S Robert Stevenson
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## Letter No. 10

March 3, 2008

Dear City of Fullerton,

Please answer fully and truthfully my attached 20 pages of questions and comments submitted to the Recirculated RDEIR for the West Coyote Hills Specific Plan and Robert E. Ward Nature Preserve. Pages 9-20 of these 20 attached pages constitute a resubmission of questions/comments I submitted to the RDEIR but which were not addressed in the Recirculated RDEIR's Air Quality section.

Many parties will be highly interested in the answers provided to my attached questions and comments. I therefore strongly suggest that my questions and comments not be treated lightly or dismissively.

Sincerely, Robert K Stevenson

- \* Questions and Comments Submitted March 3, 2008 by Robert K. Stevenson to the Recordulated RDEIR for the West Coyote Hills Specific Plan
- 1. A 43-page-long comment (containing 196 footnotes) by Travis Longcore, Ph.D. and Catheria Rich, J.D., M.A., titled "Technical Review of Biological Impacts Analysis in Revised Pratient Environmental Impact Report for West Coyote Hills Specific Plan and Robert E. Ward Nature Preserve," was submitted June 6, 2006 to the City of Fullerton. Dr. Longcore is among other things Science Director for The Urban Wildlands Group and a Professor at USC (Department of Geography) working in the Center for Sustainable Cities. Dr. Longcore has to date been the lead author of 9 scientific papers published in peer-reviewed scientific journals; he has in addition been the co-author of 7 scientific papers published in peer-reviewed scientific journals. Dr. Longcore's Ph.D. was earned at UCLA and his Ph.D. dissertation was "Terrestrial Arthropods as Indicators of Restoration in Coastal Sage Scrub."

Does the City of Fullerton agree that Dr. Travis Longcore is one of the world's leading authorities with respect to the floral and faunal aspects of coastal sage scrub communities?

- 2. Does the City of Fullerton agree that the 510-acre area that the West Coyote Hills RDEIR covers comprises a coastal sage scrub community?
- 3. In reading Dr. Longcore's comment on the West Coyote Hills RDEIR, one is struck by how often, in characterizing the West Coyote Hills RDEIR, Dr. Longcore uses such words are phrases as "deficient," "insufficient," "the RDEIR irrationally maintains," "the RDEIR fails to," "the RDEIR contains factual errors," etc.

Does the City of Fullerton agree that Dr. Longcore's 43-page-long 2006 comment contains numerons severe criticisms of the West Coyote Hills RDEIR?

- 4. Now, the reason Dr. Longcore's 43-page-long and heavily footnoted 2006 comment contain many severe criticisms of the West Coyote Hills RDEIR may be because the person or persons working for Keeton Kreitzer Consulting (the company that prepared the West Coyote Hills RDEIR) who authored the Biological Resources section of the West Coyote Hills RDEIR does not Cor do not, if more than one author) possess the high level of expertise Dr. Longcore possesses with respect to the scientific understanding of coastal sage scrub communities. In order to determine whether or not this is the case, please provide; 1) the name(s) of the person(s) who authored the Biological Resources section of the West Coyote Hills RDEIR and the Biological Resources section of the West Coyote Hills Recirculated RDEIR; 2) the academic degrees held by this person(s); 3) the university teaching positions this person(s) has held; 4) the titles of the Scientific papers published in peer-reviewed scientific journals this person(s) has authored or co-authored; 5) the title of the PhiD. dissertation (if any) authored by this person(s).
- 5. If the above requested background information about the authors of the RDEIR's and Recirculated RDEIR's Biological Resources section is not forthcoming, does the City of Fullerton agree that it can have little or no confidence in the accuracy and/or adequacy of the Biological Resources section of the West Coyote Hills RDEIR and West Coyote Hills Recirculated RDEIR?

- (o. If the background and level of expertise of the person(s) who authored the Biological Resources section of the West Coyote Hills RDEIR and Recirculated RDEIR does not come close to matching up to the advanced scientific and academic background and high level of coastal sage scrub community expertise of Dr. Longcore, does the City of Fullerton agree that it will favor and choose to accept the conclusions of Dr. Longcore as well as adopt the recommendations—such as the necessity for conducting new surveys performed according to U.S. Fish and Wildite Service (USFWS) protocol of the flora and fauna of the West Coyote Hills site—that Dr. Longcore makes in his 200b comment or any more recently submitted comment of his?
- 7. On page 7 of his 2006 comment Dr. Longcore states: "The surveys for both plant and animal species are deficient and the assumptions based on those surveys should be reconsidered in the impact assessment process." Does the City of Fullerton agree that as a general rule deficient surveys of plant and animal species will likely lead to assumptions and conclusions, based on those surveys, that themselves are also deficient and inaccurate?
- 8. On page 10 of his 2006 comment Dr. Longcore offers many strong criticisms, some of which were: "The number of plant species missed by Dudek in preparing their 2003 report is of great concern. First, it shows that the text of the RDEIR contains factual errors and bases conclusions (e.g., low floristic diversity) on those errors. Second, it shows that Dudek's surveys were not sufficient..." "... Dudek missed more than three of every ten native plant species (25 of 80) on their extensive visits between 1994 and 2003."
  "... incidental observations during visits for other reasons are not adequate to locate sensitive species or to describe the floral (or faunal) resources on a site." Dr. Longcore's footnote #17 on this same page 10 states in part: "Other errors abound in this report."
  In fact, in reading Dr. Longcore's entire 43-page-long comment, one loses track of all the serious problems with the West Coyote Hills RDEIR that he asserts exist.

