

Final Environmental Impact Report No. 3
Moon Camp 50-lot Residential Division, TT No. 16136
Big Bear Lake, San Bernardino County, California
SCH No. 2002021105

Prepared for:

County of San Bernardino
Advance Planning Division
Land Use Services Department
385 North Arrowhead Avenue
San Bernardino, California 92415-0182

Prepared by:

Tom Dodson & Associates
2150 North Arrowhead Avenue
San Bernardino, California 92405
(909) 882-3612

June 2024

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Mitigation Monitoring and Reporting Program

Partially Recirculated Draft EIR No. 3 (Volume 1)

COMMENT LETTERS AND RESPONSES TO COMMENTS

TOM DODSON & ASSOCIATES

PHYSICAL ADDRESS: 2150 N. ARROWHEAD AVENUE SAN BERNARDINO, CA 92405

MAILING ADDRESS: PO BOX 2307, SAN BERNARDINO, CA 92406

TEL (909) 882-3612 • FAX (909) 882-7015

E-MAIL TDA@TDAENV.COM • WEB: TDAENVIRONMENTAL.COM



MEMORANDUM

June 19, 2024

From: Kaitlyn Dodson-Hamilton

To: Mr. Jim Morrissey

Subj: Completion of the Partially Recirculated Draft Environmental Impact Report No. 3 Moon Camp 50-lot Residential Division, TT No. 16136 Big Bear Lake, San Bernardino County, California (SCH #2002021105)

Purpose of the Draft Environmental Impact Report

The County of San Bernardino (County) has distributed the Partially Recirculated Draft Environmental Impact Report No. 3 (Moon Camp PRDEIR No. 3) Moon Camp 50-lot Residential Division, TT No. 16136 Big Bear Lake, San Bernardino County, California (SCH #2002021105) for public review with the review starting on February 1, 2024 and ending on March 18, 2024. PRDEIR No. 3 was circulated to respond to the Writ of Mandate,¹ and address (1) those items that the San Bernardino County Superior Court (Court) found deficient in its January 20, 2022, decision, and (2) focus on the topics of Project land use consistency as a result of the recently adopted San Bernardino Countywide Plan.

Scope of the Revised EIR Analysis

The PRDEIR No. 3 focuses solely on the topics of Biological Resources (impacts to ashy-gray Indian paintbrush and pebble plain habitat), Hazards and Hazardous Materials (wildfire evacuation), and Land Use and Planning (consistency with the San Bernardino Countywide Plan). The analysis and CEQA determinations for topics that fall outside of the narrow focus of the PRDEIR No. 3 were deemed adequate by the Court, and therefore no longer warrant discussion

¹ The matter came before the San Bernardino County Superior Court at a hearing on January 20, 2022. After the hearing Superior Court judge David Cohn issued a ruling that found the County failed to comply with CEQA in 2 narrow instances:

1. There was no substantial evidence supporting the determination that impacts to the Ashy- Gray Indian Paintbrush were reduced to less than significant levels with the implementation of identified mitigation measures. Specifically, the Court found that there was no substantial evidence in the record supporting the County's finding that the preservation of the 10-acre Dixie Lee Lane parcel mitigated Project impacts to the Ashy- Gray Indian Paintbrush or pebble plain habitat.
2. The County's finding that the Project would have a less than significant impact on Wildfire Safety Hazards and Emergency Evacuation. Specifically, the Court concluded that the record failed to include substantial evidence supporting the finding that the identified evacuation routes are adequate to safely and efficiently evacuate the residents and the guests of the Project in the event of a wildfire.

All other grounds for the petition were denied.

or consideration beyond what was presented in the July 2020 FEIR, pursuant to CEQA Statute 15234(d).²

As stated in the Notice of Availability that announced the Circulation of the PRDEIR No. 3, and in Section 1.2 of the PRDEIR No. 3, only new comments submitted on the recirculated portions of the PRDEIR No. 3 will be considered by the County. As an example, any comments pertaining to impacts on the Bald Eagle will not be considered in the responses to comments, because the Court determined that the impacts on Bald Eagle were adequately analyzed in the July 2020 FEIR. Thus, the opportunity to comment on impacts determined to be adequate by the Court that were not the aforementioned focus of the PRDEIR No. 3 has concluded.

Documentation Incorporated in the FEIR

This memorandum, combined with the PRDEIR No. 3 and July 2020 Moon Camp FEIR (which contains reference to and incorporates all of the environmental impact reports that came before it), the above list of commenters, the attached comment letters and responses, the MMRP, CEQA statement of facts, findings and Statement of Overriding Considerations (SOOC), and other Staff materials in the final administrative record constitute the 2024 FEIR for the proposed Project. The County of San Bernardino Board of Supervisors will consider the Moon Camp Project in the future on a date selected after legal notice has been provided. The hearing will be held at the Covington Chambers of the Board of Supervisors, County Government Center, 385 North Arrowhead Avenue, First Floor, San Bernardino, California.

Comments Received

The County of San Bernardino received written comment letters from 17 persons/entities on the proposed Moon Camp PRDEIR No. 3. The comments are responded to herein. The contents of a Final EIR are defined in Section 15132 of the State California Environmental Quality Act (CEQA) Guidelines and include the following requirements: the PRDEIR No. 3; comments and recommendations received on the PRDEIR No. 3; a list of parties commenting of the PRDEIR No. 3; responses to comments by the CEQA Lead Agency (County); a mitigation monitoring and reporting program (MMRP); a set of facts, findings and statement of overriding considerations (SOOC, where required); and, any other information added by the Lead Agency as part of its decision-making process for a Project. A revised SOOC will be required as part of the decision-making package before the Recirculated Final EIR (RFEIR) can be certified. This memorandum and the attached responses to comments contained herein constitute a portion of the FEIR for the County on this proposed Project.

The following parties submitted written comments. The County's responses to those letters are provided in the attached Responses to Comments:

1. Pat Foley
2. Annie May Cron
3. Deborah Deutsch Smith
4. Chris and Alan Gluck
5. Jenn Harrison
6. John Murrell
7. John Ofsanko

² (d) As to those portions of an environmental document that a court finds to comply with CEQA, additional environmental review shall only be required as required by the court consistent with principles of res judicata. In general, the agency need not expand the scope of analysis on remand beyond that specified by the court. Refer to CEQA Guidelines § 15088.5(f)(2) and Lone Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador (2019) 33 Cal.App.5th 165, 170.

8. Lauren Mobley
9. Madeleine Murrell
10. Nora Foran
11. Sierra Club of Big Bear Valley
12. Friends of Big Bear Valley
13. Mary Murrell
14. Anastasia Mazula
15. Padraic Foran
16. Sylvia Stutz
17. Joy Witte

What follows are responses to each of the above comment letters.

A handwritten signature in black ink, appearing to read "Kaitlyn Dodson-Hamilton". The signature is stylized with a large, looped "K" and a distinct "H" at the end.

Kaitlyn Dodson-Hamilton
Attachments

Comment Letter #1

From: pat foley patconnect@gmail.com
Subject: Re: Project Title: Moon Camp Project Project No.: PMISC-2020-00016
Date: March 6, 2024 at 9:07 AM
To: Morrissey , Jim Jim.Morrissey@lus.sbcounty.gov

PF

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To: Jim Morrissey, Contract Planner

Jim.Morrissey@lus.sbcounty.gov

County of San Bernardino Land Use Services Department

Planning Division

Re: Project Title: Moon Camp Project Project No.: PMISC-2020-00016

This email includes my questions and concerns regarding the Moon Camp development, being presented to the County for approval.

Question 1 - Will the project be adjusted to include some housing for the lower income population?

Affordable housing housing element p.4-85 DEIR 3. P1.2 DEIR 3. The Housing Element

1-1 Housing Element. The housing element identifies sites to facilitate and encourage housing for households of **all economic levels**, including persons with disabilities; removes governmental constraints to housing production, maintenance, and improvement as legally feasible and appropriate; assists the development of **adequate housing for low- and moderate-income households**; preserves publicly assisted multiple-family housing developments in each community; conserves and **improves conditions in existing housing and neighborhoods, including affordable housing; and, promotes a range of housing opportunities for all individual and households consistent with fair and equal housing opportunity**

There is no affordable housing as part of this project– the last thing we need in Fawnskin are more expensive homes – we already have a vast number of second homes that sit vacant for portions of the year. We do need affordable housing – there is ZERO mitigation on this issue. NONE. **Will the project be adjusted to include some housing for the lower income population?**

Question 2 – Public Easement – Access to the shoreline from the road. Will this truly be access to the shoreline from the road for the general public?

1-2 Public easement “Neighborhood Lake Access - the DEIR reports cite “Neighborhood Lake Access” but nowhere talks about a public access/easement for the general public to access the lake shore from the road. What is meant by “Neighborhood Lake Access”? My worry is that they mean only the Moon Camp Neighborhood, and are not providing for public access/easement.

Parking: and public easement – p 4-103 DEIR #3 County Policy TM-4.11 “We require publicly accessible parking areas to ensure that pedestrians and bicyclists can safely access the site and onsite businesses from the public right-of-way.” In the answer/analysis to this point, no mention is made of the public right-of-way. Will this be accessible?

1-3 **Question 3 - DWP rates – how will we have assurances that DWP will not raise the**

RESPONSE TO COMMENT
LETTER #1
PAT FOLEY

- 1-1 The comment asks whether the Project be adjusted to include lower income housing. The Project as proposed in the PRDEIR No. 3 will not be modified as part of the final consideration process by County decision-makers on this Project, and further, Population and Housing impacts fall outside of the narrow focus of this PRDEIR No. 3. The County does not require low-income housing to be incorporated into every housing development, and therefore the Developer is not obligated to incorporate affordable housing as part of this Project. Furthermore, as noted in the PRDEIR No. 3, in Subchapter 4.4, the Regional Housing Needs Assessment (RHNA) Allocation Plan for the County identifies that 3,770 above moderate income level housing units are needed to meet these criteria. Thus, regardless of the housing type, the proposed Project would contribute 50 units to the SCAG identified 8,832 dwelling unit deficit within the Unincorporated areas of the County at present, thus complying with the goals of the County's Housing Element.
- 1-2 The comment asks whether the Lake access from this neighborhood will be accessible to the public and cites a County parking policy. The Developer plans to enable the lake access to be public, but the parking onsite would be for residents and guests. The quote referenced in this comment references a Countywide Plan Policy related to parking areas in mobility focus areas. As the Project is a residential development project outside of a mobility focus area, and that the Project is subject to residential parking requirements that the Project design meets, there are no publicly accessible parking spaces mandated to be included as part of this Project. Nevertheless, the neighborhood lake access would be publicly accessible by pedestrians and cyclists, in addition to residents of the Project.
- 1-3 The comment asks whether the Big Bear Lake Department of Water and Power (DWP) would raise rates of customers due to the additional water required to serve this Project. DWP has autonomy in how it operates and obtains the necessary funds to operate, and therefore, has the authority to, at the direction of its Board, authorize increased rates for its rate payers, and this remains so with or without the proposed Project. Economic considerations such as the cost of the rate charged for water both fall outside of the scope of CEQA and fall outside of the County's jurisdiction, and therefore, no further response to this comment is necessary.

1-3 | rates of customers outside of the Moon Camp development because of this extra
cont'd | load?

1-4 | **Question 4 – How many trees are being cut down because of this development?**
| **We need the old stand trees located within the development – we need more trees,**
| **not fewer.** There is NO mitigation that will solve this except to not approve the project.

| **Question 5 - “Fair share costs” – why should the SBC taxpayer have to shoulder**
| **ANY of this cost when it will be the developer who will solely benefit from the sale**
| **of SFRs.** There is no benefit to other taxpayers, only degradation of our rural setting.

1-5 | “T-2. The eastbound left turn lanes at both project access points will be constructed at
| opening year at 100% cost to the Applicant. The Applicant shall pay fair share costs of
| the construction of the eastbound through lanes at both project access points for the
| horizon year conditions. The developer shall pay the fair share cost of \$99,320 toward
| the off-site traffic improvements recommended in Appendix G of the San Bernardino
| Congestion Management Program, 2003 Update. San Bernardino County T-3. “

1-6 | **Question 6 – How do you consider the effect to the plant life “insignificant”?** There
| is no real mitigation for the ashy-grey paintbrush except to not build the houses. Setting
| aside land miles away is not real mitigation.

1-7 | **Question 7 – How will you mitigate the effect on the eagles?** There is no mitigation
| possible when you are having this level of activity at this site, both with increased traffic
| on the roads, the parking lot and the boat slips. It doesn't matter that you are claiming to
| restrict activity in privately owned homes during certain parts of the year. I have no trust
| that this will truly happen.

| I await your responses to these concerns and questions.

Sincerely yours,

Patricia Foley
Fawnskin, CA
patconnect@gmail.com

- 1-4 The question asks how many trees are being cut down because of the development. First, the issue of trees and tree removal falls outside of the scope of these responses to comments. As discussed in the introduction to these responses to comments, the PRDEIR No. 3 focuses solely on the topics of Biological Resources (impacts to ashy-gray Indian paintbrush and pebble plain habitat), Hazards and Hazardous Materials (wildfire evacuation), and Land Use and Planning (consistency with the San Bernardino Countywide Plan). The analysis and CEQA determinations for topics that fall outside of the narrow focus of the PRDEIR No. 3 were deemed adequate by the Court, and therefore no longer warrant discussion or consideration beyond what was presented in the July 2020 FEIR, pursuant to CEQA Statute 15234(d).

Only new comments submitted on the recirculated portions of the PRDEIR No. 3 will be considered by the County. However, the 2010 RRDEIR No. 1 indicates that based on the current Project design, about 2,095 trees would be removed to enable the development of the Project. This issue requires no further consideration herein because it was adequately addressed in the July 2020 FEIR.

- 1-5 The comment asks why the Developer should only be required to pay its fair share cost of future improvements, when it should be required to pay the full amount of the improvements to roadways and other identified fair share costs. The County assesses a fair share cost based on a given Project's calculated impact on the area circulation. The County utilizes a fair share approach to assess fees on future development, and once it deems appropriate, it allocates funds the improvements necessary to ensure adequate circulation throughout its service area. Furthermore, requiring mitigation beyond the developer's fair share is not legally permitted.³
- 1-6 The comment asks why plant life impacts are considered insignificant in relationship to impacts specific to the ashy-gray Indian paintbrush. As discussed above under Response to Comment 1-4, the plant life impacts that are analyzed in the PRDEIR No. 3 are limited to impacts to ashy-gray Indian paintbrush and pebble plain habitat. For clarification purposes, the impact determination for impacts to ashy-gray Indian paintbrush is less than significant with implementation of mitigation, not "insignificant" as this comment suggests. Overall, the PRDEIR No. 3 indicates that *"On an occurrence basis, there are approximately 5,567 occurrences of ashy-gray Indian paintbrush occurrences are located within the proposed Project site. Of the 5,567 occurrences, 4,895 will be permanently protected within the Open Space Conservation Easement of Lot A and H, representing 88 percent of the total occurrences of ashy-gray Indian paintbrush within the Project site"* (page 4-24). This on-site conservation of ashy-gray Indian paintbrush occurrences results in mitigation, reinforced by MM **BR-1b** for Project impacts at more than an approximately 7:1 ratio. On an acreage basis, the Project will mitigate impacts to the ashy-gray Indian paintbrush on-site at a 1.68:1 ratio. Furthermore, MM **BR-1a** establishes seed collection that would take place prior to construction within Lots 1, 4, 47, 48, 49, and 50, which are not protected as part of the 4,895 plants that would be conserved within the Open Space

³ The US Supreme Court has recognized constitutional limits on the extent of mitigation that can be imposed on a project to address that project's potential environmental impacts. (*Nollan v. Ca. Coastal Commission* (1987) 483 U.S. 825, *Dolan v. City of Tigard* (1994) 512 U.S. 374). These rulings identify that mitigation must have both a nexus and rough proportionality to the impact caused by the project. The California Environmental Quality Act (CEQA) incorporates these rulings and inherently recognizes that mitigation measures must have both a nexus and be rough proportional to the impacts caused by the project. (CEQA Guidelines Section 15126.4, subd. (a)(4)(A)–(B), citing *Nollan v. Ca. Coastal Commission* (1987) 483 U.S. 825, *Dolan v. City of Tigard* (1994) 512 U.S. 374.) Accordingly, a lead agency cannot legally require mitigation or conditions of approval in excess of a project's impacts.

