nicholas@ARB [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6e6383bd86f84a93a340406200df1e76-Nicholas Ra]  
**CC:** Alfredo Arredondo [alfredo@priorityca.com]; Greg Suba [gsuba@cnps.org]  
**Subject:** Re: Request for Meeting Re: CEQA Mitigation and Offsets

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

11 am on Friday works for me. We can use one of the CNPS conference call lines if needed.

Thanks,  
Nick

On Wed, Sep 19, 2018 at 8:44 AM, Rabinowitsh, Nicholas@ARB <[Nicholas.Rabinowitsh@arb.ca.gov](mailto:Nicholas.Rabinowitsh@arb.ca.gov)> wrote:  
Alfredo: that would be great, thanks!

Nick Rabinowitsh  
Senior Attorney  
California Air Resources Board, Legal Office  
Tel: (916) 322-3762

**From:** Alfredo Arredondo <[alfredo@priorityca.com](mailto:alfredo@priorityca.com)>  
**Sent:** Wednesday, September 19, 2018 7:43 AM  
**To:** Rabinowitsh, Nicholas@ARB <[Nicholas.Rabinowitsh@arb.ca.gov](mailto:Nicholas.Rabinowitsh@arb.ca.gov)>  
**Cc:** Greg Suba <[gsuba@cnps.org](mailto:gsuba@cnps.org)>; Nick Jensen <[njensen@cnps.org](mailto:njensen@cnps.org)>

**Subject:** Re: Request for Meeting Re: CEQA Mitigation and Offsets

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Let's make it 11am. Nick R., let me know if you would like me to use my conference line for this and I will send a calendar invite with the call information.

Thanks.

/Alfredo Arredondo  
**Priority Strategies**

1225 8th St., Suite 375  
Sacramento, CA 95814

o: 916-538-2452  
c: 805-598-9350  
e: [alfredo@priorityca.com](mailto:alfredo@priorityca.com)

On Tue, Sep 18, 2018 at 5:25 PM, Rabinowitsh, Nicholas@ARB <[Nicholas.Rabinowitsh@arb.ca.gov](mailto:Nicholas.Rabinowitsh@arb.ca.gov)> wrote:  
All – yes, 10-1 range works for me. Let me know what specific time works best for you all. Thanks!

Nick Rabinowitsh  
Senior Attorney  
California Air Resources Board, Legal Office  
Tel: (916) 322-3762

**From:** Greg Suba <[gsuba@cnps.org](mailto:gsuba@cnps.org)>  
**Sent:** Tuesday, September 18, 2018 4:07 PM  
**To:** Nick Jensen <[njensen@cnps.org](mailto:njensen@cnps.org)>  
**Cc:** Alfredo Arredondo <[alfredo@priorityca.com](mailto:alfredo@priorityca.com)>; Rabinowitsh, Nicholas@ARB <[Nicholas.Rabinowitsh@arb.ca.gov](mailto:Nicholas.Rabinowitsh@arb.ca.gov)>  
**Subject:** Re: Request for Meeting Re: CEQA Mitigation and Offsets

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I'm available Friday from 10am-1pm, then otherwise in transit to/from Bay Area with spotty phone service (Amtrak).

If 10-1 works, then I'll join. If a time outside that is necessary, I'm happy to catch up with Nick (J) and Alfredo afterwards.

Greg

On Tue, Sep 18, 2018 at 4:04 PM, Nick Jensen <[njensen@cnps.org](mailto:njensen@cnps.org)> wrote:

My schedule on Friday afternoon is pretty open. Greg-how about you?

Thanks,  
Nick

On Tue, Sep 18, 2018 at 3:49 PM, Alfredo Arredondo <[alfredo@priorityca.com](mailto:alfredo@priorityca.com)> wrote:

Hello Nick,

Friday afternoon would work on my end. I am copying Greg and Nick with CNPS as well to see what their availability is. Thanks for your time.

/Alfredo Arredondo  
**Priority Strategies**

1225 8th St., Suite 375  
Sacramento, CA 95814  
o: 916-538-2452  
c: 805-598-9350  
e: [alfredo@priorityca.com](mailto:alfredo@priorityca.com)

On Tue, Sep 18, 2018 at 2:40 PM, Rabinowitsh, Nicholas@ARB <[Nicholas.Rabinowitsh@arb.ca.gov](mailto:Nicholas.Rabinowitsh@arb.ca.gov)> wrote:

Alfredo: Rajinder forwarded your email to me. I'd be happy to talk - would you be able to do a call on Friday? Perhaps in the afternoon? If so, what times work for you?