Given Dr. Longcore's considerable expertise, and given the number and severity of his criticisms of the West Coyote Hills RDEIR, does the City of Fullerton agree that a "fresh start" is in order — that is, a new Biological Resources section of the West Coyote Hills EIR needs to be prepared, and that Keeton Kreitzer Consulting should coordinate closely with Dr. Longcore in the preparation of the new Biological Resources section?

9. On page 4.12-20 of the West Coyote Hills Recirculated RDEIR the following Information appears: "The Bonterra data is not considered a protocol-level survey due to the fact that it occurred during the non-breeding season for the gnatcatchers. Also, although the USFWS protocol for surveys performed by Bonterra in 2004 during the non-breeding season required up to nine site visits, the survey approach was modified for the purpose of the confirmation survey. Further, the overall site was divided into six smaller areas to allow each to be surveyed in a single morning, by six different biologists; this approach was not able to account for potential duplication in counting birds among the different biologists and across the entire site."

Does the City of Fullerton agree that this above-described 2004 Bonterra survey, which "is not considered a protocol-level survey," is the last survey that has been taken at the West Coyote Hills site of the Coastal California Gnatcatchers (CAGNs)?

- 10. What is the date of the last USFWS protocol-level flora and faunal survey conducted at the West Coyote Hills site, and how many years ago was such a survey performed
- 11, Does the City of Fullerton agree that USFWS protocol-level flora and fauna survey data of the West Coyote Hills site that is 9 or 10 years old is old, obsolete data?

- 12. Does the City of Fullerton agree that any important land use decision—such as City Council rejection or approval of an EIR—regarding the West Coyote Hills site must not be based on old, obsolete data?
- 13. The Recirculated RDEIR states with respect to the above-described 2004 survey that "this approach was not able to account for potential duplication in counting birds." The Recirculated RDEIR states in addition that "an estimated 60 pairs of gnatcatchers were found at the project site" during this same survey. The RDEIR assigned "names, such as A5, to each of the 60 CAGN pairs thought to exist at the West Coyote Hills site. Which of these pairs might have been double-counted during the 2004 survey?
- 14. Does the City of Fullerton agree that the data obtained from the 2004 Benterra survey cannot be considered scientifically valid data, and that a paper based on such data would unlikely ever be accepted for publication by any peer-reviewed scientific journal?
- 15. Using the nomenclature employed in the West Coyote Hills RDEIR, please name—such a A5, B3, etc.—all the Coastal California Gnatcatcher pairs that presently (first quarter of 2008) exist at the West Coyote Hills site.
- 16. In fact, doesn't the City of Fullerton agree that absolutely no one-not Bonterra Consulting, not DUDEK-no one has a clue how many-if any-Coastal California Gnatcatchers presently exist at the West Coyote Hills site?
- 17. Orange County recently (2005-2006 and 2006-2007 rain seasons) experienced its worst 2-year drought since records have been kept. The <u>Orange County Register</u> reported in two articles dated May 21, 2007 that Orange County's Normal annual rainfall total is 13.01 inches of rain, but that during the 2005-2006 rain season Orange County received only 8.5 inches and during the 2006-2007 rain season received a disastrously low 2.19 inches—an amount so low that it set a record for the driest year ever on record for Orange County. However, these are county averages. The West Coyote Hill is located inland, that is, it is not located near the coast, and generally receives less rainfall annually than Orange County's coastal areas. What was the amount of rain peripotion that the West Coyote Hills received in the 2005-2006 and 2006-2007 rain seasons?
  - 18. The above 2005-2006 and 2006-2007 precipitation data has critically-important significance with respect to the West Coyote Hills CAGN population. For we read on page 9 in USFWS'S 2004 Biological Opinion for the West Coyote Hills project the following: "population declines or increases of greater than 50 percent between successive years have been reported regularly. Population fluctuations appear to be influenced by precipitation (Atwood et al., 1998a)." Does the City of Fullerton agree that Atwood et al's 1998 study is a scientifically-valid study and concur with Dr. Atwood's finding that CAGN population declines of 50% or more due largely or in part to lack of precipitation regularly occur?
  - 19. If the City of Fullerton disagrees that Atwood et al's 1998 study is a scientifically-valid study or disagrees with Dr. Atwood's finding that CAGN populations regularly decline 50% or more whenever they experience a prolonged period of low annual rainfall, what scientifically-valid study can the City of Fullerton point to that contradicts the findings of Atwood et al's 1998 study?