Conservation Easement of Lot A and H. Onsite conservation of endangered and threatened species is legally recognized mitigation for project-related impacts to such species. See *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477 and CEQA Guidelines § 15370(e). Thus, as evidenced by the analysis provided in PRDEIR No. 3, the Project would not result in extirpation of the ashy-gray Indian paintbrush on the Project site; in fact, it would result in the permanent conservation of the primary areas on site that support this species.

- 1-7 The comment asks what mitigation has been considered to minimize impacts to the bald eagle. Refer to Response to Comment 1-4 above, and 2-1, below. Only new comments submitted on the recirculated portions of the PRDEIR No. 3 will be considered by the County. As an example, the comments in this comment letter pertaining to impacts on the bald eagle will not be considered in the responses to comments, because the Court determined that the impacts on bald eagle were adequately analyzed in the July 2020 FEIR. Thus, the opportunity to comment on impacts determined to be adequate by the Court that were not the aforementioned focus of the PRDEIR No. 3 has concluded.

Comment Letter #2

From: [Annie May Cron](#)
To: [Morrissey, Jim](#)
Subject: Comment against Moon Camp Project
Date: Monday, March 18, 2024 8:29:49 PM

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Dear Jim Morrissey,

2-1 I was saddened to hear that the County is considering the Moon Camp Project (*PRDEIR No. 3*) which threatens to destroy Big Bear Lake's bald eagle habitat. Jackie and Shadow have brought people together and deserve to have their habitat preserved. Last year my co-worker Jennifer and I would often spend our breaks watching the progress of their eggs. Even though they ultimately didn't hatch it meant so much to have this connection to each other and an important part of nature. It was a magical moment last month when my family went to our friends' vacation house for the weekend and we realized we were a stone's throw away from Jackie and Shadow's nest. They told us that Jackie and Shadow were at risk of losing their home and on top of that, the Ash-Gray Paintbrush/Pebble Plain that grows only in the San Bernardino mountains, specifically in this section of Fawnskin was also at risk. No project is worth decimating such a unique forest and its rare, endangered species of bald eagles and Ash-Gray Paintbrush, there are so few bastions of hope and natural beauty left. We must stand up for nature and give it a voice, or else the forest and its inhabitants will soon be gone. Jackie, Shadow, and the Ash-Gray Paintbrush deserve to thrive. Please protect these precious natural resources and reject the Moon Camp Project!

Thank you for your time!

Warmly,
Annie Cron

**RESPONSE TO COMMENT
LETTER #2
ANNIE MAY CRON**

- 2-1 This comment appears to be one of ten form comment letters, which vary slightly from one another, but convey the same message: the comment letter asks for the Project to be rejected due to impacts to “Jackie and Shadow”—local bald eagles to the Big Bear Valley area—and due to impacts to ashy-gray Indian paintbrush/pebble plain habitat. Other than general concerns regarding potentially significant impacts to ashy-gray Indian paintbrush, pebble plain, and bald eagle, including the possible extirpation of these species/habitats, the commenter does not point to a specific point in the PRDEIR No. 3 with which the commenter takes issue.

As discussed in the introduction to these responses to comments, the PRDEIR No. 3 focuses solely on the topics of Biological Resources (impacts to ashy-gray Indian paintbrush and pebble plain habitat), Hazards and Hazardous Materials (wildfire evacuation), and Land Use and Planning (consistency with the San Bernardino Countywide Plan). The analysis and CEQA determinations for topics that fall outside of the narrow focus of the PRDEIR No. 3 were deemed legally adequate by the Court, and therefore the County is not required to discuss or consider issues beyond what was presented in the July 2020 FEIR, pursuant to CEQA Statute 15234(d). Pursuant to CEQA, personal opinions expressing general support for, or opposition to the proposed project are noted and will be included within the administrative record for the proposed project, but do not require a specific written response if they do not relate to a significant environmental issue that is addressed within PRDEIR No. 3 and/or otherwise within the purview of CEQA. Likewise, opinions about the general desirability, merits, and/or purely economic, social, or political considerations of the proposed project are not within the purview of CEQA and do not require a specific written response in this RFEIR. In cases where the commenter provides an opinion and/or generalized concerns about the merits of the proposed project but does not challenge the sufficiency of PRDEIR No. 3, the County notes the opinion for informational purposes.

Only new comments on environmental issues submitted on the recirculated portions of the PRDEIR No. 3 will be considered by the County. As an example, the comments in this comment letter pertaining to impacts on the bald eagle will not be considered in the responses to comments, because the Court determined that the impacts on bald eagle were adequately analyzed in the July 2020 FEIR. Thus, the opportunity to comment on impacts determined to be adequate by the Court that were not the aforementioned focus of the PRDEIR No. 3 has concluded. The commenter’s general opposition to the project is noted.

Overall, the PRDEIR No. 3 indicates that *“On an occurrence basis, there are approximately 5,567 occurrences of ashy-gray Indian paintbrush occurrences are located within the proposed Project site. Of the 5,567 occurrences, 4,895 will be permanently protected within the Open Space Conservation Easement of Lot A and H, representing 88 percent of the total occurrences of ashy-gray Indian paintbrush within the Project site”* (page 4-24). This on-site conservation of ashy-gray Indian paintbrush occurrences results in mitigation, reinforced by MM **BR-1b** for Project impacts at more than an approximately 7:1 ratio. On an acreage basis, the Project will mitigate impacts to the ashy-gray Indian paintbrush on-site at a 1.68:1 ratio. Furthermore, MM **BR-1a** establishes seed collection

that would take place prior to construction within Lots 1, 4, 47, 48, 49, and 50, which are not protected as part of the 4,895 plants that would be conserved within the Open Space Conservation Easement of Lot A and H. Thus, as evidenced by the analysis provided in PRDEIR No. 3, the Project would not result in extirpation of the ashy-gray Indian paintbrush on the Project site; in fact, it would result in the permanent conservation of the primary areas on site that support this species.

Furthermore, the PRDEIR No. 3 determined that *“based on the findings of the 2010 Focused Special Status Plant Species Survey, no true pebble plain habitat exists on the project site, and thus, the implementation of the proposed Project will have no potential to impact pebble plain habitat, and thus would not result in a potentially significant impact and no mitigation is required”* (page 4-28). Thus, as evidenced by the analysis provided in PRDEIR No. 3, and as the Project site does not contain the two key indicator species—southern mountain buckwheat and Big Bear Valley sandwort—that are necessary for an area to be considered true pebble plain habitat, no impacts to pebble plain habitat would result from implementation of the Project.

Comment Letter #3

March 15, 2024

Dear Jim Morrison,

I just learned yesterday of a planned housing and recreational development in the Big Bear Lake and Fawnskin areas, and my hope is that this plan will be rejected. Let me explain why I believe strongly that this project should *not* be initiated.

3-1

My husband died several years ago at the age of 93. He had wonderful childhood memories of visiting the small lodge that his aunt and uncle owned in Fawnskin, but he hadn't been there since childhood. I took him up to the area about five years before he passed. Although we never found the old lodge, what we did find was a pristine treasure of what this mountain community must have been like for a hundred years or more. It is a treasure that should be safeguarded carefully. There are few places left in Southern California that have been untouched by "modern development" and should be protected for our children and grandchildren to know what the beauty of nature provided then and can provide now.

Please reject this proposal for such development cannot be reversed, the natural habitat for plant life, birds, and other animals that is their rightful home will be lost forever.

Sincerely,

Deborah Deutsch Smith

Playa del Rey, CA

**RESPONSE TO COMMENT
LETTER #3
DEBORAH DEUTSCH SMITH**

- 3-1 The comment requests that the County reject the Moon Camp Project because the site itself should be protected from “modern development.” The commenter also references that this development could result in plant life, birds, and other animals to lose their rightful home forever. The commenter does not point to a specific point in the PRDEIR No. 3 with which the commenter takes issue. The Project site has been designated by the County for the very type of development that this Project proposes. As demonstrated in Subchapter 4.4, Land Use and Planning, of PRDEIR No. 3, the Project was determined to be consistent with both the underlying land use designation and zoning classification. In Comment 12-24, the commenter alleges that the Project cannot be consistent with the Countywide Policy LU-2.3, compatibility with the natural environment, which is similar to that which this comment alleges. A Court case based in San Bernardino County—Joshua Tree Downtown Business Alliance v. County of San Bernardino is 1 Cal.App.5th 677 (2016) (Case No. E062479)—found that, because policies in a general plan reflect a range of competing interests, the governmental agency must be allowed to weigh and balance the plan’s policies when applying them, and it has broad discretion to construe its policies in light of the plan’s purposes.⁴ In this case, the County has, in its discretion as the Lead Agency over its Countywide Plan, interpreted that the proposed Project has been designed to be compatible with the natural environment through establishment of Conservation Easements, retainment of many bald eagle perch trees, no development along the Big Bear Lake shoreline, and compliance with the VLDR land use designation. Once again, the San Bernardino Countywide Plan has designated the Project site for VLDR use, which presumes that the site may be developed under this land use designation at some point in time, and the County has judged that the proposed Development is consistent with the VLDR land use designation and the applicable General Plan policies therein.

⁴ Miller Starr Regalia, 2016. Court Rejects General Plan Consistency Challenge Regarding City’s Approval of Franchise Retail Store Where Applicable Economic Development Goals and Policies are Alleged to Favor Small, Independent Businesses. <https://www.landusedevelopments.com/2016/07/court-rejects-general-plan-consistency-challenge-regarding-citys-approval-franchise-retail-store-applicable-economic-development-goals-policies-alleged-favor-small-indep/> (Accessed 04/10/24)

Comment Letter #4

From: [Chris and Alan Gluck](#)
To: [Morrissey, Jim](#)
Subject: Moon Camp Project
Date: Tuesday, March 19, 2024 7:21:52 AM

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Dear Jim Morrissey,

4-1

I was saddened to hear that the County is considering the Moon Camp Project (*PRDEIR No. 3*) which threatens to destroy Big Bear Lake's bald eagle habitat and the Ash-Gray Paintbrush/Pebble Plain that grows only in the San Bernardino mountains, specifically in this section of Fawnskin. No development project is worth decimating such a unique forest and its rare, endangered species of bald eagles and Ash-Gray Paintbrush. We must stand up for nature and give it a voice, or else the forest and its inhabitants will soon be gone. Jackie, Shadow, and the Ash-Gray Paintbrush deserve to thrive. Please protect these precious natural resources and reject the Moon Camp Project!

Thank you for your time, Christine Gluck

Sent from my iPhone

**RESPONSE TO COMMENT
LETTER #4
CHRIS AND ALAN GLUCK**

- 4-1 This comment appears to be one of ten form comment letters, which vary slightly from one another, but convey the same message: the comment letter asks for the Project to be rejected due to impacts to “Jackie and Shadow”—local bald eagles to the Big Bear Valley and Moon Camp Project area—and due to impacts to ashy-gray Indian paintbrush/pebble plain habitat. Other than general concerns regarding potentially significant impacts to ashy-gray Indian paintbrush, pebble plain, and bald eagle, including the possible extirpation of these species/habitats, the commenter does not point to a specific point in the PRDEIR No. 3 with which the commenter takes issue.

Responses to this comment can be found under Response to Comment #2 (2-1), which addresses the concerns raised in this comment, completely.

Comment Letter #5

From: [Jenn Harrison](#)
To: [Morrissey, Jim](#)
Subject: Reject the Moon Camp Project -- PRDEIR No. 3 is Insufficient -- Save Bald Eagles and Ash-Gray Paintbrush
Date: Monday, March 18, 2024 1:23:55 PM

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Dear Jim Morrissey,

5-1

I was saddened to hear that the County is considering the Moon Camp Project (*PRDEIR No. 3*) which threatens to destroy Big Bear Lake's bald eagle habitat and the Ash-Gray Paintbrush/Pebble Plain that grows only in the San Bernardino mountains, specifically in this section of Fawnskin. No development project is worth decimating such a unique forest and its rare, endangered species of bald eagles and Ash-Gray Paintbrush. We must stand up for nature and give it a voice, or else the forest and its inhabitants will soon be gone. Jackie, Shadow, and the Ash-Gray Paintbrush deserve to thrive. Please protect these precious natural resources and reject the Moon Camp Project!

Thank you for your time,
Jenn Harrison

JENN HARRISON
COMPASS
REALTOR® | LIC #01439097
PH (213) 842-4285
EM Jenn@jennharrison.com
IG [ShutTheFrontDoorLA](#)

**RESPONSE TO COMMENT
LETTER #5
JENN HARRISON**

- 5-1 This comment appears to be one of ten form comment letters, which vary slightly from one another, but convey the same message: the comment letter asks for the Project to be rejected due to impacts to “Jackie and Shadow”—local bald eagles to the Big Bear Valley and Moon Camp Project area—and due to impacts to ashy-gray Indian paintbrush/pebble plain habitat. Other than general concerns regarding potentially significant impacts to ashy-gray Indian paintbrush, pebble plain, and bald eagle, including the possible extirpation of these species/habitats, the commenter does not point to a specific point in the PRDEIR No. 3 with which the commenter takes issue.

Responses to this comment can be found under Response to Comment #2 (2-1), which addresses the concerns raised in this comment, completely.

Comment Letter #6

From: [John Murrell](#)
To: [Morrissey, Jim](#)
Subject: Reject the Moon Camp Project
Date: Sunday, March 17, 2024 2:11:28 PM

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- 6-1 | The proposed Moon Camp Project (PRDEIR 3) should be rejected. First, it threatens the Bald eagles whose habitat is where the project will be made. These beautiful birds are endangered & already having difficulty having offspring. Second, the Ash-Gray Paintbrush plant is also
- 6-2 | threatened since it mainly grows in the area of the proposed Project. Third, a big development doesn't seem to fit this quaint, laid back, rustic, beautiful place called Big Bear & Fawnskin.
- 6-3 | Please say No to this project. Leave Mother Nature alone & preserve the specialness of this area.

Respectfully, John Murrell

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RESPONSE TO COMMENT
LETTER #6
JOHN MURRELL

- 6-1 The comment alleges that the Project should be rejected because it threatens bald eagles. Other than general concerns regarding potentially significant impacts to bald eagle, including the possible extirpation of these species/habitats, the commenter does not point to a specific point in the PRDEIR No. 3 with which the commenter takes issue.

As discussed in the introduction to these responses to comments, and under Response to Comment 2-1, the PRDEIR No. 3 focuses solely on the topics of Biological Resources (impacts to ashy-gray Indian paintbrush and pebble plain habitat), Hazards and Hazardous Materials (wildfire evacuation), and Land Use and Planning (consistency with the San Bernardino Countywide Plan). The analysis and CEQA determinations for topics that fall outside of the narrow focus of the PRDEIR No. 3 were deemed adequate by the Court, and therefore the County is not required to discuss or consider issues beyond what was presented in the July 2020 FEIR, pursuant to CEQA Statute 15234(d).

Only new comments submitted on the recirculated portions of the PRDEIR No. 3 will be considered by the County. As an example, the comments in this comment letter pertaining to impacts on the bald eagle will not be considered in the responses to comments, because the Court determined that the impacts on bald eagle were adequately analyzed in the July 2020 FEIR. Thus, the opportunity to comment on impacts determined to be adequate by the Court that were not the aforementioned focus of the PRDEIR No. 3 has concluded.