Thanks,

Nick Rabinowitsh  
Senior Attorney  
California Air Resources Board, Legal Office  
Tel: (916) 322-3762

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**From:** Alfredo Arredondo <[alfredo@priorityca.com](mailto:alfredo@priorityca.com)>  
**Sent:** Tuesday, September 18, 2018 1:22:47 PM  
**To:** Sahota, Rajinder@ARB  
**Cc:** Greg Suba; Nick Jensen  
**Subject:** Request for Meeting Re: CEQA Mitigation and Offsets

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Rajinder,

I am reaching out on behalf of my client, the CA Native Plant Society, to see if we can find a time this week to discuss a proposed development in Southern California, the Centennial Project, and their use of offsets from the Cap and Trade regulation in order to comply with CEQA requirements. Attached is the FEIR Supplement related to GHG emissions compliance for the project (link to additional documents for project available [here](#)) which is raising lots of eyebrows for us. In particular, on the third page they say the following:

"Approximately 96 percent (150,808 MTCO<sub>2</sub>e/yr) of the Updated GHG Calculations emissions are covered by, and subject to, the purchase of emission allowances under the new, expanded state Cap and Trade program approved

by the Legislature after the DEIR was issued, and signed into law in 2017 (Assembly Bill 398 [AB 398]). The Cap and Trade program was designed to comprehensively regulate fossil fuels (from "wells to wheels" – from production, through refining, through ultimate consumption) and is expected to raise gasoline prices within a range of approximately 15 to 63 cents per gallon by 2021, and from 24 to 73 cents per gallon by 2031, according to the non-partisan California Legislative Analyst Office.<sup>1</sup> Compliance with the Cap and Trade program was upheld as a lawful CEQA mitigation measure to reduce GHG emissions to a less-than-significant-level for fossil fuels used by a refinery project for both direct refinery operations as well as indirect electricity consumption-related GHG emissions in a recent CEQA appellate court case, Association of Irrigated Residents v. Kern County Board of Supervisors, et al. (Alon USA Energy, Inc., et al., Real Parties in Interest) (2017) 17 Cal.App.5th 708. The California Supreme Court declined to reverse, or de-publish, this case. The California Air Resources Board (CARB) has also determined that existing California law provides sufficient authority to extend the Cap and Trade program as required to meet state GHG reduction objectives.<sup>2</sup> See Table 3. "

This raises a lot of questions for us that we hope to get your insight on including:

- Is this type of compliance pathway for non-capped or non-covered entities like a housing developer truly the intent of the cap-and-trade mechanism?
- Are there other examples of a developer in the state using offsets in this way?
- Does the Irrigated Residents v. Kern case apply only to capped or covered entities or is the interpretation that this applies to any entity, regulated or not, correct?

I know that this is a lot of information, but I figure that having a conversation with you about this will help clear things up for us. Please let me know if there are some times that work for you this week. Greg Suba, copied on the message, is based in Sacramento, but Nick Jensen, is based in Southern California and could join by phone if possible.

Thanks for your time, and I look forward to reconnecting soon.

/Alfredo Arredondo

**Priority Strategies**

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o: 916-538-2452

c: 805-598-9350

e: [alfredo@priorityca.com](mailto:alfredo@priorityca.com)

--

Nick Jensen, PhD

Southern California Conservation Analyst

California Native Plant Society

1500 North College Ave

Claremont, CA 91711

[njensen@cnps.org](mailto:njensen@cnps.org)

(530) 368-7839

--

/Alfredo Arredondo

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--

Nick Jensen, PhD

Southern California Conservation Analyst

California Native Plant Society

1500 North College Ave

Claremont, CA 91711

[njensen@cnps.org](mailto:njensen@cnps.org)

(530) 368-7839

**Attachment 3**

May 15, 2019, Email from Ms. Watt

**From:**  
**To:** FW: Antelope Valley RCIS Matter  
**Subject:** Monday, May 20, 2019 12:24:15 PM  
**Date:**

---

**From:** Terry Watt <[terryjwatt@](mailto:terryjwatt@)>  
**Date:** May 15, 2019 at 1:16:03 AM GMT+2  
**To:** "Gary Hunt" <[ghunt@](mailto:ghunt@)>  
**Cc:** "Dan Silver" <[dsilverla@](mailto:dsilverla@)>, "Reynolds, Joel" <[jreynolds@](mailto:jreynolds@)>, <[terryjwatt@](mailto:terryjwatt@)>  
**Subject:** Antelope Valley RCIS Matter

Gary,

This email is to inform you that I withdrew from any and all involvement in the Antelope Valley RCIS well over a year ago when the Ranch brought its concerns to the attention of the Tejon Ranch Conservancy Board.

Terry Watt

[TerryJWatt@](mailto:TerryJWatt@)

Please update your contacts



**Attachment 4**

May 7, 2019, Letter from Los Angeles County to DMCA (with additional attachments)

(omitted)

**Attachment 5**

September 5, 2017, Letter from Tejon Ranch to the DMCA and the AVRCIS Steering Committee

(omitted)

**Attachment 6**

August 15, 2017, Email from AVRCIS representative to Tejon Ranch

(omitted)

**Attachment 7**

**September 18, 2017, Email from Mr. Chisolm to Tejon Ranch**

(omitted)

**Attachment 8**

Examples of depictions in February 2019 Draft AVRICS

(omitted)

**Attachment 6**

Audio recording of September 13, 2017  
DMCA Governing Board Meeting (thumb-drive)  
(only included in hard copy transmittals)