- 20. Assuming that the City of Fullerton concedes that the findings of Atwood et al's 1991 study are valid—findings which the U.S. Fish and Wildlife Service clearly consider to be valid since USFWS cited Atwood et al's 1998 study in its 2004 Biological Opinion for the West Coyote Hills site project—does the City of Fullerton agree that, given the unprecedented record-setting drought that Orange County and the West Coyote Hill experienced during 2005-2007, 50% to 99% of the CAGN pairs that were living on the West Coyote Hills site in 2005-2007 may have died off during the drought and that only a few pairs of CAGNS may presently survive on the West Coyote Hills site?
- 21. The Coastal Cactus Wren is a California sensitive species and prior to the record-setting drought of 2005-2007 resided on the West Coyote Hills site. How many pairs of Coastal Cactus Wren presently (first quarter 2008) live on the West Coyote Hills site?
- 22. Rufous-crowned Sparrow is a California sensitive species and prior to the record-setting drought of 2005-2007 resided on the West Coyote Hills site. How many pairs of Rufous-crowned Sparrow presently (first quarter 2008) live on the West Coyote Hills site?
- 23. Does the City of Fullerton agree that the truthful, nonevasive answer to the above two questions is: "We don't know how many-if any-pairs of Coastal Cactus Wren and Rufous-crowned Sparrow presently reside on the West Coyote Hills site?
- 24. Given Dr. Longcore's severe criticisms of the plant and animal surveys that have been conducted over the past 10 years on the West Coyote Hills site, given that the last survey conducted at the West Coyote Hills site appears to be a 2004 survey that the author(s) of the Biological Resources section of the Recirculated RDEIR asserts a is not considered a protocol-level survey by the U.S. Fish and Wildlife Service, given that a record-setting 2-year drought has recently (2005-2007) afflicted the federally-threatened and California sensitive bird life species inhabiting the West Coyote Hills site, and given that the federally-threatened bird species—the Coastal California gnatication—residing on the West Coyote Hills site regularly sees, according to the findings of Atwood et 21's 1998 study, its population decline 50% or more when exposed to low annual rainfall amounts, does the City of Fullerton agree to see to it that a new, USFWS protocol-level survey of the flora and fauna of the West Coyote Hills site be performed prior to consideration for rejection or approval of the West Coyote Hills Specific Plan EIR by the Fullerton City Council so that the Fullerton City Council can render a decision based on recent, accurate and valid data?
- 25. If the City of Fullerton disagrees that a new, USFWS protocol-level survey of the flora and fauna of the West Coyote Hills site is necessary, is the City of Fullerton merely signing off to an answer to the above question provided by Keeton Kreitzer Consulting Othe preparer of the West Coyote Hills RDEIR) or has the City of Fullerton instead on its own fully thought through this matter, carefully considered this extremely important question by consulting on its own with California Department of Fish and Game scientists and coastal sase scrub community experts such as Dr. Longcore (who can be easily contacted, incidentally; his work email address is: longcore@usc.edu), and then decided on its own that the reasons advanced by Dr. Longcore and others for conducting a new, USFWS protocol-level survey of the West Coyote Hills site's flora and fauna have no merit?

- 26. On December 16, 2003 the Center for Biological Diversity submitted a comment to the West Coyote Hills Specific Plan DEIR. On page 8 of this comment Kassie Siegel, the author of CBD's comment, pointed out this: "Domestic and feral cats alone could easily lead to the complete extirpation of the gnatcatcher and other species from the West Coyote Hills." Does the City of Fullerton agree that the CAGN and other species could become totally extinct at the West Coyote Hills site as a result of the introduction into this site of a number of domestic and feral cats?
- 27. Does the City of Fullerton agree that a proposed mitigation measure that is ineffective in accomplishing its objective cannot be used in an EIR as a mitigation measure?
- 28. The Recirculated RDEIR contains 2 proposed mitigation measures whose objective is "to keep cats indoors" in the West Coyote Hills project site's residences that own cuts. Proposed Mitigation Measure 4.12-Iv states as follows: "Owners' manuals for the residences will provide a discussion of the impacts of domestic animals on the gnatcatcher and other special status species and the impacts of wildlife on domestic animals. The manuals will discuss the requirement to keep cuts indoors, and that cuts will be removed from the reserve areas. Residents will be reminded that the development is adjacent to natural open space. Encounters with wildlife are highly probable."

Does the City of Fullerton agree that the owners of the West Coyote Hills project site residences may not read these above-described owners' manuals, given that there is nothing on the mitigation measure that forces them to read the manual, in which case these owners would end up being unaware of the requirement "to keep cats indoor!

- 29. Does the City of Fullerton agree that some owners of residences at the West Coyote Hills project site may know little or no English (northwest Fullerton where the West Coyote Hills is located has a large Korean immigrant population, for example) and therefore would be ither unpole to read the owners' manual or if they tried to read it, would hardly understand what the manual said?
  - 30. Kassie Siegel, in her 2003 Center for Biological Diversity comment, states with respect to the cat ownership problem in environmentally lecologically fragile areas the following: "Education programs have to date been ineffective, as domestic and feral cats continue to kill hundreds of millions of birds." Does the City of Fullerton agree that the handing out of owners manuals to the owners of residences in the West Coyote Hills project site can be categorized as a sort of an education program?
  - 31. Does the City of Fullerton agree that simply handing a manual to an owner of a residence in the west Coyote Hills project site, then not forcing that owner to even read the manual (and in some cases forcing the owner to become fluent enough in English so that he can understand what the manual says), will prove ineffective in accomplishing the objective of keeping the owner's cats indoors, and therefore proposed Mitigation Measure 4.12-1v cannot be used in the EIR as a mitigation measure?
  - 32. The other proposed mitigation measure relating to keeping cats indoors that appears in the Recirculated RDEIR is MM4.12-In which states in part: "The CC4Rs will contain wording that addresses potential impacts of domestic animals on wildlife. In particular, the CC4Rs will require homeowners to keep cats indoors. Cats detected in the preserve area may be removed by animal control officers at the discretion of the preserve manager."

Does the City of Fullerton agree that wording in a CCOR is not the same thing as

active enforcement of that wording?

33. Does the City of Fullerton agree that for the "keep cats indoors" wording in the CCORs to be effective, it primarily depends on the owners of the cats in the West Coyote Hills site to police themselves and obey wording in the CCORs that the cat owners may not know even exists or have forgotten exists?