- 6-2 This comment makes a statement that the ashy-gray Indian paintbrush is threatened and mainly grows within the area in which the Project is proposed. There are a number of places within the Project area that are assumed to support this species, as shown on Figure 1 extracted from the USFWS Five Year Review⁴ dated August 18, 2021, shown below, the Project area is demonstrably not the only area that supports ashy-gray Indian paintbrush. As no deficiencies in the analysis presented in the PRDEIR No. 3 have been identified in this comment, no further response is necessary.

⁴ USFWS, 2021. 5 Year Review *Castilleja cinerea* (Ash-gray paintbrush).
https://ecos.fws.gov/docs/tess/species_nonpublish/3393.pdf (accessed 04/08/24)

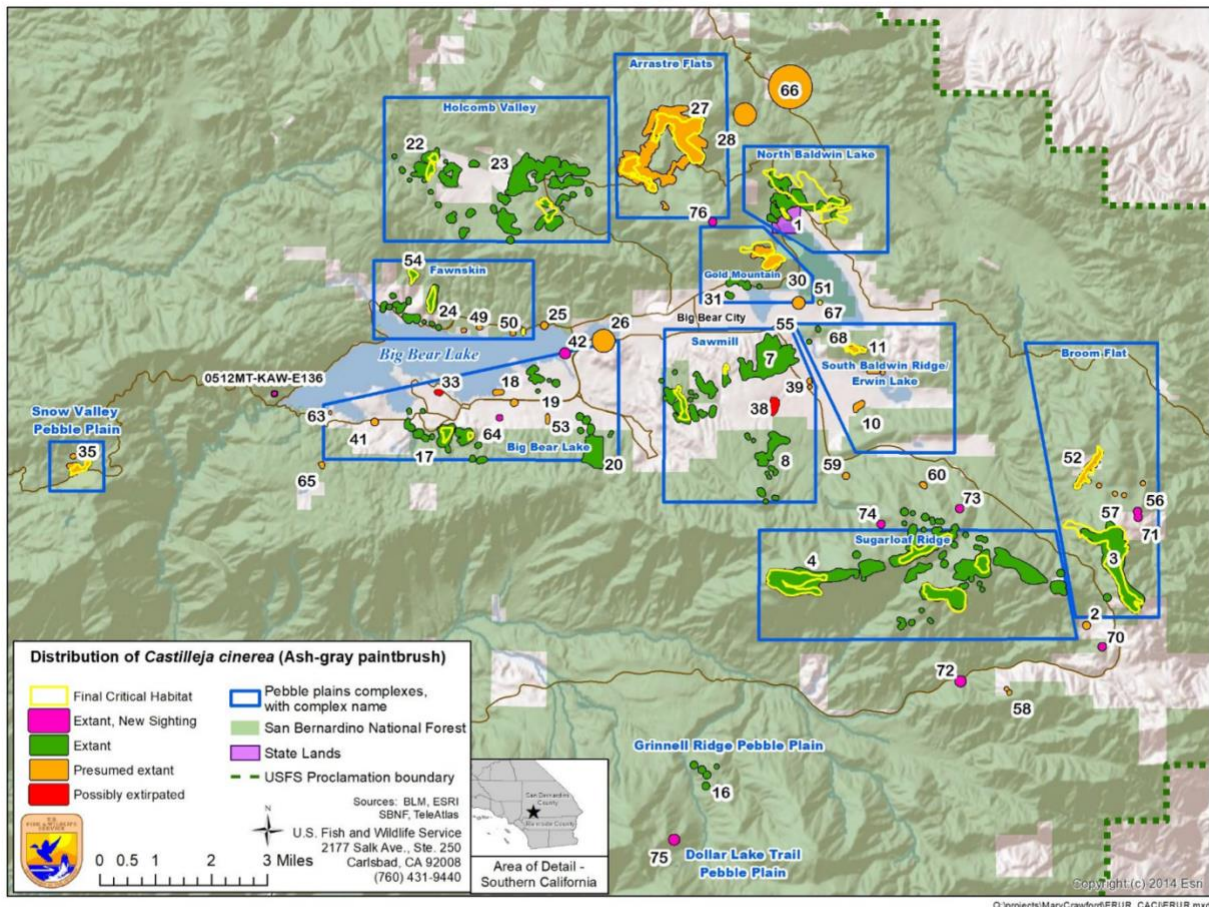


Figure 1. Map of *Castilleja cinerea* occurrences, showing occurrence status and identifying whether the occurrence is new since the 2013 5-year review. The numerical label indicates the CNDDDB EO number or USFS site ID number.

6-3 The comment conveys that the commenter does not perceive the Project as aligning with the prevailing characteristics of the Project area and requests that the Project be rejected by the County decision-makers. Please refer to Response to Comment 7-1, below, which states that, as discussed on page 4-95 of the PRDEIR No. 3, the County determined that *“The proposed Project would be consistent with the community identity of the Mountain Communities as described in Table LU-3.⁵ As discussed previously, the proposed Project would be consistent with the VLDR designation and, therefore, would be consistent with the rural lifestyle of the Fawnskin community. The proposed Project would implement MMs A-4a through A-4f, which are intended to reduce long term light and glare impacts from the proposed Project. This, when combined with the up to 9.2 acres of Conservation Easements established on site, would contribute to the open spaces, natural features, and dark skies ascribed to the Mountain Communities Community Character. Based on these*

⁵ The goals listed in this Table are as follows:

- A rural lifestyle characterized by low density neighborhoods oriented around commercial or recreational nodes, and the prevalence of the forest and mountain landscapes and natural resources.
- Abundant views of open spaces, natural features, and dark skies.
- Scenic, natural, and recreational features that serve as the foundation of the community's local economy and attract tourists.
- Small businesses that serve local residents and visitors, compatible with the natural environment and surrounding uses.

findings, the implementation of the Moon Camp Project would be consistent with Policy LU-4.5.” As such, the PRDEIR No. 3 determined that the character of the Project would be consistent with the community identity of the Mountain Communities, which includes Fawnskin, and which were identified through a collaborative effort with area residents. The commenter’s opinions are noted, and will be made available to the County decision-makers as part of the RFEIR package prior to a decision on the proposed Project.

Comment Letter #7

From: [John Ofsanko](#)
To: [Morrissey, Jim](#)
Cc: [Nora Foran - Pac Pal](#)
Subject: Big Bear development project
Date: Thursday, March 14, 2024 8:03:11 PM

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Greetings ,

I'd like to be counted in with the others that wish to stop this project.
Like most projects there are for and against ideas.
But, this is Big Bear Lake. It is not LA or West LA or the valley or Santa Monica.

This project will not benefit the many who visit and live in this area.
It's a project that will only serve a few and alienate many - forever.
There is plant life that is ONLY found in the proposed project area. Doesn't that matter !
Plus those eagles will not stay or remain . They may even die there.
A project like this disrupts the area and when completed ; the project is left for the few . Not the community .

7-1 Big Bear and Lake Arrowhead is the only areas that we have enjoyed for decades as it is and has been a serene environment that is a country peaceful location.

Why destroy all that has been given us all these years to enjoy and have our children enjoy.
The project doesn't support anything in this serene vacation area . The projects pollutes, disrupts, destroys natural elements and the natural wildlife and pristine environment will forever be removed.

There is not a upside to this project for the Big Bear area. The impact is a selfish way to merely add a developer etc. to make money while destroying our local Big Bear way of life.
Don't let this project move forward .

Do a project somewhere else - like in LA where you can help low income families etc. Do the right thing !

Sincerely,
John Ofsanko
Mobile : 310 926 8725

**RESPONSE TO COMMENT
LETTER #7
JOHN OFSANKO**

- 7-1 The comment conveys that the commenter is against the Project, and lists several specific reasons for that position including the following:
- The Project will not benefit many who visit and live in the area. This comment does not raise a substantive environmental issue with the adequacy of the analysis included in the PRDEIR.No.3
 - Response: According to the Statement of Overriding Considerations that was prepared for the Project in 2020, the following represent benefits to those who visit and live in the area:
 - The proposed Project provides 50 single-family housing units in the community of Fawnskin. The proposed Project fulfills the Bear Valley Community Plan's Housing Element's fundamental goal of providing a wide variety of housing opportunities to meet the needs of all economic segments of the community.
 - The proposed Project will promote significant economic development within the community, including construction jobs, increased recreation, and increased tourism. As identified by the Bear Valley Community Plan, the local economy is driven by recreation and tourism. Construction and real estate sales, once a significant segment of the Bear Valley economy, has been hard hit by the recession and general lack of high quality building sites. The proposed Project will add 50 high quality lake view building sites and provide jobs during both the construction of the streets and related infrastructure as well as later construction of individual custom homes. Custom home construction takes place over a number of years and greatly benefits the smaller local entrepreneurial contractors which further enhances the local economic benefits.
 - The proposed Project will result in increased revenue to the community as a result of property taxes and development impact fees generated by the proposed residential development. The increase in revenue will be utilized to provide enhanced public services. Furthermore, County decisionmakers will consider whether to adopt a Statement of Overriding Considerations for the proposed Project in accordance with CEQA Guidelines Section 15093.
 - The plant life only occurs in the Project area that would be impacted.
 - Response: Please refer to Response to Comment Letter #2 (2-1) which describes that the focus of the PRDEIR No. 3 is to focus solely on the topics of Biological Resources (impacts to ashy-gray Indian paintbrush and pebble plain habitat), amongst others, including Hazards and Hazardous Materials (wildfire evacuation), and Land Use and Planning (consistency with the San Bernardino Countywide Plan). The analysis and CEQA determinations for topics that fall outside of the narrow focus of the PRDEIR No. 3 were deemed adequate by the Court, and therefore no longer warrant discussion or consideration beyond what was presented in the July 2020 FEIR, pursuant to CEQA Statute 15234(d). As discussed under Responses to Comments 2-1 and 6-2, as evidenced by the analysis provided in PRDEIR No. 3, the Project would not result in extirpation of the ashy-gray Indian paintbrush on the Project site; in fact, it would result in the permanent conservation of the primary areas on site that support this species. Furthermore, as evidenced by the analysis provided in PRDEIR No. 3, and as the

Project site does not contain the two key indicator species—southern mountain buckwheat and Big Bear Valley sandwort—that are necessary for an area to be considered true pebble plain habitat, no impacts to pebble plain habitat would result from implementation of the Project.

- Bald eagle may be extirpated as a result of Project implementation.
 - Response: Only new comments submitted on the recirculated portions of the PRDEIR No. 3 will be considered by the County. As an example, the comments in this comment letter pertaining to impacts on the bald eagle will not be considered in the responses to comments, because the Court determined that the impacts on bald eagle were adequately analyzed in the July 2020 FEIR. Thus, the opportunity to comment on impacts determined to be adequate by the Court that were not the aforementioned focus of the PRDEIR No. 3 has concluded.
- The Project will destroy the character of the Project area and destroy the way of life for area residents.
 - Response: As discussed on page 4-95 of the PRDEIR No. 3, the County determined that *“The proposed Project would be consistent with the community identity of the Mountain Communities as described in Table LU-3.⁶ As discussed previously, the proposed Project would be consistent with the VLDR designation and, therefore, would be consistent with the rural lifestyle of the Fawnskin community. The proposed Project would implement MMs A-4a through A-4f, which are intended to reduce long term light and glare impacts from the proposed Project. This, when combined with the up to 9.2 acres of Conservation Easements established on site, would contribute to the open spaces, natural features, and dark skies ascribed to the Mountain Communities Community Character. Based on these findings, the implementation of the Moon Camp Project would be consistent with Policy LU-4.5.”* As such, the PRDEIR No. 3 determined that the character of the Project would be consistent with the community identity of the Mountain Communities, which includes Fawnskin, and which were identified through a collaborative effort with area residents. The commenter’s opinions are noted, and will be made available to the County decision-makers as part of the RFEIR package prior to a decision on the proposed Project.

⁶ The goals listed in this Table are as follows:

- A rural lifestyle characterized by low density neighborhoods oriented around commercial or recreational nodes, and the prevalence of the forest and mountain landscapes and natural resources.
- Abundant views of open spaces, natural features, and dark skies.
- Scenic, natural, and recreational features that serve as the foundation of the community’s local economy and attract tourists.
- Small businesses that serve local residents and visitors, compatible with the natural environment and surrounding uses.

Comment Letter #8

From: [Lauren Mobley](#)
To: [Morrissey, Jim](#)
Subject: Reject the Moon Camp Project
Date: Thursday, March 14, 2024 5:11:48 PM

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Dear Jim Morrissey,

8-1

I was saddened to hear that the County is considering the Moon Camp Project (*PRDEIR No. 3*) which threatens to destroy Big Bear Lake's bald eagle habitat and the Ash-Gray Paintbrush/Pebble Plain that grows only in the San Bernardino mountains, specifically in this section of Fawnskin. No development project is worth decimating such a unique forest and its rare, endangered species of bald eagles and Ash-Gray Paintbrush. We must stand up for nature and give it a voice, or else the forest and its inhabitants will soon be gone. Jackie, Shadow, and the Ash-Gray Paintbrush deserve to thrive. Please protect these precious natural resources and reject the Moon Camp Project!

I would imagine that there has been an outpouring of interest in protecting the bald eagle population in Big Bear after Jackie's 3 eggs failed to hatch this week, and the idea that they would be further encroached upon for the sake of a vast and disruptive real estate development is a disgrace.

Thank you for your time,
Lauren Mobley

**RESPONSE TO COMMENT
LETTER #8
LAUREN MOBLEY**

- 8-1 This comment appears to be one of ten form comment letters, which vary slightly from one another, but convey the same message: the comment letter asks for the Project to be rejected due to impacts to “Jackie and Shadow”—local bald eagles to the Big Bear Valley and Moon Camp Project area—and due to impacts to ashy-gray Indian paintbrush/pebble plain habitat. Other than general concerns regarding potentially significant impacts to ashy-gray Indian paintbrush, pebble plain, and bald eagle, including the possible extirpation of these species/habitats, the commenter does not point to a specific point in the PRDEIR No. 3 with which the commenter takes issue.

Responses to this comment can be found under Response to Comment #2 (2-1), which addresses the concerns raised in this comment, completely.

Comment Letter #9

From: [Madeleine Murrell](#)
To: [Morrissey, Jim](#)
Subject: Please Help Save the Bald Eagles of Big Bear
Date: Sunday, March 17, 2024 12:49:27 PM

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Dear Jim Morrissey,

9-1

I was saddened to hear that the County is considering the Moon Camp Project (*PRDEIR No. 3*) which threatens to destroy Big Bear Lake's bald eagle habitat and the Ash-Gray Paintbrush/Pebble Plain that grows only in the San Bernardino mountains, specifically in this section of Fawnskin. No development project is worth decimating such a unique forest and its rare, endangered species of bald eagles and Ash-Gray Paintbrush. We must stand up for nature and give it a voice, or else the forest and its inhabitants will soon be gone. Jackie, Shadow, and the Ash-Gray Paintbrush deserve to thrive. Please protect these precious natural resources and reject the Moon Camp Project!

Thank you for your time,
Madeleine Murrell

RESPONSE TO COMMENT
LETTER #9
MADELEINE MURRELL

- 9-1 This comment appears to be one of ten form comment letters, which vary slightly from one another, but convey the same message: the comment letter asks for the Project to be rejected due to impacts to “Jackie and Shadow”—local bald eagles to the Big Bear Valley and Moon Camp Project area—and due to impacts to ashy-gray Indian paintbrush/pebble plain habitat. Other than general concerns regarding potentially significant impacts to ashy-gray Indian paintbrush, pebble plain, and bald eagle, including the possible extirpation of these species/habitats, the commenter does not point to a specific point in the PRDEIR No. 3 with which the commenter takes issue.

Responses to this comment can be found under Response to Comment #2 (2-1), which addresses the concerns raised in this comment, completely.