- 34. If a cat owner at the West Coyote Hills project site, whether intentionally or accidentally, lets his cat out at night (despite what the CC+Rs and Owner' Manual state), does the City of Fullerton agree that 1) the cat could become feral and remain permanently in the preserve area, and/or 2) the preserve manager will not detect the presence of the cat in the preserve area because he either does not work at night or, if so, rarely if ever hikes at hight through the preserve area (either wearing or not wearing night vision goggles)?
  - 35. Given the hilly, bushy nature of the West Coyote Hills project site preserve area, which in addition stretches a considerable distance from east to west, does the City of Fullerton agree that even during the daytime it will be extraordinarily lucky for the preserve manager to even spot a cat that's hiding in the bushes of the West Coyote Hills project site preserve area?
  - 36. The bottom live is this; whether it be nighttime or daytime, it is extremely unlitely that the preserve manager will detect a cat that is in the West Coyote Hills project site preserve area. Therefore the Recirculated RDEIR pins most of its hopes on the wish that the cat owner residents themselves will effectively police themselves. However, wishes do not constitute a a mitigation measure. Let us look at a real world example of a similar mitigation measure and see how it has worked out. On February 25, 2008 I telephoned and spoke to Dan Dawson, Director of the Valentime Eastern Sierra Reserve, a nature reserve administered by the University of California, Santa Burbara. Mr. Dawson is very concerned about the negative impact cats can have on the animal life within the Valentime Reserve, and a few years ago succeeded in having written into the CCARs of a new large condollodge development built near the Valentime Reserve the requirement that cat ownership was banned within the condo/lodge development. Does the City of Fullerton agree that a cat ownership ban requirement is a much stronger and much more restrictive mitigation measure than a "keep cats indoors" requirement?
  - 37. I asked Mr. Dawson how the CCARs cat ownership ban has worked out at the condo/lodge development located wear the Valentine Reserve, and he responded that the cat ownership ban has not worked out well at all because there has been NO ACTIVE ENFORCEMENT of it! Many condo owners sell their condos to another person, said Mr. Dawson, and don't care if the new owner already owns cats or whether the new owner might want to own cats. And it appears in talking to Mr. Dawson that whatever condominion association management is in place at the condo/lodge development located wear the Valentine Reserve, management there is doing little, if anything, to actively enforce the CCER's cat ownership ban. So, here is a real world example where a CCXR even stronger than the one proposed to control cats in the West Coyote Hills development site has not proven effective. It tack me less than 5 minutes to learn this above story from Mr. Dawson. His work phone number is (760) 935-4334. This entire issue regarding keeping cats out of the West Coyote Hills preserve area is extremely important, as cats alone can bring about the extinction of the federally-threatened Coastal California Guatcatchers within the West Coyote Hills, Theretore does the 'City of Fullerton agree to on its own- and not pass on the task to Keeton Kreitzer Consulting (because they may not follow through or might not accurately relate what Mr. Dawson says) - telephone Mr. Dan Dawson, Director of the Valentine Reserve, and hear firsthand his story which should be what I have just reported - that is, that according to Mr. Dawson, a cat ownership bas written into the CCARs of a large condollodge dévelopment located near the Valentine Reserve has failed to work out well due to its not being actively enforced?

- 38. Given the ineffectiveness (as Mr. Dawson characterizes it) of the cat ownership ban wording in the CCAR's for the large condollodge development located near the Valentine Reserve, does the City of Fullerton agree that proposed Mitigation Measure 4.12-In cannot be used in the West Coyote Hills Specific Plan EIR because it will undoubtedly prove ineffective inasmuch as the West Coyote Hills Recirculated RDEIR provides for no proactive or active enforcement of this mitigation measure (and instead relies on the fanciful hope that the West Coyote Hills project residents will magically police themselves effectively or relies on the super big longshot chance that the preserve manager might luckily spot a cat hiding in bushes in the West Coyote Hills site preserve)?
- 39. Dr. Longcore on page 42 of his 2006 West Coyote Hills RDEIR comment mentions a study published in Nature by Dr. Kevin Crooks entitled "Mesopredator release and avifacual extinctions in a fragmented system." Does the City of Fullerton agree that Dr. Crooks' above study is a scientifically-valid one, and that the journal-Nature-it was published in is generally considered to be one of the world's most prestigious scientific journals?
- 40. Dr. Crocks' study needs to be carefully reviewed by the City of Fullerton. Briefly, as reporte on page 1 of the "Domestic Cat Predation in California" report prepared by, and available for review on the website of, the American Bird Conservancy, Dr. Crooks studied an area in San Diego County that is similar to the West Coyote Hills site. Dr. Crocks found that on average each outdoor cat killed 15 birds each year, with 525 total birds being killed annually; dividing 525 killed birds by 15 birds killed on average per cat gives one a total of 37 cats responsible for this bird slaughter. Naw, here's the most important point. Dr. Crocks stated, "This level of bird predation appears to be unsustainable." Dr. Crocks found after a while that, in the words of the "Domestic Cat Predation in California" report, there was "a drastic decline in diversity, and in some cases elimination of scrub breeding birds such as Cactus Wren, California Gnatcatcher, and Greater Roadrunner." Mind you, this elimination of the Cactus Wrens and CAGNs was accomplished in a short amount of time by only 37 outdoors cats. Does the City of Fullerton agree that 37 cats, whether feral or domestic, regularly prowling through the West Coyote Hills site preserve could decimate within a short amount of time the CAGN and Cactus Wren West Coyote Hills site population

41. In fact, without proactive and active enforcement of a cat ownership ban, the West Coyote Hills Specific Plan Recirculated RDEIR will likely lead to the introduction of not 37, but 268 OUTDOORS CATS at the West Coyote Hills project site. The 268 outdoors cats number is Scientifically-derived via the following equation:

760 homes to be built at West Coyote Hills project site (according to WCH RDEIR)

X 32% cat ownership per residence (see page 42 of Dr. Longcore's 2006 WCH RDEIR comment)

243 homes at the West Coyote Hills site with cats

243 X 1.7 cats per residence on overage (see page 42 of Dr. Longcore's 2006 WCH RDEIR comment) 413 cats in residences at the West Coyote Hills project site

X 65% cats that are outdoors cats (according to a 1997 nationwise poll; see page 1 of 268 outdoors cats at West "Domestic Cat Predation on Birds" report by American Bird Conservancy)

Coyote Hills project site

Does the City of Fullerton agree that if, as Dr. Crocks found, 37 outdoors cats virtually eliminated in a short period of time a population of CAGNs and Cactus Wren located in an area similar to the West Coyote Hills site, then 268 outdoors cats—a number which is over 7 times greater than 37 cats—will likely prove to be even more lethal and devastating to—in fact, will probably lead to the extinction of—the West Coyote Hills project site CAGN and Cactus Wren population?

42. Proposed Mitigation Measures 4.12-lu and 4.12-lv must be replaced with the following Mitigation Measure O-C (which means "Mitigation Measure Zero Cats") or words to this effect: "The CCERS will require homeowners to not own cats. Each of the residences will be provided an Cuners' Manual that discusses the CCER's cat ownership ban and discribes the devastation impact outdoors cats have on the population of nearby scrub breeding bird species such as the Coastal California Gnatcatcher and Coastal Cactus Wren. The CCERS will be proactively and actively enforced by the preserve manager who will visit and inspect at a minimum once every be months each residence, immediately having animal control confiscate any cat found during inspection on the premises. The preserve manager will maintain a log of each residence visited and inspected, the date of each inspection, and the action, if any, taken; this log will be andited once a year by either officials at the California Department of Fish and Game or the U.S. Fish and Wildlife Service in order to provide oversight and ensure that the preserve manager is proactively and actively enforcing the cat ownership ban. In addition, the preserve manager will immediately contact animal control whenever he detects a cat within the preserve area and have animal control come out and remove the Cati"

The above Mitigation Measure O-C is one that will likely prove effective in protecting the West Coyote Hills site's CAGNS and Cactus Wrens from cat predation. It does not give "lip service" to the cat predation threat, which is all MM 4.12-lu and 4.12-lv do. It also doesn't greatly inconvenience the residents of the West Coyote Hills Specific Plan site; a visit once every 6 months by the preserve manager to each residence, far from being regarded as an inconvenience by most residents, will likely be guite welcome by most residents, and contains the advantage of the residents being able to inform the preserve manager about other problems relating to the preserve that he was perhaps unaware of prior to his meeting with and talking to the residents,

Does the City of Fullerton agree to adopt in the West Coyote Hills Specific Plan EIR the above Mitigation Measure O-C, which provides a practical way to proactively and actively enforce a cat ownership ban and therefore will likely produce an effective outcome and prevent the West Coyote Hills site's CABN and Cactus Wren population from becoming extinci

due to cat predation?

43. If the City of Fullerton decides to not adopt the above cat ownership ban mitigation measure and instead decides to approve a Final EIR for the West Coyote Hills Specific Plan that contains Mitigation Measures 4.12-lu and 4.12-lv as they currently read, making No additions to them, and then after the West Coyote Hills project site is developed the CAGN and/or Cactus Wren population at the West Coyote Hills project site drastically declines or becomes extinct due largely or in part to cat predation (just as it did in the Saw Diego Count area that Dr. Crocks studied), does the City of Fullerton agree to accept legal liability for this preventable outcome?

## Air Quality Health Hazards

- 67. On page 4.4-9 of the RDEIR a definition of "Sensitive Receptors" appears, part of which includes the following statement: "Sensitive population groups include children the elderly, the acutely ill and chronically ill especially those with cardio-respiratory diseases." Once all the residences (about 760 are currently planned) in the West Coyote Hills proposed project (WCHpp) are fully occupied, approximately how many of the occupants of this development do you anticipate will fall under the category of sensitive receptors?
- 68. If your answer to the above question is "I don't know" or some other vague answer, do you expect that each residence will contain on average at least one child or one elderly person?
- 69. Assuming each residence in the WCHpp contains at least one person defined as a sensitive receptor—i.e., a child, an elderly person, an acutely ill person, or a chronically ill person, especially one with a cardio-respiratory disease—do you agree that the WCHpp will contain 760 or more sensitive receptors?
- 70. The "Sensitive Receptors" section on page 4.4-9 also states the following: "Recreational land uses are considered moderately sensitive to air pollution. Although exposure periods are generally short, exercise places a high demand on respiratory functions." How many recreational trails are planned to be built within the WCHpp?
- 71. How many total miles of recreational trails does the WCHpp contain?
- 72. Do you expect that some, if not a significant percentage, of the users of the recreational trails contained within the WCHpp will exercise on these trails, placing a "high demand" on their respiratory functions?
- 73. As pointed out on pages 4.4-11 and 4.4-12 of the RDEIR, the South Coast Air Quality Management District (SCAQMD) has "established air pollution thresholds against which a proposed project can be evaluated" by a lead agency. Additionally, "the SCAQMD recommends that its air pollution thresholds be used in determining the significance of construction and operational air quality impacts." Particularly with respect to CO (Carbon Monoxide), NOx (Oxides of Nitrogen), and ROG (Reactive Organic Gases), do you agree that the significance threshold levels for these three pollutants that the SCAQMD has set are very well founded—i.e., they are based on the best and most recent science relating to these three pollutants and their effects on human health?
  - 74. On page 4.4-22 of the RDEIR is Table 4.4-8, which is identified

as Operational Emissions Produced from the Proposed Project West Coyote Hills Specific Plan Amendment(see next page). In this table one sees that the total operational emissions for CO (carbon monoxide) is expected to be 865.1 pounds per day, which the table goes on to state exceeds the SCAQMD threshold of 550 pounds per day. Do you agree that the WCHpp's total operational emissions for CO is expected to exceed the SCAQMD threshold by 315.1 pounds per day, which equates to an amount of CO pollution that exceeds SCAQMD's threshold by about 57%?