Comment Letter #10

From: Nora Foran noraforan@gmail.com
Subject: Reject the Moon Camp Project -- PRDEIR No. 3 is Insufficient -- Save Bald Eagles and Ash-Gray Paintbrush
Date: March 18, 2024 at 11:15 AM
To: Morrissey, Jim Jim.Morrissey@lus.sbcounty.gov
Cc: Valdez, Steven Steven.Valdez@lus.sbcounty.gov, Marquez, Nichollette Nichollette.Marquez@lus.sbcounty.gov

NF

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Dear Jim Morrissey,

Thank you for the opportunity to respond to the PRDEIR No. 3 for the Moon Camp Project. As a Fawnskin homeowner, I hope that my comments and the comments of others will help to warn this Committee of the grave dangers that this project poses to the local habitat, community, and economy.

- 10-1 Before I begin, I wanted to mention that I am not against development. Development can be wonderful for a community, its residents, and the economy. But in this special case, the proposed development would destroy and displace a thriving forest that is home to rare and endangered species -- namely, bald eagles and Ash-Gray Paintbrush. I fear that not only would these species be wiped out or driven away, but the local economy could also suffer. Please let me explain.
- 10-2 Tens of thousands of people from across the nation watch Jackie and Shadow, the famous bald eagles of Big Bear Lake, every day. Their extraordinary story and video adds to Big Bear's tourism and growing economy. The Moon Camp Project's 50 housing lots, marina parking lot, and 55-marina boat slip are in the **exact** area where these bald eagles perch on trees to scout for food and hunt for fish and duck in the lake. Even in the Moon Camp Project's own map, it shows the placement of its new road being built next to the Bald Eagle's perches. (Please see my notes below on 1) Bald Eagles.) If this project is allowed to move forward, I fear for the health and safety of these precious and endangered animals -- and I know that thousands of others do, too.
- 10-3 Protecting the rare Ash-Gray Paintbrush plant, existing nowhere else on Earth but the San Bernardino mountains (and specifically in the Moon Camp Project's proposed area in Fawnskin), is another, independent reason to reject this project. The PRDEIR No. 3 not only seems to have the map of Ash-Gray Paintbrush drawn insufficiently (corroborated by the *U.S. Fish and Wildlife Service's* 2021 review and map I site below), but even in the Moon Camp Project's own map, they still list numbered lots -- meant for housing -- directly on the Ash-Gray Paintbrush areas. This proves that the small "conservation area" they include is just a small consolation in order to build as much as they can elsewhere, even if that means building on top of other Ash-Gray Paintbrush areas. (Please see my notes below on 2) Ash-Gray Paintbrush.)
- 10-4 Finally, apart from the most obvious, grave concerns above regarding the Moon Camp Project, I've listed other important concerns about the PRDEIR No.3 proposal, should it move forward. These include light pollution, fencing, fire/natural hazards safety, construction phase, and human behavior. (Please see my notes on 3) Project Concerns.)

1) Bald Eagles:

- 10-5
- Perch Locations: *Insufficiently Listed on the PRDEIR No. 3 Map*
 - I've seen bald eagles perched on treetops in three locations within the MCP's proposed boundaries: One location is listed correctly on the current MCP map, and two locations are not listed at all. Please see "Bald Eagle Perch -- Not Listed".
 - Please also see "Bald Eagle photo" of a bald eagle in the MCP proposed area (my photo from November 11, 2022).
 - Danger of Electrical Wires:
 - With MCP's 50 proposed lots for houses and street lighting, there would be electrical wiring connecting everything. Not only does this add to potential fire risk, but electrical wires can kill bald eagles.
 - Please see highlighted section, attached: "Electrocution and Collision at Power Lines," a snapshot from Wildlife.CA.gov.
 - Fishing Area:
 - I've seen bald eagles dive to the water's surface to fish in the area where the MCP proposes to locate its marina, and the dock can be active with motorized boats from from April 1-Nov 30. How can the bald eagles continue to fish there when boats are moving and motors are on? Don't the eagles need to fish all year round, during all their phases of nesting and breeding, ect, much of which is during April 1-Nov 30 timeframe?

**RESPONSE TO COMMENT
LETTER #10
NORA FORAN**

- 10-1 The comment conveys concern for the development of this Project, but notes that the commenter is not inherently against development. This comment does not raise a substantive concern regarding the legal adequacy of the PRDEIR No. 3. The comment is noted, and will be made available to the County decision-makers as part of the RFEIR package prior to a decision on the proposed Project.
- 10-2 The comment conveys concern for the local bald eagle population, Jackie and Shadow, if the Project moves forward and is developed. As discussed in the introduction to these responses to comments, and under Response to Comment 2-1, the PRDEIR No. 3 focuses solely on the topics of Biological Resources (impacts to ashy-gray Indian paintbrush and pebble plain habitat), Hazards and Hazardous Materials (wildfire evacuation), and Land Use and Planning (consistency with the San Bernardino Countywide Plan). The analysis and CEQA determinations for topics that fall outside of the narrow focus of the PRDEIR No. 3 were deemed adequate by the Court, and therefore no longer warrant discussion or consideration beyond what was presented in the July 2020 FEIR, pursuant to CEQA Statute 15234(d).

Only new comments submitted on the recirculated portions of the PRDEIR No. 3 will be considered by the County. As an example, the comments in this comment letter pertaining to impacts on the bald eagle will not be addressed further in the responses to comments, because the Court determined that the impacts on bald eagle were adequately analyzed in the July 2020 FEIR. Thus, the opportunity to comment on impacts determined to be adequate by the Court that were not the aforementioned focus of the PRDEIR No. 3 has concluded.

- 10-3 The comment alleges that the map of the ashy-gray Indian paintbrush within the Project site is incorrect, and that the inclusion of housing over areas that contain ashy-gray Indian paintbrush results in an inherent significant impact on this species. First, the 2021 USFWS 5-Year Review Map (Figure 1, which is referenced under Response to Comment 6-2, above) referenced in this comment should be viewed as an overview of the general areas in which this species is known to occur. Over the 20 year life of this Project, the surveys have been refined, conducted at multiple intervals, and have ultimately confirmed the presence of the species in the areas shown on Figures 1-5 and 4.2-2, and detailed in Table 4.2-3, which summarizes the occurrence of ashy-gray Indian paintbrush on the Project site. Previous studies of the floristic inventory and habitat characterization of the Project site were conducted by Dr. Timothy Krantz in 2008, 2010, and 2016. When compared to the USFWS 5-Year Review, the Project level surveys capture a more accurate accounting for this species within this specific Project site. Furthermore, as stated in Dr. Timothy Krantz's 2016 survey report (Appendix 7), *"The distributions and abundance of the ashy-gray Indian paintbrush have not changed significantly since the 2010 report was submitted. In fact, the ashy-gray Indian paintbrush is a plant species that is least likely to show year-to-year annual changes in distribution because it is a perennial hemi-parasite on its host plants. That is, ashy-gray Indian paintbrush is a partial parasite, deriving a portion of its nutrients from its hosts via haustoria on its roots. In the case of the Moon Camp population, ashy-gray Indian paintbrush is associated with the Wright's matting buckwheat, Eriogonum wrightii ssp. subscaposum. Both plants are relatively long-*

lived perennials, on the order of 10-20 years or more, and are, thus, not disposed to much annual variation in overall distribution.” Thus, the distribution of the species presented in PRDEIR No. 3 and the numerous studies that preceded it, reflect an accurate accounting of the species within the Project site.

The comment also alleges that the development of housing over the areas containing this species automatically constitute a significant impact on the species. As detailed in Subchapter 4.2 of the PRDEIR No. 3, MM **BR-1b** would provide protection in perpetuity for 88% of the ashy-gray Indian paintbrush population on the Project site to mitigate for potential impacts to the remaining 12% of the on-site population. This on-site conservation of ashy-gray Indian paintbrush occurrences results in mitigation, reinforced by MM **BR-1b** for Project impacts at more than an approximately 7:1 ratio. On an acreage basis, the Project will mitigate impacts to the ashy-gray Indian paintbrush on-site at a 1.68:1 ratio.

As stated on page 4-26 of PRDEIR No. 3:

*“Furthermore, though not necessary to reduce ashy-gray Indian paintbrush impacts to a level of less than significant, the Moon Camp Project has been designed with building setbacks that could facilitate the preservation of up to an additional 127 occurrences of ashy-gray Indian paintbrush, which would provide further protections to the species in place, potentially enabling the continued proliferation of the species within the Moon Camp Project site. This would be implemented as a requirement of MM **BR-1d**, which has been expanded since the certification of the 2020 FEIR. MM **BR-1d** requires the construction within Lots 1, 4, 47, 48, 49, and 50 to be restricted by means of building envelopes or building setback lines to prevent construction in the occupied ashy-gray Indian paintbrush habitat, wherever feasible. Once the Moon Camp Project is developed, the developer cannot control the actions of private home owners on private land, thus, though MM **BR-1d** would protect ashy-gray Indian paintbrush for the duration of construction, preservation of the species during occupation of the future residences cannot be guaranteed. However, given that the proposed Moon Camp Project would include the creation of a Homeowner’s Association (HOA), the provisions of MM **BR-1c** have been modified to ensure that education of future homeowners of Lots 1, 4, 47, 48, 49, and 50 is provided to spread awareness of the importance of retaining this species in its natural state on site. MM **BR-1c** also sets forth a number of actions that would ensure the permanent preservation of the Conservation Areas to be established on site. Where homeowners do not wish to retain the areas of their properties containing the ashy-gray Indian paintbrush, the seed collection that shall take place during construction would suffice to ensure conservation and preserve genetic diversity in the species.”*

The 2021 USFWS 5-Year Review, as well as the 2023 Memo prepared by Daniel Smith and provided as Appendix 9, indicate that the Project applicant should consider coordinating with an organization, such as the California Botanic Garden, to salvage ashy-gray Indian paintbrush seed prior to any Project related impacts to this species. This is because seed collections allow for genetic conservation of the species and help develop propagation protocols for the species, thereby preserving its existence outside of known occurrences, as documented in the USFWS 5-Year Review for the species. The USFWS has requested ashy-gray Indian paintbrush seed collection in the past and thus, seed collection would provide an additional valuable conservation measure to further protect the ashy-gray Indian paintbrush species as part of the Moon Camp Project. MM **BR-1a** establishes the seed collection that would take place prior to construction within Lots 1, 4, 47, 48, 49, and 50. Thus, as described in the PRDEIR No. 3, the above-described

implementation of mitigation measures would facilitate not only protection of the species in place on site totaling at least 88% of on-site occurrences, but would also preserve the existence of the species through genetic conservation by way of a seed collection. Thus, the impacts to ashy-gray Indian paintbrush would be fully mitigated through adherence to the provisions of the USFWS recommendations for conservation and protection of the species, thereby impacts to ashy-gray Indian paintbrush are collectively concluded to be less than significant.

- 10-4 The comment outlines a number of other concerns, including light pollution, fencing, hazards, construction phase, and human behavior, which the commenter details further under comments 10-9 through 10-12. These concerns are responded to under the individual Responses to Comments 10-9 through 10-12 below. The comment is noted and will be made available to the County decision-makers as part of the RFEIR package prior to a decision on the proposed Project.
- 10-5 This comment details the commenters' specific concerns related to bald eagle, as stated previously, and specifically under Response to Comment 10-2, only new comments submitted on the recirculated portions of the PRDEIR No. 3 will be considered by the County. As an example, the comments in this comment letter pertaining to impacts on the bald eagle will not be addressed further in the responses to comments, because the Court determined that the impacts on bald eagle were adequately analyzed in the July 2020 FEIR. Thus, the opportunity to comment on impacts determined to be adequate by the Court that were not the aforementioned focus of the PRDEIR No. 3 has concluded.

This comment also suggests that the project would include electrical wires that would add to potential fire risk. As noted in the PRDEIR No. 3, the structures within the Project site would conform to the ignition resistant building codes codified in Chapter 7A of the California Building Code. The comment does not identify any specific issues related to electrical wires and fire risks that require a more specific response.

10-5
cont'd

- In Full-View of Bald Eagle Nest:
 - The MCP's proposed location is in full view of the Bald Eagle nest of Jackie and Shadow.
 - Please see "Full-View of Bald Eagle Nest", from [fws.gov](https://www.fws.gov) (U.S. Fish & Wildlife Service)
 - Please see photo of "Jackie and Shadow in their Nest". It shows how the MCP's proposed area (in red) is in full view of their nest.

2) Ash-Gray Paintbrush:

10-6

- Ash-Gray Paintbrush Locations: *Insufficiently Identified on the PRDEIR No. 3 Map*
 - In its 2021 five-year review of Ash-Gray Paintbrush, U.S. Fish and Wildlife Service published a map showing this rare plant in the location of the Moon Camp Project. See https://ecos.fws.gov/docs/tess/species_nonpublish/3393.pdf (also attached below). According to U.S. Fish and Wildlife, the area containing Ash-Gray Paintbrush *far exceeds* the area that developers identified in the Moon Camp Project map. In fact, according to U.S. Fish and Wildlife's maps, almost the entire proposed area of the Moon Camp Project is Ash-Gray Paintbrush habitat. (Please also see attached "U.S. Fish and Wildlife Maps" that show the location of Ash-Gray paintbrush). Note that this U.S. Fish and Wildlife's 2013 map shows similar coverage. https://esadocs.defenders-cci.org/ESAdocs/five_year_review/doc4138.pdf.

10-7

- As the USFWS's 2021 and 2013 reports show, the federal government has long recognized this area as home to this rare species. The USFWS's five-year summaries describe in detail how sensitive and rare Ash-Gray Paintbrush is, how this area of Fawnskin has Ash-Gray paintbrush in the same locations I describe above, and how human activity and construction (including the Moon Camp Project, which they mention specifically) can destroy its existence.

10-8

- Lots and a Road through Ash-Gray Paintbrush:
 - I see the Moon Camp Project has a conservation area for Ash-Gray Paintbrush. However, it still proposes that there would be several lots with a large amount of Ash-Gray Paintbrush, such as Lots: 1, 2, 3, 4, 5, 50, 49, 48, 47. How can houses, a road, driveways, fencing, electrical, plumbing, and sewers be allowed to take over this area with Ash-Gray Paintbrush?
 - If even *more* lots have Ash-Gray Paintbrush (as the USFWS five-year summaries show), how can *any* houses, road, driveways, fencing, electrical, plumbing, and sewers be allowed?
 - Won't the construction equipment alone kill this rare plant? To say nothing of the human and pet activity that would occur once people move in.

3) Project Concerns:

10-9

- Construction Phase:
 - Trees will be cut down to build houses. Ground will be torn up to provide for plumbing, sewer pipes, and electrical wires, killing Ash-Gray Paintbrush. Electrical wires can kill bald eagles and of course create more fire risk in the area, as well. The noise from all this construction will drive animals away, including bald eagles.

10-10

- Fencing:
 - MCP's plan involves fencing off the 50 lots and the entire MCP project. How are endangered, threatened, and rare animals supposed to hunt, nest, and care for their young when the open forest has been replaced by 50 fenced-in backyards and entire forested area? Doesn't the biodiversity of a forest help it thrive? All fencing will do is further interfere with their habitat.

10-11

- Light Pollution at Night:
 - The MCP proposes that lights on the houses will have light and street posts on the road will cast light downwards. Currently, the forest is completely dark at night, and that's what animals and plants need to thrive and stay in that location. If you replace a forest with a neighborhood of houses and a road full of street lights (whether the lights are cast down or not), that will further disrupt the rare and endangered animals, further shrinking their habitat.
 - Currently, the only lights you see are the lights across the lake and the moon. Everything else is pitch black. (Please see "Nighttime" (photo taken Feb 25, 2024).

10-12

- Human behavior and pets:
 - The Moon Camp Project has no control over pets or human behavior once the lots are sold and built into houses. The noise disturbances, the light pollution at night, the cars driving on the road, the pets that dig up Ash-Gray Paintbrush in their own backyards and scare forest animals away -- all of this and more will drive bald eagles away and destroy the Ash-Gray Paintbrush. This will destroy the rare unspoiled woodland that makes this place so special.