75. In this same table one also sees that the total operational emissions for NOx (nitric oxide and nitrogen dioxide) is expected to be

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Table 4.4-8

Operational Emissions Produced from the Proposed Project

West Coyote Hills Specific Plan Amendment

Emission Source	CO	NOx	ROG	SOx	PM10
Mobile Sources	933.8	124.7	88.9	0.6	83.6
Natural Gas	9.1	15.1	1.1	0.0	0.0
Landscape Maintenance	22.2	0.1	3.2	0.2	0.1
Consumer Products		<del></del>	37.2		
Paint Maintenance			31.8		
Total (Operational Emissions)	865.1	139.9	162.2	0.8	83.7
SCAQMD Threshold	550	55	55	150	150
Exceeds Threshold?	Yes	Yes	Yes	No	No

<sup>1</sup>All quantities expressed in pounds per day.

SOURCE:

Synectecology, September 2004 (Revised February 2, 2006).

- 139.9 pounds per day, which the table goes on to state exceeds the SCAQMD threshold of 55 pounds per day of NOx. Do you agree that the WCHpp's total operational emissions for NOx is expected to exceed the SCAQMD threshold by 84.9 pounds per day, which equates to an amount of NOx pollution that exceeds SCAQMD's threshold by about 154%?
- 76. In addition, one also sees in this same table that the total operational emissions for ROG (reactive organic gases) is expected to be 162.2 pounds per day, which the table states exceeds the SCAQMD threshold of 55 pounds per day of ROG. Do you agree that the WCHpp's total operational emissions for ROG is expected to exceed the SCAQMD threshold by 107.2 pounds per day, which equates to an amount of ROG pollution that exceeds SCAQMD's threshold by about 195%?
- 77. On page 4.4-4 of the RDEIR it is stated with respect to ozone that it "is one of a number of substances called photochemical oxidants that are formed when reactive organic compounds and NOx (both byproducts of the internal combustion engine) react with sunlight." This section goes on to say that ozone "is present in relatively high concentrations in the SCAB, and the damaging effects of photochemical smog are generally related to the concentrations of 03. Ozone may pose a health threat to those who already suffer from respiratory diseases as well as healthy people." Given the excessively high amounts of ROG and NOx that the West Coyote Hills proposed project will generate each day, and given that ozone is created when ROG and NOx "react with sunlight" (as the RDEIR states), isn't it correct to conclude that the WCHpp will generate excessively high amounts of ozone on days when the sun is shining?
- 78. On a very summy summer day, where there is no morning overcast, how much ozone do you estimate will be generated by the West Coyote Hills proposed project?
- 79. In Table 4.4-2(see next page) we see that in 2004 ozone exceeded the California state 1-hour limit of .09 ppm (parts per million) for ozone for the West Coyote Hills area (which is covered by the SCAQMD's La Habra/Anaheim monitoring stations) on 6 days. Given the excessively high amounts of ROG and NOx that the WCHpp will generate each day, and once again given that ROG and NOx "react with sunlight" to form ozone, isn't it reasonable to conclude that the WCHpp will create additional days each year in the West Coyote Hills that exceed the California state 1-hour limit of .09 ppm for ozone?
- 80. How many additional days per year do you estimate the WCHpp will add to the current 6 days per year total in which the West Coyote Hills

Table 4.4-2 Air Quality Monitoring Summary for the La Habra/Anaheim Monitoring Stations (Number of Days Standards Were Exceeded and Maximum Levels During Such Violations)<sup>1</sup> West Coyote Hills Specific Plan Amendment

Pollutant/Standard	2000	2001	2002	2003	2004
Ozone					
State 1-Hour >0.09 ppm	8	4	3	7	6
Federal 1-Hour >0.12 ppm	1	0	0	1	0
Federal 8-Hour >0.08 ppm	4	2	0	2	0
Max. 1-Hour conc. (ppm)	0.14	0.114	0.121	0.165	0.099
Max. 8-Hour conc. (ppm)	0.103	0.090	0.079	0.087	0.080
Carbon Monoxide					
State 8-Hour >9.1 ppm	0	0	0	0	0
State 1-Hour ≥20 ppm	0	0	0	0	0
Federal 8-Hour >9.5 ppm	0	0	0	0	0
Federal 1-Hour ≥35 ppm	0	0	0	0	0
Max. 1-Hour conc. (ppm)	14	11	10	8	7
Max. 8-Hour conc. (ppm)	6.1	4.7	4.4	4.1	4.0
Nitrogen Dioxide					
State 1-Hour >0.25 (ppm)	O <sub>3</sub>	0	0	0	0
Max. 1-Hour conc. (ppm)	0.12 <sup>3</sup>	0.13	0.12	0.16	0.12
Inhalable Particulates (PM <sub>10</sub> ) <sup>2</sup>					
State 24-Hour > 50 μg/m <sup>3</sup>	8/61	9/46³	5/61	6/61	7/61
Federal 24-Hour > 150 ( $\mu$ g/m <sup>3</sup> )	0/61	0/46 <sup>3</sup>	0/61	0/61	0/61
Max. 24-Hour conc. (μg/m³)	126	933	69	96	74
			0.0	~~	
Inhalable Particulates (PM <sub>2.5</sub> ) <sup>2</sup>	0.4077				
Federal 24-Hour > 65 μg/m <sup>3</sup>	6/273	1/252	1/351	3/340	0/319
Max. 24-Hour conc. (μg/m³)	113.9	70.8	68.8	115.5	58.8

With the exception of inhalable particulates (PM<sub>10</sub>), all values are based on 365 days per year. <sup>2</sup>Violations per number of samples.

SOURCE:

SCAQMD Air Quality Data; 2000, 2001, 2002, 2004 and 2004. Synectecology, September 2004 (Revised February 1, 2006).

<sup>3</sup>Less than 12 full months of data. May not be representative.

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area exceeds the California state 1-hour limit of .09 ppm for ozone?

- 81. Table 4.4-2 also shows that in 2004 inhalable participates for the West Coyote Hills area exceeded the California state 1-hour limit for this particular pollutant on 7 days. Such particulates, the RDEIR states on page 4.4-4, result "primarily from industrial, agricultural, construction and transportation activities." Additionally, the RDEIR states on page 4.4-22, with respect to the West Coyote Hills proposed project, that "the majority of the long-term operational emissions results from the use of automobiles." Given that 3 of the WCHpp's operational emissions—CO, NOx, and ROG—significantly exceed the SCAQMD threshold for such emissions, isn't it reasonable to conclude that the WCHpp will create additional days each year in the West Coyote Hills that exceed the California state 1-hour limit for inhalable particulates?
- 82. How many additional days per year do you estimate the WCHpp will add to the current 7 days per year total in which the West Coyote Hills area exceeds the California state 1-hour limit for inhalable particulates?
- 83. On pages 4.4-3 and 4.4-4 of the RDEIR the following is stated: "The primary adverse health effect associated with CO is the interference of normal oxygen transfer to the blood, which may result in tissue oxygen deprivation." "...Adverse effects on human health are not caused by ROG, but rather by reactions of ROG to form secondary pollutants." "...NOx acts as an acute respiratory irritant and increases susceptibility to respiratory pathogens." "...Ozone may pose a health threat to those who already suffer from respiratory diseases as well as healthy people." Inhalable particulates "may adversely affect the human respiratory system, especially in those people who are naturally sensitive or susceptible to breathing problems." Given this information, does the City of Fullerton consider itself fully aware of the adverse health effects a person, particularly a sensitive receptor, experiences when he breathes excessive amounts of CO, NOx, ROG, ozone, and inhalable particulates?
- 84. In Table 4.4-3(see next page) it is shown that the West Coyote Hills is located in an area that is in "Extreme Non-attainment" status at both the state and federal level for ozone. Is it the policy of the City of Fullerton to do everything within its power to see to it that the West Coyote Hills area of Fullerton, if not all areas of Fullerton, achieve "Attainment" status at both the state and federal level for ozone?
  - 85. Does the City of Fullerton agree that sensitive receptors who

Table 4.4-3

Attainment Status for the SCAB

## Attainment Status for the SCAB West Coyote Hills Specific Plan Amendment

Air Pollutant	State Status	Federal Status
Nitrogen dioxide (NO <sub>z</sub> )	Attainment	Attainment/Maintenance
Carbon monoxide (CO)	Attainment	Attainment/Maintenance
Ozone (O <sub>3</sub> )	Extreme Non-attainment	Extreme Non-attainment
Particulate matter (PM10)	Serious Non-attainment	Serious Non-attainment
SOURCE: Synectecology,	September 2004 (Revised Feb	oruary 1, 2006).

reside within an area whose status is "Extreme Non-attainment" at the state and federal level for ozone are likely at times to experience significantly adverse health effects from the high levels of ozone that they are subjected to?

- 86. Given the excessively high amounts of ROG and NOx that the WCHpp will generate each day—195% over the SCAQMD threshold for ROG and 154% over the SCAQMD threshold for NOx—and once again given that ROG and NOx "react with sunlight" to form ozone, as the RDEIR points out, isn't it reasonable to conclude that the WCHpp will make it even more difficult for the area in which the West Coyote Hills is located to achieve "Attainment" status at the state and federal level for ozone?
- 87. Given the excessively high amounts of ROG and NOx that the WCHpp will generate each day—195% over the SCAQMD threshold for ROG and 154% over the SCAQMD threshold for Nox—and once again given that ROG and NOx "react with sunlight" to form ozone, as the RDEIR points out, isn't it a fact that sensitive receptors who reside within or adjacent to the West Coyote Hills proposed project site—an area, to repeat, that is in "Extreme Non-attainment" for ozone at the state and federal level—will likely experience additional adverse health effects from the increased levels of ozone that they will be subjected to should the WCHpp proceed as planned?
- 88. In short, won't the excessively high amounts of emissions generated by the WCHpp bring about or exacerbate health problems caused by ozone exposure for sensitive receptors living in the West Coyote Hills area, particularly for those sensitive receptors who end up residing within or adjacent to the West Coyote Hills proposed project?
- 89. Also in Table 4.4-3 it is shown that the West Coyote Hills is located in an area that is in "Serious Non-attainment" status at both the state and federal level for particulate matter. Is it the policy of the City of Fullerton to do everything within its power to see to it that the West Coyote Hills area of Fullerton, if not all areas of Fullerton, achieve "Attainment" status at both the state and federal level for particulate matter?
- 90. Does the City of Fullerton agree that sensitive receptors who reside within an area whose status is "Serious Non-attainment" at the state and federal level for particulate matter are likely at times to experience significantly adverse health effects from the high levels of particulate matter that they are subjected to?

- 91. Given that particulate matter according to the RDEIR (page 4.4-4) is generated "primarily from industrial, agricultural, construction and transporation activities" and also given, with respect to the WCHpp, "the majority of the long-term operational emissions results from the use of automobiles," isn't it reasonable to conclude that the WCHpp will make it even more difficult for the area in which the West Coyote Hills is located to achieve "Attainment" status at the state and federal level for particulate matter?
- 92. To be more specific, on page 4.4-11 of the RDEIR appears this statement which reads in part: "From an air quality perspective, a project would normally be judged to produce a significant or potentially significant effect on the environment if the project were to:

Conflict with or obstruct implementation of the applicable air quality plan."