10-13

Thank you. I really appreciate your time in reviewing this letter. Please let me know if there's any more information I can provide to help evaluate the serious environmental and other dangers that this project poses.

Thank you

- 10-6 This comment alleges that the extent of ashy-gray Indian paintbrush is incorrectly identified in the PRDEIR No. 3. As discussed under Response to Comment 10-3, the 2021 USFWS 5-Year Review Map (Figure 1, which is referenced under Response to Comment 6-2, above) and the 2013 map referenced in this comment should be viewed as an overview of the general areas in which this species is known or suspected to occur. Over the 20 year life of this Project, the surveys, based on onsite visual observations, have been refined, conducted at multiple intervals, and have ultimately confirmed the presence of the species in the areas shown on Figures 1-5 and 4.2-2, and detailed in Table 4.2-3, which summarizes the occurrence of ashy-gray Indian paintbrush on the Project site. The USFWS 5-Year Review presents a high-level overview of the known or suspected areas for the species to occur, while the previous studies of the floristic inventory and habitat characterization of the Project site that were conducted by Dr. Timothy Krantz in 2008, 2010, and 2016 capture a more accurate accounting for this species within this specific Project site. Refer to Response to Comment 10-3.
- 10-7 This comment focuses on the USFWS 5-Year Review recognition of the Project area as hosting ashy gray Indian paintbrush, and lists the means by which the species is threatened, as detailed by the USFWS 5-Year Review. As detailed throughout these Responses to Comments, the Project would provide protection in perpetuity for 88% of the ashy-gray Indian paintbrush population on the Project site to mitigate for potential impacts to the remaining 12% of the on-site population. This on-site conservation of ashy-gray Indian paintbrush occurrences results in mitigation, reinforced by MM **BR-1b** for Project impacts at more than an approximately 7:1 ratio. On an acreage basis, the Project will mitigate impacts to the ashy-gray Indian paintbrush on-site at a 1.68:1 ratio. However, as discussed under Response to Comment 10-3, the PRDEIR No. 3 considered the recommendations outlined in the USFWS 5-Year Review to reduce threats to ashy-gray Indian paintbrush (refer to page 16 of the 2021 USFWS 5-Year Review, as well as the analysis presented on pages 4-26 and 4-27 of the PRDEIR No. 3).

The PRDEIR No. 3 states the following regarding how the recommendations in the USFWS 5-Year Review were utilized to create mitigation that would further protect the species as part of Project implementation (PRDEIR No. 3 page 4-27):

"In regards to recommendation 1, above, the existing Moon Camp Project site is presently vacant, and while it is private land, exclusion of OHV use of the site is not easily controlled, and is, therefore, difficult to enforce beyond maintaining exclusionary fencing along the highway preventing access to the Project site. The development of the Moon Camp Project would conserve up to 9.2-acres of the 62.43-acre Project site, and the development itself, when combined with the conservation proposed by the Project, would ensure that OHV use within the conservation areas of the site is prohibited in the future. Thus, the Moon Camp Project would further the USFWS 5-Year Review recommendations pertaining to OHV use impacts on ashy-gray Indian paintbrush.

*In regards to recommendation 2, above, the proposed Moon Camp Project has incorporated Conservation Easements covering 88 percent of the ashy-gray Indian paintbrush that occupy the site. Thus, as a private land development, the Moon Camp Project, through site design and implementation of MMs **BR-1b** and **BR-1c**, would establish and ensure the permanent preservation of on-site Conservation Easements that would protect this species in perpetuity.*

*In regards to recommendation 3, above, the 2023 Memo prepared by Daniel Smith recommended that, based on feedback from the USFWS regarding mitigation impacts to ashy-gray Indian paintbrush, the Project applicant should consider coordinating with an organization, such as the California Botanic Garden, to salvage ashy-gray Indian paintbrush seed prior to any Project related impacts to this species. This is because seed collections allow for genetic conservation of the species and help develop propagation protocols for the species, thereby preserving its existence outside of known occurrences, as documented in the USFWS 5-Year Review for the species. The USFWS has requested ashy-gray Indian paintbrush seed collection in the past and thus, seed collection would provide an additional valuable conservation measure to further protect the ashy-gray Indian paintbrush species as part of the Moon Camp Project. MM **BR-1a** establishes the seed collection that would take place prior to construction within Lots 1, 4, 47, 48, 49, and 50.*

- 10-8 The comment asks effectively how the lots that contain ashy-gray Indian paintbrush that would be impacted by the proposed Project can be “allowed” to be developed in light of the impacts to ashy-gray Indian paintbrush. Neither the County nor USFWS mandates that in order for a less than significant determination to be made that no individual plant can be impacted. The principal of mitigating impacts to special status plant species, such as the ashy-gray Indian paintbrush, is to conserve areas containing the species at, generally, a minimum 1:1 ratio. Additionally, compliance with USFWS recommendations for specific actions that can be taken to mitigate potential impacts to the special status species can further minimize impacts to the special status species, as these recommendations have been created in furtherance of reducing threats to the special status species, in this case the ashy-gray Indian paintbrush. Thus, while there are several lots that would be developed in areas containing ashy-gray Indian paintbrush, the extent of the species within these areas is far less prolific than it is in Lots A and H. On an occurrence basis, there are approximately 5,567 occurrences of ashy-gray Indian paintbrush occurrences are located within the proposed Project site. Of the 5,567 occurrences, 4,895 will be permanently protected within the Open Space Conservation Easement of Lot A and H, representing 88 percent of the total occurrences of ashy-gray Indian paintbrush within the Project site. Thus, the Project would mitigate impacts to this species at an approximately 7:1 ratio on an on-site plant occurrence basis, and on an acreage basis at a 1.68:1 ratio, and this excludes the potential for the protection of up to an additional 127 plants through the implementation of MM **BR-1d**. MM **BR-1d** would restrict the building envelopes or building setback lines to prevent construction in the occupied ashy-gray Indian paintbrush habitat, wherever feasible. CEQA does not require that all potential impacts be entirely eliminated. CEQA also provides for balancing environmental concerns with other social goals, especially housing goals (See Pub Res C §§21000(g), 21159.26). The PRDEIR No. 3 discloses that the Project could result in impacts to up to 672 individual plants, and provides analysis explaining why the loss of these individual plants can be minimized to a level of less than significant through the implementation of mitigation discussed herein, and under Response to Comments 10-3, 10-6, and 10-7. Please refer to Response to Comment 10-9 regarding the impact of construction equipment on ashy-gray Indian paintbrush.
- 10-9 This comment makes a number of claims regarding construction impacts including those related to tree removal, ground disturbance, electrical dangers on bald eagle, killing ashy-gray Indian paintbrush, noise, and creation of fire risk. The impacts related to ashy-gray Indian paintbrush have been documented in Response to Comments 10-3, 10-6, 10-7, and 10-8, above. In response to the specific concern that ground disturbance would kill

ashy-gray Indian paintbrush, the majority of the areas that presently support this species would be protected during both construction and operation of the proposed project. Implementation of MM **BR-1b** would ensure that the conservation easements—within which 4,895 of the 5,567 individual ashy-gray Indian paintbrush plants occur, equal to 88 percent of the total occurrences of this species—are established prior to the start of construction, thereby preventing the potential for ground disturbing activities to impact those individual plants occurring within the conservation easements. Furthermore, MM **BR-1d** would also limit ground disturbing activities that fall within the rear portions of Lots 1, 4, 47, 48, 49, and 50 by means of building envelopes or building setback lines to prevent construction in the occupied ashy-gray Indian paintbrush habitat, thereby further minimizing the potential for ground disturbing activities to impact those individual plants occurring within the occupied ashy-gray Indian paintbrush habitat onsite that falls outside of the conservation easements.

The remaining issues, except for wildfire evacuation risk, fall outside of the scope of this PRDEIR No. 3, and were considered as part of the July 2020 FEIR, the analysis for which was determined to be adequate by the Court. The issue of wildfire evacuation was fully analyzed in this PRDEIR No. 3, and was determined to be less than significant based on the Wildfire Evacuation Plan (Appendix 12) that was prepared for the Project, and based on the implementation of several mitigation measures (MMs **HAZ-1** through **HAZ-3**, and MMs **T-1** through **T-3**). Refer to Subchapter 4.3, Hazards and Hazardous Materials, in the PRDEIR No. 3. No further response to this comment shall be furnished, as the remaining comments pertain to issues that fall outside of the scope of this PRDEIR No. 3.

- 10-10 The comment conveys concern over the fencing of the property and its impacts on biological resources (including migration). The fencing of the property at present protects sensitive plant species from OHV use, which as described in Response to Comment 10-7, is something that the USFWS lists as a threat to the sensitive plant species in the Project area. The issue of wildlife migration was addressed as part of the July 2020 FEIR, and was determined to be an issue that would not be significantly impacted by the implementation of the proposed Project. Refer to Appendix 4, the RRDEIR No. 2 page 2-55, which states the following in regards to wildlife movement:

“The project site does not contain wildlife crossings or corridors. Nonetheless, the Project site could be used as a travel route connecting forest habitat to the north with Big Bear Lake. However, direct connection to open space areas north and east of the Project site are obstructed by SR-38. The importance of this travel route may be diminished by the vehicle traffic hazard associated with crossing SR-38 as well as the availability of similar habitat immediately adjacent to the east of the Project site.”

As this issue falls outside of the scope of the PRDEIR No. 3, no further response to this comment shall be furnished.

- 10-11 The comment conveys concern over light pollution at night. The issue of indirect impacts related to biological resources was addressed as part of the July 2020 FEIR, and was determined to be an issue that would not be significantly impacted by the implementation of the proposed Project. Refer to MMs **BR-9** and **BR-10**, which mitigate for light pollution that could occur as a result of the proposed Project. Additionally, refer to Appendix 4, the RRDEIR No. 2 page 2-52, which states the following in regards to night lighting and potential impacts on wildlife:

*“Lighting of the residential units would inadvertently result in an indirect effect on the behavioral patterns of nocturnal and crepuscular (i.e., active at dawn and dusk) wildlife that are present along the boundaries of the natural areas of the Project site. Of particular concern is the effect on small ground-dwelling animals that use the darkness to hide from predators, and on owls, which are specialized night foragers. In addition, the increase in night lighting could discourage nesting and roosting along the lake shore. Most notably, lighting associated with the 2011 Alternative Project could disrupt roosting behavior of the bald eagle on the Project site. Long-term and short-term light attenuation measures were recommended within Section 4.1, Aesthetics, of the Revised and Recirculated Draft EIR No. 1 (see Mitigation Measures A-1a, A-1b and A-4a through A-4f.). In addition, mitigation measures **BR-9** and **BR-10** will be implemented to require street lamps on the Project site not to exceed 20 feet in height, and be fully shielded to focus light onto the street surface and shall avoid any lighting spillover onto adjacent open space or properties. Furthermore, street lights will be required to utilize low color temperature lighting (e.g., red or orange). Mitigation measure **BR-10** will also require outdoor lighting for proposed homes on the individual tentative tracts to not exceed 1,000 lumens. These restrictions on outdoor lighting of the individual lots must be clearly presented and explained to any potential prospective developers and/or homeowners prior to assumption of title and close of escrow. This requirement shall also be published in the Homeowner’s Association Conditions, Covenants & Restrictions (CC&Rs). Therefore, with implement mitigation measures to reduce lighting impacts, the increased lighting would be considered less than significant.”*

As this issue falls outside of the scope of the PRDEIR No. 3, no further response to this comment shall be furnished.

- 10-12 The comment conveys concern over human behavior and the impacts on wildlife and plant species. The issue of indirect impacts such as human behavior related to biological resources was addressed as part of the July 2020 FEIR, and was determined to be an issue that would not be significantly impacted by the implementation of the proposed Project. Additionally, refer to Appendix 4, the RRDEIR No. 2 pages 2-52 and 2-53, which states the following in regards to human activity and potential impacts on wildlife:

*“The increase in human activity (i.e., noise, foot traffic) would increase the disturbance of natural open space adjacent to the Project site. Human disturbance could disrupt normal foraging and breeding behavior of wildlife remaining in adjacent areas, diminishing the value of these open space habitat areas. Most notably, residential activity associated with the 2011 Alternative Project –could disrupt foraging and roosting behavior of the bald eagle on the Project site. Mitigation measure **BR-11** will be implemented to limit the amount of human disturbance on adjacent natural open space areas by posting signs along the northern and eastern perimeter of the Project site where the property boundary abuts USFS open space with the following statement: “Sensitive plant and wildlife habitat. Please use designated trails and keep pets on a leash at all times.” In addition, a requirement stating that residents shall keep out of adjacent open space areas to the north with the exception of designated trails will be published in the Homeowner Association CC&Rs and a map of designated hiking trails will be provided to all residents. Although the 2011 Alternative Project will implement mitigation measures to reduce impacts to open space habitat areas, the increased residential activity and habitat loss would be considered potentially significant.”*

Later, it is stated that this determination relates to impacts to bald eagle, refer to RRDEIR No. 2 page 2-62 states:

“Additionally, due to the County’s strict threshold for impacts to the bald eagle under CEQA, any human development and habitation on the Project site would result in a significant impact. This is considered a significant and unavoidable project-specific, as well as cumulative, impact.”

The comment also claims that the human behavior and domesticated pets would result in significant and unavoidable impacts on the ashy-gray Indian paintbrush. As documented throughout these responses to comments, it is acknowledged that up to 672 occurrences of ashy-gray Indian paintbrush would be impacted by the proposed Project, but that the mitigation identified in the PRDEIR No. 3 would mitigate for these impacts, thereby resulting in a less than significant impact. The remaining 4,895 occurrences of the ashy-gray Indian paintbrush would be protected through onsite conservation, but the PRDEIR No. 3 acknowledges that construction, in addition to human behavior, may impact the up to 672 occurrences identified in the areas proposed for development as part of the proposed Project. As the remaining concerns raised in this comment fall outside of the scope of the PRDEIR No. 3, no further response to this comment shall be furnished.

- 10-13 The comment is noted, and will be made available to the County decision-makers as part of the RFEIR package prior to a decision on the proposed Project.

Nora Foran
(214) 207-1440
noraforan@gmail.com

[illegible]

 Bald Eagle Perch: Not Listed

November 11, 2022
3:43 PM

Edit





In Moon Camp
Project Area



be protected by the [Migratory Bird Treaty Act](#) and the [Bald and Golden Eagle Protection Act](#). Both laws prohibit killing, selling or otherwise harming eagles, their nests, or eggs. The Fish and Wildlife Service has recently revised a final rule on two new permit regulations that would allow for the take of eagles and eagle nests under the Bald and Golden Eagle Protection Act (Eagle Act). Also, the bald eagle is classified as a "[fully protected bird \(PDF\)](#)" under California law.

The most significant threat to survival of the bald eagle in the 20th century was the widespread use of the pesticide DDT in the decades after World War II, which caused abnormalities in bald eagle eggshells, resulting in widespread nesting failures. Other adverse impacts have included habitat modification from road, housing, and other developments; agriculture; timber harvest; pesticides and contaminants, including lead poisoning; off-road

vehicles and other human disturbances;
electrocution and collision at power lines; and
shooting.

Recovery Efforts

A nationwide ban on most uses of DDT took effect in 1972, and over time, this enabled bald eagle

AA

🔒 wildlife.ca.gov



or loss of eggs, and injury to young, including due to weather effects or malnourishment) constitute take under the [Bald and Golden Eagle Protection Act](#) (see below).