Given that the WCHpp site lies within an area that is in "Serious Non-attainment" for particulate matter at the state and federal level, and given that the WCHpp will generate 83.7 pounds per day of particulate matter, do you agree that the WCHpp "will conflict with or obstruct implementation of the applicable air quality plan," which in this case is the Air Quality Management Plan (AQMP) that SCAQMD and SCAG (Southern California Association of Governments) have prepared—a plan that calls for particulate matter levels to reach "attainment" status "by December 31, 2006, or as expeditiously as possible?"

- 93. Given that the WCHpp site lies within a "Serious Non-attainment" area for particulate matter, given the WCHpp will generate 83.7 pounds per day of particulate matter, and given that the AQMP calls for the West Coyote Hills area to "reach attainment by December 31, 2006, or as expeditiously as possible" for particulate matter, do you agree that "normally" the WCHpp would "be judged to produce a significant or potentially significant effect on the environment?"
- 94. Given the additional amount of particulate matter that the WCHpp will generate (83.7 pounds per day), isn't it likely that sensitive receptors who end up residing within or adjacent to the West Coyote Hills proposed project—an area, to repeat, that already is in "Serious Non-attainment" for particulate matter at the state and federal level—will likely experience additional adverse health effects from the increased levels of particulate matter that they will be subjected to should the WCHpp proceed as planned?
  - 95. In short, won't the excessively high amounts of emissions

generated by the WCHpp bring about or exacerbate health problems caused by particulate matter exposure for sensitive receptors living in the West Coyote Hills area, particularly those who might end up residing within or adjacent to the WCHpp?

- 96. Given the additional amount of CO that the WCHpp will generate (865.1 pounds per day)—an amount that significantly exceeds the SCAQMD threshold of 550 pounds per day—isn't it likely that sensitive receptors who end up residing within or adjacent to the WCHpp site—an area that is in "Extreme Non-attainment" and "Serious Non-attainment" for ozone and particulate matter respectively—will experience additional adverse health effects from the increased levels of CO that they will be subjected to should the WCHpp proceed as planned?
- 97. In short, won't the excessively high amounts of emissions generated by the WCHpp bring about or exacerbate health problems caused by CO exposure for sensitive receptors living in the West Coyote Hills area, particularly those who might end up residing within or adjacent to the WCHpp?
- 98. Given the additional amount of NOx that the WCHpp will generate (139.9 pounds per day)—an amount that significantly exceeds the SCAQMD threshold of 55 pounds per day—isn't it likely that sensitive receptors who end up residing within or adjacent to the WCHpp site—an area that is in "Extreme Non-attainment" and "Serious Non-attainment" for ozone and

particulate matter respectively—will experience additional adverse health effects from the increased levels of NOx that they will be subjected to should the WCHpp proceed as planned?

- 99. In short, won't the excessively high amounts of emissions generated by the WCHpp bring about or exacerbate health problems caused by NOx exposure for sensitive receptors living in the West Coyote Hills area, particularly those who might end up residing within or adjacent to the WCHpp?
- 100. Given the additional amount of ROG that the WCHpp will generate (162.2 pounds per day)—an amount that significantly exceeds the SCAQMD threshold of 55 pounds per day—isn't it likely that sensitive receptors who end up residing within or adjacent to the WCHpp—an area that is in "Extreme Non-attainment" and "Serious Non-attainment" for ozone and particulate matter respectively—will experience additional adverse health effects from the increased levels of ROG that they will be subjected to should the WCHpp proceed as planned?
- 101. In short, won't the excessively high amounts of emissions generated by the WCHpp bring about or exacerbate health problems caused by ROG exposure for sensitive receptors living in the West Coyote Hills area, particularly those who might end up residing within or adjacent to the WCHpp?
- 102. On page 4.4-25 of the RDEIR the writer of this section basically threw up his hands and said that it was hopeless as far as coming up with mitigation measures that would reduce the CO, NOx and ROG emitted pollutants in the WCHpp below SCAQMD significance thresholds for these pollutants. The writer states as follows:

With the implementation of the mitigation measures prescribed in Section 4.4-5, as well as those described for traffic congestion management, impacts for all emissions will be reduced. However, any reductions would be on the order of only a few percent and CO, NOx, and ROG associated with site preparation and construction and/or project occupancy would be expected to remain significant even after the incorporation of mitigation measures.

However, it is not at all impossible to reduce the CO, NOx, and ROG levels so that they fall below the SCAQMD significance threshold for these pollutants. If the WCHpp were significantly scaled back, the CO, NOx and ROG levels would fall under the SCAQMD significance threshold.

How many vehicle trips per day in a scaled back WCHpp would be necessary to bring the CO, NOx and ROG levels under the SCAQMD significance threshold for these pollutants?

103. About how many residences (homes and townhomes) would this

number of vehicle trips per day you provided as your answer to the previous question equate to?

- 104. Have any members of the Fullerton City Council received campaign donations from Chevron or Pacific Coast Homes (the latter being the developer of the WCHpp and is a subsidiary of Chevron)?
- 105. If so, who are these members, how much money from Chevron or Pacific Coast Homes did each of these members receive, and will they be recusing themselves from voting on the West Coyote Hills proposed project when it comes before the Fullerton City Council for approval?
- 106. If the Fullerton City Council decides to approve the WCHpp as it currently stands—a project that significantly exceeds the SCAQMD threshold for CO, NOx and ROG—do you agree that such an action would place the City of Fullerton at risk of being sued by the SCAQMD and private individuals?
- 107. On page 4.4-11 of the RDEIR appears the statement that "the final determination of 'significance' is within the purview of the lead agency." In fact, isn't it true that the entity that exercises "the final determination of 'significance'" is not the Fullerton City Council (the lead agency in this instance) but rather the California court system?