Avoiding Bald Eagle Disturbance at Nest Sites

To avoid disturbing nesting bald eagles, we recommend that you (1) avoid certain activities during the nesting season (defined as March 1 through August 31 in Alaska) to the extent practicable (2) conduct certain activities at

to the extent practicable, (2) conduct certain activities at recommended distances from in-use nests, and (3) maintain natural forested or vegetative buffers around nest trees or make use of topographic buffers. The buffer areas should be applied to both in-use and inactive, alternate nests and serve to minimize visual and auditory impacts associated with human activities near nest sites.

The impact that a new human activity has on a pair of nesting eagles depends on whether the eagles can see or hear the activity from the nest and on how tolerant the birds are to human activity. Eagles are more prone to disturbance when an activity occurs in full view. For this reason, we recommend that projects locate activities farther from the nest in areas with open vistas than in areas where line of sight from the nest to the activity is shielded by rolling topography, trees, or other screening factors. Also, vegetative buffers should be large enough to protect existing nest trees, including their root structure, and provide for alternative or replacement nest trees. Sudden and loud noises can also lead to

[Help improve this site](#)



5-year Review for *Castilleja cin*

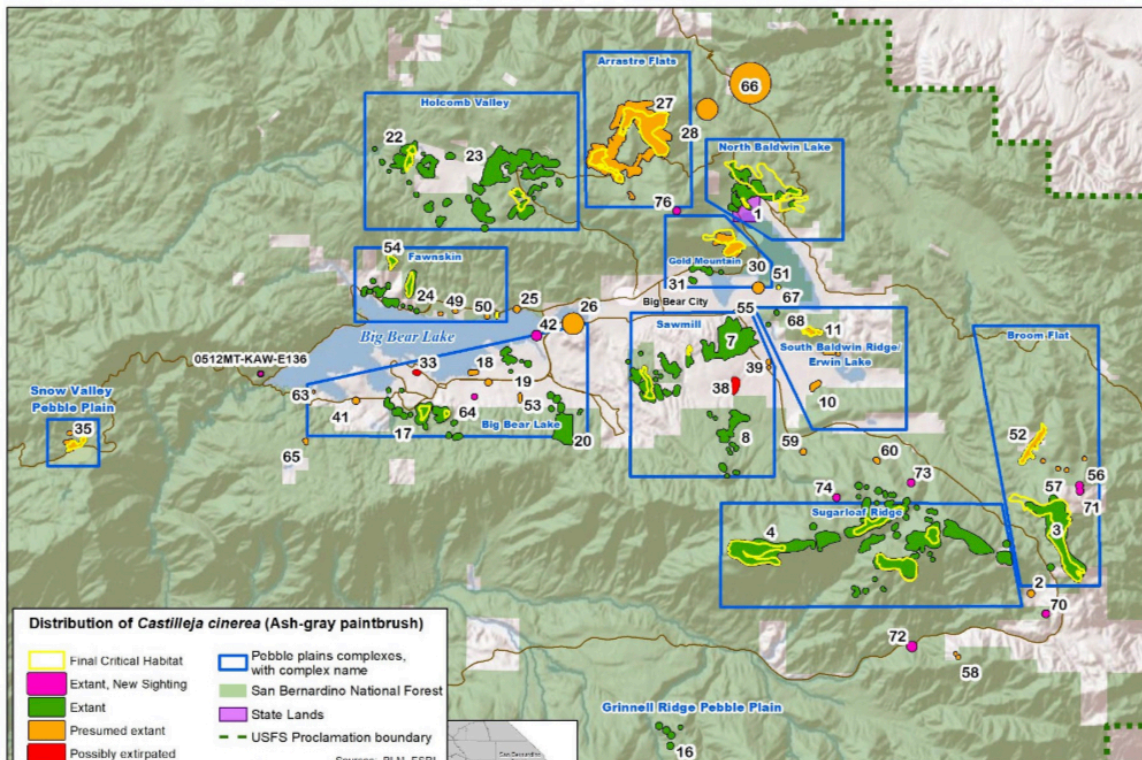
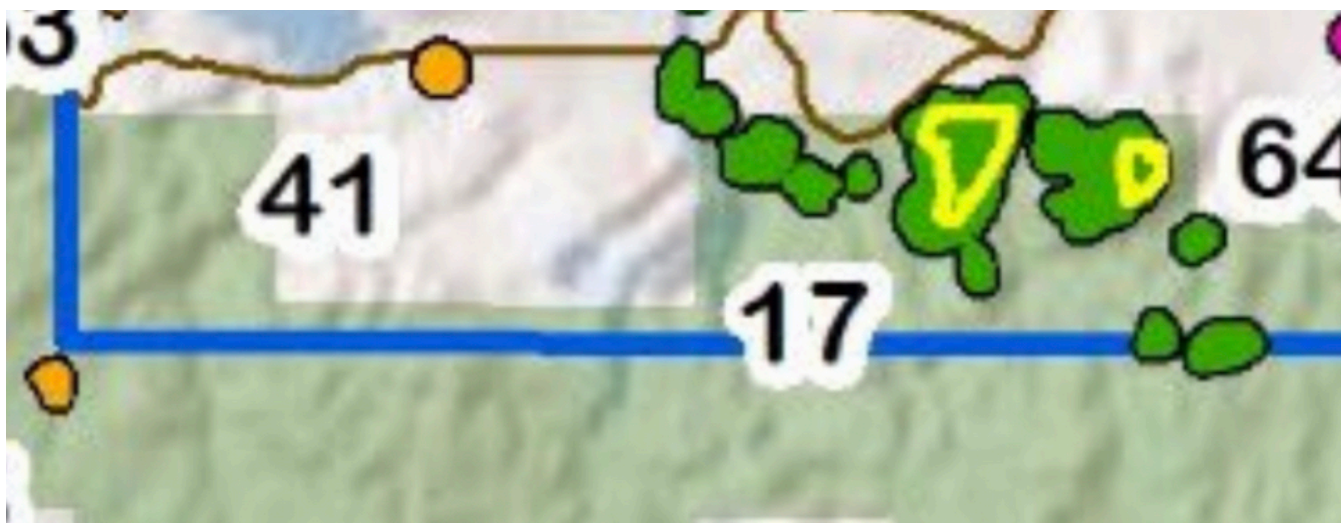




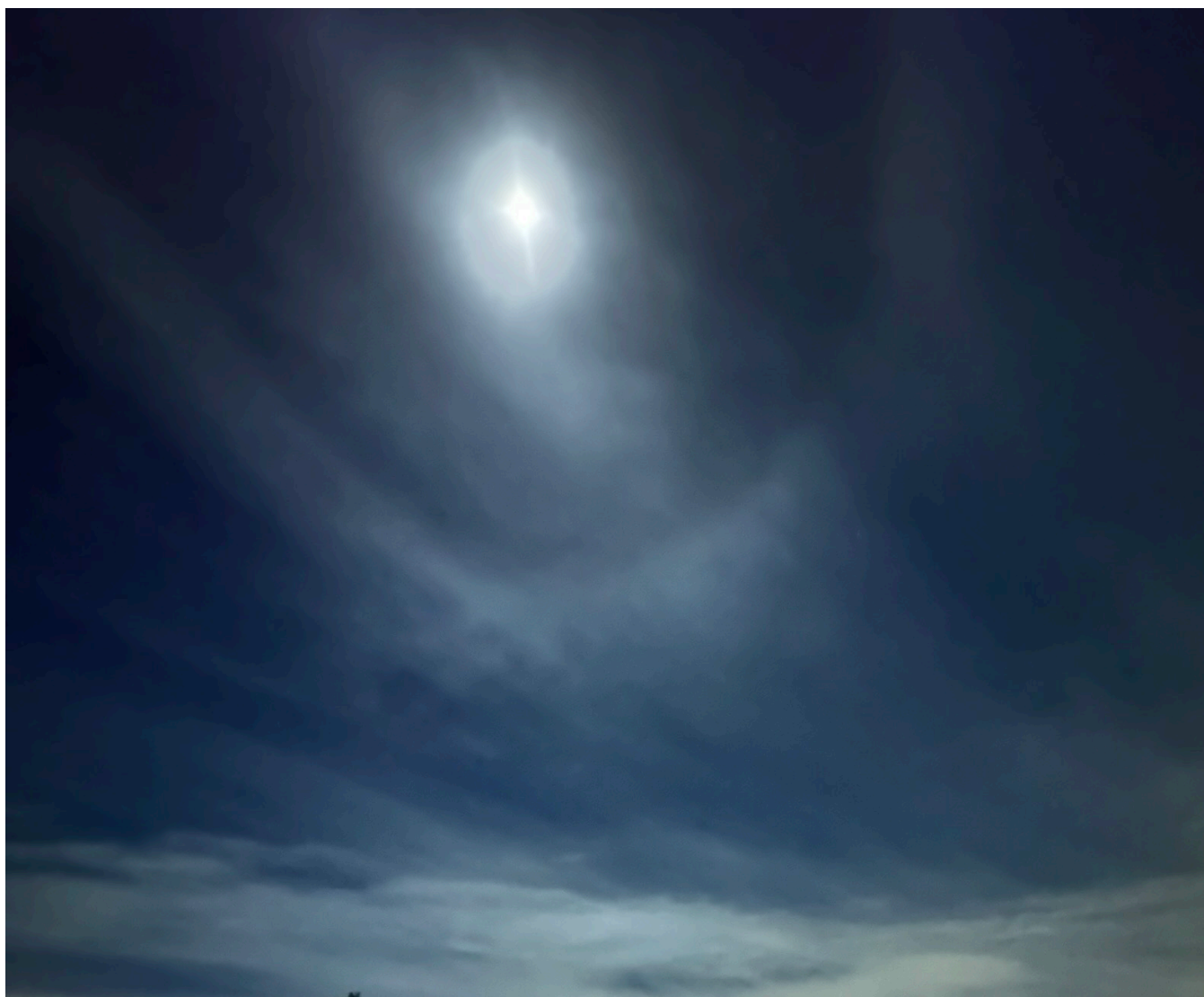
Figure 1. Map of *Castilleja cinerea* occurrences, showing occurrence status and identifying whether the occurrence is new since the 2013 5-year review. The numerical label indicates the CNDDDB EO number or USFS site ID number.

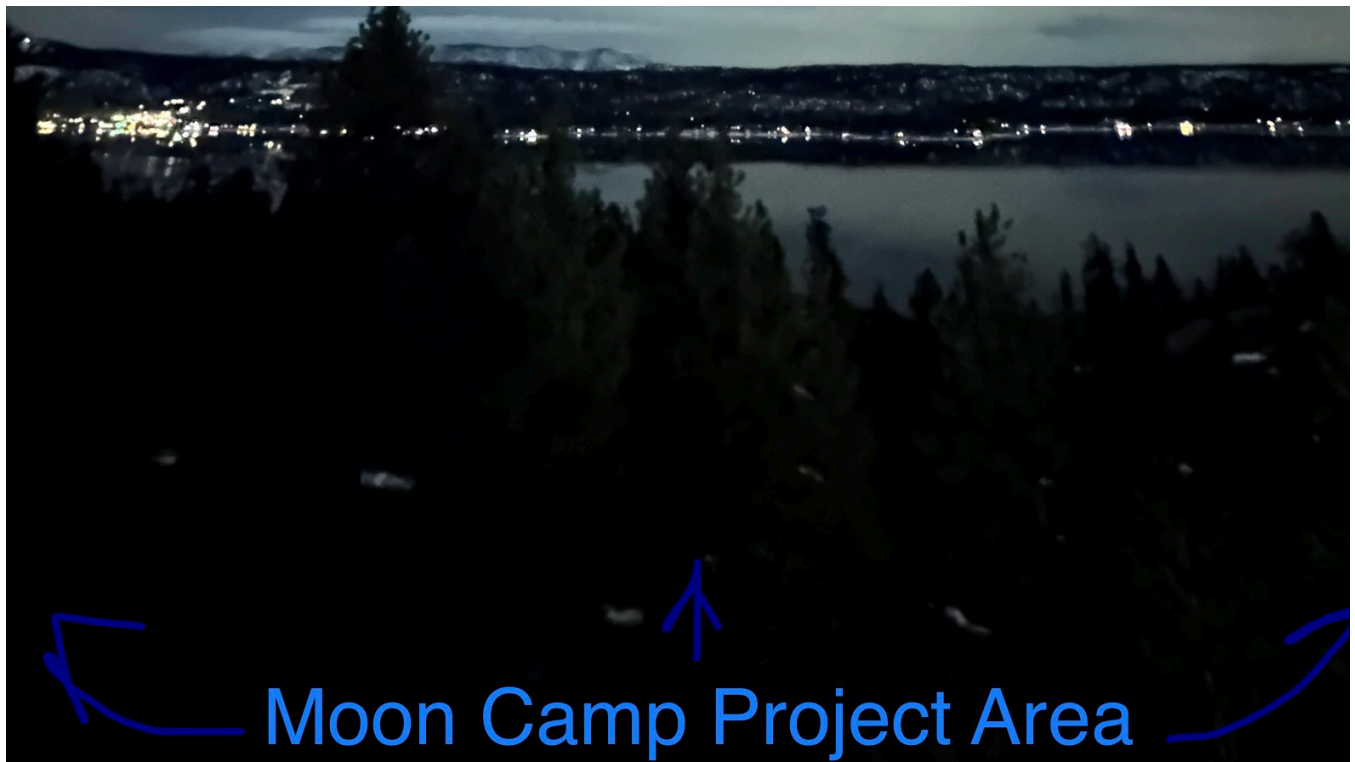
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U.S. Fish and
Wildlife...sh .pdf





Comment Letter #11

From: Ed Wallace rushewallace@yahoo.com 
Subject: Environmental Impact Report NO. 3 (PRDEIR NO.3 Moon Camp)
Date: March 18, 2024 at 3:37 PM
To: Morrissey, Jim Jim.Morrissey@lus.sbcounty.gov

EW

You don't often get email from rushewallace@yahoo.com. [Learn why this is important](#)

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

Attached is the Big Bear Group of the Sierra comments
on the environmental impact report
on PRDEIR No.3

Ed Wallace Environmental Chair-Big Bear Group-
Sierra Club

LETTERHEAD
MOON...o 3.doc

**RESPONSE TO COMMENT
LETTER #11
SIERRA CLUB OF THE BIG BEAR VALLEY**

- 11-1 The comment is noted, and will be made available to the County decision-makers as part of the RFEIR package prior to a decision on the proposed Project.



Big Bear Group

San Gorgonio Chapter

PO Box 3048 Big Bear Lake CA. 92315

- 11-2 The Big Bear Group of the Sierra Club representing approximately 150 members in the Big Bear Valley and 6500 members in the San Gorgonio Chapter has the following comments on Environmental Impact Report No.3 (PRDEIR No.3). Moon Camp 50 lot Residential Subdivision TT No.16136 (based on revised site plan) Big Bear Lake, San Bernardino County, California SCH No.2002021105.
- 11-3
- An analysis done by the Friends of the Big Bear Valley of the acres of pebble plain habitat within the projects site to be in excess of 18 acres rather than the 7.1 acres that is being mitigated for in PRDEIR No. 3.
- 11-4
- BR-1a proposes to use seed collection of ashy-gray paintbrush as a mitigation measure. For this to be successful the seeds would have to be dispersed in an area with soil types that are necessary for their survival. In addition, this area must include the host plants required for their

- 11-2 The comment describes the Big Bear Group of the Sierra Club. The comment is noted, and will be made available to the County decision-makers as part of the RFEIR package prior to a decision on the proposed Project.
- 11-3 The comment makes a statement that refers to an analysis completed by Friends of Big Bear Valley (FBBV) that indicates that there is greater pebble plain habitat located within the Project site than that which is identified in the PRDEIR No. 3. Refer to responses to FBBV's comment letter, specifically Responses to Comments 12-7 through 12-8.
- 11-4 The comment alleges that MM **BR-1a** proposes to utilize seed collection of ashy-gray Indian paintbrush to minimize impacts to this species, but would not be successful because seed dispersal is not addressed. As noted in the PRDEIR No. 3 and throughout these Responses to Comments, the intent of MM **BR-1a**, is in furtherance of the 2021 USFWS 5-Year Review of the ashy-gray Indian paintbrush recommendations to reduce threats to the ashy-gray Indian paintbrush. This is discussed on pages 4-26 through 4-27 of the PRDEIR No. 3. The USFWS recommends the following: "*Collect ashy-gray Indian paintbrush seed and conserve seed in an ex-situ (off-site) conservation seed bank, to preserve the genetic diversity in the species.*" As noted in the preceding quote, the USFWS does not identify that the seed should be spread, but that it should be collected and conserved to preserve the genetic diversity in the species.

11-4
cont'd

existence. These requirements have not been addressed.

11-5

- BR-1b does not designate who will monitor the conservation easement to assure the actions proposed are being implemented. This must be done to assure the easement is properly protected.

11-6

- BR-1c requires using the developments CC&Rs and its homeowners association to educate and police the provisions that protect the conservation areas. The effectiveness of this proposal depends on who is in charge of the organization at any point in time. Some will care, some will not. Thus, this is an ineffective proposal. If vacation rentals were allowed in this developed it would further complicate the education and enforcement and put the conservation areas at even more risk. How will this be addressed?

11-7

- BR- 1d requires setback lines to protect areas of ashy-gray paintbrush on lots 1,4,47,48,49, and 50 during construction but does not address what happens when these areas become the property owner's backyard. Therefore, this is an

11-5 The comment indicates that MM **BR-1b** does not designate a monitor for the Conservation Easement to ensure that the actions proposed by this Project are implemented. Additionally, as indicated in the Mitigation Monitoring and Reporting Program, to ensure that is implemented, recordation of the easement must be verified prior to issuance of grading permits and the initiation of clearing or grading activities on the Project site. This mitigation measure specifies that a Long Term Management Plan shall be developed. This Plan has already been developed in Draft form in order to satisfy the requirements of this mitigation measure. The Draft Long-Term Management Plan was attached as Appendix 11 to the PRDEIR No. 3. It specifies the monitoring requirements for the Conservation Easement.

11-6 The comment questions the efficacy of MM **BR-1c**. First and foremost, MM **BR-1c** would limit access to the Conservation Areas through the installation of barriers around these areas. This, in and of itself, would ensure that the 88% of ashy-gray Indian paintbrush occurrences are preserved, by minimizing the potential for unauthorized human activity within these conservation areas.

Furthermore, the provisions of MM **BR-1b** would implement the Long Term Management Plan, which designates a Conservation Easement Manager that would effectively oversee that MM **BR-1c** are properly implemented, thereby not leaving the enforcement solely to the Homeowner's Association. Verification of implementation of MM **BR-1b** requires recordation of the easement must be verified prior to issuance of grading permits and the initiation of clearing or grading activities on the Project site, as stated above under Response to Comment 11-5. Additionally, as indicated in the Mitigation Monitoring and Reporting Program, to ensure that MM **BR-1c** is implemented, the following verification methods will be employed:

- The Developer/HOA shall submit the Project CC&Rs to the County of San Bernardino Planning Department
- The HOA shall distribute a list of prohibited invasive plant to lot owners
- The County shall review and approve the Grading Plan
- The County shall receive a submission of annual biological monitoring report to be retained in the project file.
- The HOA shall prepare an annual biological monitoring report on rare plant species status and necessary enhancement and protection actions
- The HOA shall hold a routine monitoring of rare plant resources on Lot A and H

11-7 The comment questions the efficacy of MM **BR-1d** at protecting ashy-gray Indian paintbrush as part of construction, but not operation. It is important to note that this mitigation measure is intended to attempt to provide further protections for the ashy-gray Indian paintbrush that are located outside of the construction and building footprints, as noted on PRDEIR No. 3 page 4-25:

*"Furthermore, though not necessary to reduce ashy-gray Indian paintbrush impacts to a level of less than significant, the Moon Camp Project has been designed with building setbacks that could facilitate the preservation of up to an additional 127 occurrences of ashy-gray Indian paintbrush, which would provide further protections to the species in place, potentially enabling the continued proliferation of the species within the Moon Camp Project site. This would be implemented as a requirement of MM **BR-1d**, which has been expanded since the certification of the 2020 FEIR. MM **BR-1d** requires the construction within Lots 1, 4, 47, 48, 49, and 50 to be restricted by means of building envelopes or*

*building setback lines to prevent construction in the occupied ashy-gray Indian paintbrush habitat, wherever feasible. Once the Moon Camp Project is developed, the developer cannot control the actions of private home owners on private land, thus, though MM **BR-1d** would protect ashy-gray Indian paintbrush for the duration of construction, preservation of the species during occupation of the future residences cannot be guaranteed. However, given that the proposed Moon Camp Project would include the creation of a Homeowner's Association (HOA), the provisions of MM **BR-1c** have been modified to ensure that education of future homeowners of Lots 1, 4, 47, 48, 49, and 50 is provided to spread awareness of the importance of retaining this species in its natural state on site. MM **BR-1c** also sets forth a number of actions that would ensure the permanent preservation of the Conservation Areas to be established on site. Where homeowners do not wish to retain the areas of their properties containing the ashy- gray Indian paintbrush, the seed collection that shall take place during construction would suffice to ensure conservation and preserve genetic diversity in the species. MM **BR-1a** addresses seed collection, which is discussed in detail, below."*

The preservation of 4.84 acres of ashy-gray Indian paintbrush will mitigate Project impacts on a 1.68:1 ratio, on an acreage basis. On an occurrence basis, the Project site contains 5,567 occurrences of ashy-gray Indian paintbrush with 88 percent, or 4,895 of the occurrences within the Project site that will be protected through permanent Conservation Easements designated within both lettered Lots A and H, which equates to a conservation on an occurrence basis of approximately 7:1. The conservation of the ashy-gray Indian paintbrush on-site is the mitigation necessary to reduce impacts to this species to a level of less than significant. The implementation of MM **BR-1d** is solely intended to facilitate further protections to this species above and beyond the identified on-site conservation, wherever feasible.

11-7
cont'd

ineffective protection plan for these sensitive plants.

11-8

- BR-4 puts the responsibility for replacing eagle perch trees or trees over 24 inches that need to be removed in the development of the homeowner's association. Who is responsible for assuring that they are fulfilling this responsibility? There is a cost involved with this could affect how this is handled.

11-9

- BR-5 Without having the number of trees in this category identified and located, it is difficult to give a meaningful comment. However, this count should be made prior to any construction and lots containing a significant number of trees should become part of the conservation easements.

11-10

- BR-8 This project has a Significant Unavoidable impact on the bald eagles. BR-8 addresses the winter activities in marina area but does not recognize or address the usage of this area as a place that the eagles use for forage year-round. The increased marina and parking lot activity could potentially create disturbances and result in nest abandonment which is a violation of the

- 11-8 The comment asks who would be responsible for ensuring that the bald eagle perches are replaced as part of MM **BR-4**. It should be noted that the Draft Long Term Management Plan identifies the responsible party for ensuring implementation of MM **BR-4** as the Conservation Easement Manager. Refer to Appendix 11. As discussed in the introduction to these responses to comments, and under Response to Comment 2-1, the PRDEIR No. 3 focuses solely on the topics of Biological Resources (impacts to ashy-gray Indian paintbrush and pebble plain habitat), Hazards and Hazardous Materials (wildfire evacuation), and Land Use and Planning (consistency with the San Bernardino Countywide Plan). The analysis and CEQA determinations for topics that fall outside of the narrow focus of the PRDEIR No. 3 were deemed adequate by the Court, and therefore no longer warrant discussion or consideration beyond what was presented in the July 2020 FEIR, pursuant to CEQA Statute 15234(d).

Only new comments submitted on the recirculated portions of the PRDEIR No. 3 will be considered by the County. As an example, the comments in this comment letter pertaining to impacts on the bald eagle will not be considered in the responses to comments, because the Court determined that the impacts on bald eagle were adequately analyzed in the July 2020 FEIR. Thus, the opportunity to comment on impacts determined to be adequate by the Court that were not the aforementioned focus of the PRDEIR No. 3 has concluded.

- 11-9 The comment requests that a count of the perch trees be provided to the public and identified prior to establishment of the Conservation Easements. It should be noted that 65 potential perch trees are identified as part of the Draft Long Term Management Plan. Refer to Appendix 11. Furthermore, as previously stated, only comments submitted on the recirculated portions of the PRDEIR No. 3 will be considered by the County. The opportunity to comment on impacts determined to be adequate by the Court that were not the aforementioned focus of the PRDEIR No. 3 has concluded.
- 11-10 This comment alleges that the year-round impacts from marina activity would significantly impact bald eagle. Note that the marina is not operational year-round; the 55-boat slip marina would be open for a designated portion of the year between April 2 and November 30 annually. The July 2020 FEIR identified that *“Based on the County of San Bernardino criteria for determining impacts to bald eagles, any removal of perch trees or human activity resulting in light noise impacts are considered a significant impact under CEQA. This threshold is so restrictive that there is no reasonable configuration to the 2011 Alternative Project that could avoid a significant impact to the bald eagle. Therefore, further project modifications would not avoid or substantially reduce the identified impacts to bald eagles.”* Furthermore, as previously stated, only comments submitted on the recirculated portions of the PRDEIR No. 3 will be considered by the County. The opportunity to comment on impacts determined to be adequate by the Court that were not the aforementioned focus of the PRDEIR No. 3 has concluded.

11-10
cont'd

federal Bald and Golden Eagle Protection Act. A potential mitigation would be to delete the marina and parking lot from the project and add the area to the conservation easements.

11-11

- BR-12 There is a strong likelihood that non-native plants planted on lots in the residential areas will migrate into conservation easements. Again, this requires a vigilant HOA board. Some will understand the importance of these requirements, others will not. Who or how is this going to be monitored?

11-12

This project will have a adverse effect on the ashy-gray paint brush habitat as well as that of our bald eagles present and future populations. In addition, it will change the north shore forever. If you add to that the additional burden being placed on fire and sheriff departments and the added traffic if a valley wide evacuation should become necessary, one might question why.

11-13

The Technical Appendices in Volume 2 of PRDEIR were not available on the county website thus we were not able to comment. Thus, an extension of the comment period is requested.

Sincerely
Ed Wallace
Conservation Chair

- 11-11 This comment raises a concern that non-native plants could invade the Conservation Easements. The Draft Long Term Management Plan (Appendix 11) specifies that the Conservation Easement Manager must provide an annual report on the rare plants on the Moon Camp property, which would include a reporting of any damage to the habitat resulting from invasive plants. Remediation actions, such as invasive species management, through maintenance would be managed through the Rare Plant Habitat Management Program, and would be performed on a monthly basis.
- 11-12 This comment alleges that the Project would have adverse impacts on ashy-gray Indian paintbrush in addition to the unavoidable significant impact on bald eagle, and lists other general concerns related to the burden of the Project on the fire and sheriff departments, in addition to traffic related to an evacuation should one become necessary. Other than general concerns presented in this comment, the commenter does not point to a specific point in the PRDEIR No. 3 with which the commenter takes issue. It should be noted that Wildfire Evacuation was studied and analyzed in detail in the PRDEIR No. 3 through the impact analysis under Subchapter 4.3, Hazards and Hazardous Materials, as well as through a Wildfire Evacuation Plan provided as Appendix 12 to the PRDEIR No. 3. Furthermore, as previously stated, only comments submitted on the recirculated portions of the PRDEIR No. 3 will be considered by the County. The opportunity to comment on impacts determined to be adequate by the Court, such as impacts on fire and sheriff services, and impacts on bald eagle, that were not the aforementioned focus of the PRDEIR No. 3 has concluded.
- 11-13 This comment requests an extension of the comment period due to the commenter's inability to access the Appendices. The Appendices have been available on the County's website, but there appears to be some confusion. The Appendices were not compiled into one singular PDF because the documents were incredibly large files. The County posted a Volume II Table of Contents, with the remaining Appendices making up Volume II labeled and made available as independent files simultaneously with posting Volume I on January 24, 2024. No extension of the comment period shall be granted. The comment is noted, and will be made available to the County decision-makers as part of the RFEIR package prior to a decision on the proposed Project.

Big Bear Group Sierra Club

www.sierraclub.org/san-gorgonio/bigbear

Comment Letter #12

From: [FOBBV Sandy Steers](#)
To: [Morrissey, Jim](#)
Subject: volume 2, technical documents Moon Camp PRDEIR?
Date: Monday, March 18, 2024 8:11:27 AM

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12-1

Hello Mr. Morrissey,
The volume 2, technical documents for the Moon Camp PRDEIR are not available on the county website for this environmental review. Only the table of contents is included. What do I have to do to access those documents?
Thank you,
Sandy Steers

**RESPONSE TO COMMENT
LETTER #12
FRIENDS OF BIG BEAR VALLEY**

- 12-1 The comment is noted and will be made available to County decision-makers as part of the RFEIR package prior to a decision on the proposed Project. The Appendices have been available on the County's website since January 24, 2024, but there appears to be some confusion. The Appendices were not compiled into one singular PDF because the documents were incredibly large files. The County posted a Volume II Table of Contents, with the remaining Appendices labeled and made available as independent files. The comment is noted, and will be made available to the County decision-makers as part of the RFEIR package prior to a decision on the proposed Project.

From: [FOBBV Sandy Steers](#)
To: [Morrissey, Jim](#)
Cc: [Babak Naficy](#)
Subject: Moon Camp PRDEIR No. 3 comments
Date: Monday, March 18, 2024 4:40:45 PM
Attachments: [mc pebble plain map.pdf](#)
[fs ashy gray paintbrush preservation.pdf](#)
[Moon Camp fobbv prdeir comments Mar 2024 final.pdf](#)

You don't often get email from sandy.fobbv@gmail.com. [Learn why this is important](#)

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

Dear Mr. Morrissey,
Please find attached the comments and attachments from Friends of Big Bear Valley on the
Partial recirculated draft environmental impact report for Moon Camp proposal in Fawnskin,
CA Thank you.
Sandy Steers
Executive Director

12-2

12-2 The comment is noted, and will be made available to the County decision-makers as part of the RFEIR package prior to a decision on the proposed Project.



P.O. Box 422, Fawnskin, California 92333
www.friendsofbigbearvalley.org fobbvinfo@gmail.com

18 March 2024

Mr. Jim Morrissey
County of San Bernardino
Land Use Services Department, Advanced Planning Division
385 North Arrowhead Avenue 1st Floor
San Bernardino, California 92415-0182

By email to: Jim.Morrissey@lus.sbcounty.gov

RE: Environmental Impact Report No. 3 (PRDEIR No. 3, Moon Camp 50-lot Residential Subdivision TT No.16136 (Based on Revised Site Plan) Big Bear Lake, San Bernardino County, California SCH No.2002021105

12-3 I submit these comments on my own behalf and on behalf of the over 10,000 members of Friends of Big Bear Valley (FOBBV) who care deeply about the conservation of all natural resources in Fawnskin and the Big Bear Valley. The FOBBV's interest in the protection of all biological resources would be directly and adversely affected by the development of the Moon Camp project as proposed.

12-4 As documented in this PRDEIR No. 3, the plans for the project were not changed since the FEIR. In places, this document implies that changes to the project have been made for this analysis, but, in fact, the plans remain the same as were presented in the FEIR in 2020. They have only been presented in slightly different ways or with a different way of calculating impacts. The new
12-5 mitigations presented here are offered without any data, analysis or other proof that such mitigation measures would be effective at actually reducing the impact in any way.

12-6 More fundamentally, the analysis of the impacts and to protected species and the proposed mitigation is arbitrary and capricious to the extent that the County is attempting to reach a different conclusion based on essentially based on the same project and identical set of impacts.

Detailed Comments:

- 12-3 The comment describes the FBBV as an organization, and notes that FBBV is interested in the protection of all biological resources impacted by the development of the Moon Camp Project. The comment is noted, and will be made available to the County decision-makers as part of the RFEIR package prior to a decision on the proposed Project.
- 12-4 The comment alleges that the Moon Camp Project PRDEIR No. 3 implies that changes have been made to the Project, but that the Project remains the same as that which was presented in the July 2020 FEIR. The Moon Camp Project Description remains mostly unchanged from the Project that was presented in the July 2020 FEIR. The only changes that have been contemplated as part of the PRDEIR No. 3 are noted on pages 1-6 and 1-8:

"The Project that was contemplated in the July 2020 FEIR remains the same, but the underlying land use designations and zoning districts have since changed as a result of the adoption of the San Bernardino Countywide Plan in October 2020. As a result, the land use designation has been modified to Very Low Density Residential (VLDR), and the Zoning district of the Project site has been modified to BV/RS-20M, to which the Moon Camp Project conforms." Pg. 1-6'

*"One change from the Project approved in July of 2020 is that the 10-acre off-site parcel known as the Dixie Lee Lane parcel that was to be conserved as required by FEIR Mitigation Measure MM **BR-1a**, is now included as a project-related community benefit. As part of the Project, the applicant intends to permanently preserve the Dixie Lee Lane parcel by including it in a Conservation Easement and managed pursuant to the terms of the Project's Long Term Management Plan as required by Project conditions of approval. Though the Dixie Lee Lane parcel is no longer considered mitigation in the PDEIR, the parcel will be preserved in perpetuity in a similar fashion as required by the previous mitigation measure." Pg 1-8*

- 12-5 The comment alleges that the PRDEIR only presents the impact analysis in a different way without data, analysis, or other proof that the proposed mitigation measures would be effective at reducing impacts. As discussed in the introduction to these responses to comments, and under Response to Comment 2-1, the PRDEIR No. 3 focuses solely on the topics of Biological Resources (impacts to ashy-gray Indian paintbrush and pebble plain habitat), Hazards and Hazardous Materials (wildfire evacuation), and Land Use and Planning (consistency with the San Bernardino Countywide Plan). This comment broadly implies that no additional analysis or data was provided or utilized in support of the impact determinations presented in the PRDEIR No. 3. First, a Wildfire Evacuation Plan was prepared for this Project to support the impact conclusion that the proposed Project would not significantly impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Second, a Memo titled "Review of Proposed Mitigation Measures and Recommend Additional Conservation Measures to Offset Impacts to Ashy-Gray Paintbrush for the Moon Camp Residential Subdivision Project San Bernardino County, California," (2023 Memo) was prepared to review of all of the materials pertaining to pebble plain habitat and ashy-gray Indian paintbrush to ensure consistency of the findings made in the previous reports, in the July 2020 FEIR, and provide any additional recommendations or clarifications to supplement the data that has been generated related to pebble plain habitat and ashy-gray Indian paintbrush for the Moon Camp Project. Thus, the assertion that no new data, analysis, or other evidence that the proposed mitigation would adequately minimize impacts to the narrow focus of

the PRDEIR No. 3, in responding to the Court's Writ of Mandate—impacts to ashy-gray Indian paintbrush and pebble plain habitat, and wildfire evacuation—is false.

- 12-6 The comment alleges that the analysis conclusions in the PRDEIR No. 3 are arbitrary and capricious. This general comment is noted, and will be made available to the County decision-makers as part of the RFEIR package prior to a decision on the proposed Project. The commenter appears to be referencing the impacts to ashy-gray Indian paintbrush and pebble plain habitat. It should be noted that the Court's Writ of Mandate determined that the Court couldn't determine the County's analytic path with certainty, and therefore concluded that the July 2020 FEIR did not provide substantial evidence that the Dixie Lee Land parcel could serve as adequate mitigation for the Project's impacts on ashy-gray Indian paintbrush or pebble plain habitat. This was primarily due to the confusion regarding contradictory statements made in the Responses to Comments that were included in the July 2020 FEIR. The PRDEIR No. 3 serves as an updated analysis intended to clarify the record regarding mitigations that are feasible and necessary to minimize impacts to ashy-gray Indian paintbrush, and to further clarify the record regarding the lack of presence of pebble plain habitat within the Project site. The data supporting the conclusions made in the PRDEIR No. 3 were existing, and were further evaluated as part of the 2023 Memo provided as Appendix 9 to the PRDEIR No. 3, but the existing data was not effectively communicated in the July 2020 FEIR, hence the utilization of the existing data and the 2023 Memo in support of the clarifying conclusions made related to ashy-gray Indian paintbrush or pebble plain habitat as part of the PRDEIR No. 3.

Biological Resources:
Ashy-gray paintbrush

- 12-7 1) The PRDEIR No. 3 states: "The surveys assumed presence of certain species, including pebble plain species, would occur during years of normal rainfall. This practice resulted in an over-calculation of species present on the Project site, which is apparent in the 2008 Supplemental Focused Rare Plant Survey and 2010 Focused Special Status Plant Species Survey, which were prepared by Dr. Krantz of Timothy Krantz Environmental Consulting. The Supplemental Focused Special Status Plant Species Survey (2008, Appendix 6, referenced in RRDEIR No. 1; 2010, Appendix 5, referenced in the 2020 FEIR) was conducted in years with normal or above average rainfall, identified an accurate distribution of ashy-gray Indian paintbrush species within the Project site, and this conclusion supersedes the assumptions made as a result of surveys conducted during drought years during 2000-2007."
- 12-8 These stated assumptions that the ashy-gray paintbrush plants all grow in an average rainfall season are inaccurate and not documented or proven in this PRDEIR No. 3 analysis. According to USFS botanist, Scott Eliason, there are many other factors besides average rainfall (such as temperatures, condition of the host plant or plants) that determine how many Ashy-gray paintbrush plants grow in a given year. A more appropriate way to analyze the habitat is with a combination of visible existing plants and the existence of soil types and associated host plants in the habitat. According to USFS (<https://www.fs.usda.gov/database/feis/plants/forb/cascin/all.html#10>), Ashgray Indian paintbrush grows primarily on clay, stony soils of pebble plain habitats in openings within Jeffrey pine forests and pinyon-juniper woodlands in the San Bernardino Mountains. It occurs at elevations of 5,900 to 9,300 feet (1,800-2,800 m). According to the USDA Forest Service species account, it has not been found below 6,700 feet (2,000 m). On Moon Camp its primary host plant is Wright's buckwheat (*Eriogonum wrightii* var. *subscaposum*), according to a conversation I had with Dr. Tim Krantz. With these parameters as measurement, the size of the ashy-gray paintbrush habitat would be considerably larger than has been accounted for.
- 12-9 2) The mapping done by the USFS (Attachment A) shows a significantly larger habitat area for the ashy-gray paintbrush than has been acknowledged in this document. This mapping shows approximately 17 acres of ashy-gray paintbrush, including critical habitat on adjacent USFS land. This mapping matches the map on page 4 of the document referenced in the PRDEIR No. 3 in footnote Number 6 on page 4-26 of the document. Why has the USFS mapping, including that in a document referenced by the PRDEIR No. 3 been omitted from the analysis and the calculations of size of the ashy-gray paintbrush habitat?

- 12-7 The comment alleges that the methods utilized to determine the extent of the ashy-gray Indian paintbrush on site were incorrect. When considering the adequacy of an EIR, the lead agency is entitled to weigh the evidence relating to the accuracy and sufficiency of the information in the EIR and to decide whether to accept it. In its discretion as lead agency, the County may adopt the environmental conclusions reached by the experts that prepared the EIR even though others may disagree with the underlying data, analysis, or conclusions. *Laurel Heights Improvement Ass'n v Regents of Univ. of Cal.* (1988) 47 C3d 376, 408; *State Water Resources Control Bd. Cases* (2006) 136 CA4th 674, 795. Accordingly, the County disagrees that the methods utilized to determine the extent of this species were incorrect. As stated on page 5 of the 2010 Focused Special Status Plant Species Survey (Appendix 5 to the PRDEIR No. 3), ashy-gray Indian paintbrush is a perennial plant, and therefore, should be identifiable in the appropriate season year after year. It is a hemiparasite, that is, it is at least partially parasitic on host plants for nutrients. Ashy-gray Indian paintbrush is usually associated with one of several buckwheat (*Eriogonum*) or mugwort (*Artemisia*) species. On pebble plains it is usually associated with Kennedy's buckwheat (*Eriogonum kennedyi subspecies*), but this pebble plains indicator species does not occur on site. In the case of Moon Camp, ashy-gray Indian paintbrush is associated with *Eriogonum wrightii subscaposum* (Wright's matting buckwheat) and perhaps occasionally on *Artemisia ludoviciana* or *A. tridentata*. The 2010 Focused Special Status Plant Species Survey eschewed the former assumptions of presence of the ashy-gray Indian paintbrush based on the presence of host species. The suggestion in this comment and comment 12-8, below, that the "appropriate way to analyze the habitat is with a combination of visible existing plants and the existence of soil types and associated host plants in the habitat," was utilized by Dr. Krantz in his 2010 Focused Special Status Plant Species Survey to identify the extent of the ashy-gray Indian paintbrush within the site. The quote that is pulled in this comment focuses specifically on noting that the surveys were conducted during a year of normal rainfall simplifies the overall discussion that occurs in the paragraphs preceding this quote (on page 4-8), which makes note of the host plants that support the species and the habitats that the species are usually located within.
- 12-8 The comment continues the discussion that began in comment 12-7, and focuses on the host plants that support the ashy-gray Indian paintbrush and the habitats that the species are usually located within. Refer to Response to Comment 12-7, above. The commenter references a conversation with Dr. Timothy Krantz on the host plants, and conveniently, the 2010 Focused Special Status Plant Species Survey that identified the extent of the ashy-gray Indian paintbrush within the Project site, as he is an expert on the local plants of the Big Bear Valley, having aided in the listing of several species over his career. The commenter utilizes a reference from Dr. Timothy Krantz to support an argument that there are areas within the Project site that contain ashy-gray Indian paintbrush that were not accounted for by Dr. Timothy Krantz, himself. It stands to reason that Dr. Timothy Krantz, as the expert referenced by the commenter, and the expert that surveyed the Moon Camp Project site in support of the Project, correctly identified the extent of the ashy-gray Indian paintbrush in his 2010 Focused Special Status Plant Species Survey.
- 12-9 The commenter asks why the USFS map of the ashy-gray Indian paintbrush shows a larger area of presence than do the maps prepared for the PRDEIR No. 3. First, the commenter does not provide a source for the map that has been provided as Attachment A that would be accessible to the County for review. However, the commenter appears to

be referencing Figure 1 from the USFWS 5-Year Review⁷ dated August 18, 2021, which can be viewed in Response to Comment 6-2. The USFWS 5-Year Review presents a high-level overview of the known areas for the species to occur, and utilizes the following methods to conduct its review (see 5-Year Review pg. 1):

“This 5-year review was conducted by the USFWS Carlsbad Fish and Wildlife Office. Data for this review were solicited from the public and interested parties through a Federal Register notice announcing this review on January 27, 2020 (USFWS 2020, pp. 4692–4694). We also contacted State and Federal partners and species experts to request any data or information we should consider in our review. Additionally, we conducted a literature search and a review of information in our files.”

As part of its 5-Year Review compilation, the USFWS does not conduct independent ground-level surveys to verify the findings of the above resources. The studies of the floristic inventory and habitat characterization of the Project site that were conducted by Dr. Timothy Krantz in 2008, 2010, and 2016 capture a more accurate accounting for this species within this specific Project site. Refer to Response to Comments 10-3 and 10-6, which addresses the concerns raised in this comment completely.

⁷ USFWS, 2021. 5 Year Review *Castilleja cinerea* (Ash-gray paintbrush).
https://ecos.fws.gov/docs/tess/species_nonpublish/3393.pdf (accessed 04/08/24)

- 3) The PRDEIR states on page 4-23: "The presence of ashy-gray Indian paintbrush on-site was confirmed during Krantz's 2016 Survey of Ashy-Gray Indian Paintbrush. The surveys identified an herbaceous layer of Wright's matting buckwheat (in the western half of the Project site) and found inclusions of ashy-gray Indian paintbrush and Parish's rock cress throughout an approximate 18.01-acre area of open Jeffrey pine forest within the Project site."

12-10

Therefore, by the document's own admission, the ashy-gray paintbrush habitat is 18.01 acres (similar to the USFS map (attachment A) and much larger than the 7.1 acres stated elsewhere in the document. If the County disagrees with this assessment, it must explain in detail why the entire 18.1 acres should not be considered ashy-gray habitat. This results in a huge remainder of this habitat that is not being conserved nor mitigated for. It is also not counted in the percentages of habitat that would be destroyed by the development of this project, making these estimates grossly understated.

- 4) The mitigation measure BR-1d, including its expansion in this PRDEIR No. 3, of requiring building setbacks is not enforceable, feasible nor effective. It cannot be assumed that this would in any way reduce the impacts just because the buildings themselves do not cover that area. The setback areas would be the yard area associated with each of those homes and therefore subject to human and pet traffic, vehicle traffic and future destruction or landscaping and other type of development inconsistent with preservation of sensitive habitat. There is no way to ensure that homeowners would not use any portion of their property to actively preserve a protected species. This mitigation is completely irrelevant to reducing the significant impact to this species. As stated in the Forest Service Ashy-gray paintbrush 5-year review from 2008 (Appendix B) on page 6, trampling of the plants is a very real concern: "Further, the Mountaintop Ranger District has been closed to dispersed shooting, so the potential threat of trampling from shooters should be eliminated." If the County disagrees with this analysis, it must provide a detailed analysis explaining why this mitigation would be effective notwithstanding the issues raised in my comments.

12-11

- 5) The proposed seed-collecting mitigation (BR-1a) is not an effective and viable mitigation measure because there the EIR does not offer any proof to show any of those seeds could be successfully grown to maturity. According to Dr. Tim Krantz, botanist, in a conversation I had with him, ashy-gray paintbrush growth depends on the existence of very specialized soils and the presence of appropriate host plants. According to USFS (<https://www.fs.usda.gov/database/feis/plants/forb/cascin/all.html>), host plant species parasitized by ashgray Indian paintbrush include southern mountain buckwheat, Kennedy's buckwheat (*Eriogonum kennedyi* var. *kennedyi*) Wright's buckwheat (*Eriogonum wrightii* var. *subscaposum*), basin big sagebrush, black sagebrush (*A. nova*), and other *Artemisia* species. None of this has been taken into consideration or accounted for in this mitigation.

12-12

- 12-10 The comment utilizes a quote from the PRDEIR No. 3 to claim that the PRDEIR No. 3 itself indicates that there are 18.01 acres of ashy-gray Indian paintbrush located within the Moon Camp Project site. The quote is referring to the acreage of open Jeffery pine forest as 18.01 acres, within parts of which several species were found, including ashy-gray Indian paintbrush. This is mapped as PRDEIR No. 3 Figure 4.2-1, which shows the 18.01-acre open Jeffery pine forest that can be found within the Project site. The occupied ashy-gray Indian paintbrush within the Project site is shown on Figure 4.2-2. Thus, the assertion that there are unaccounted for ashy-gray Indian paintbrush within the site by the PRDEIR No. 3's own admission is a misinterpretation of PRDEIR No. 3 and is false, and the impacts on this species have been fully accounted for therein.
- 12-11 The comment questions the efficacy of MM **BR-1d** at protecting ashy-gray Indian paintbrush. This comment has been addressed in Response to Comments 10-3 and 11-7. As stated therein, it is important to note that this mitigation measure is intended to provide further protections for the ashy-gray Indian paintbrush that are located outside of the construction and building footprints, as noted on PRDEIR No. 3 page 4-26. Separately, the preservation of 4.84 acres of ashy-gray Indian paintbrush will mitigate Project impacts on a 1.68:1 ratio, on an acreage basis. On an occurrence basis, the Project site contains 5,567 occurrences of ashy-gray Indian paintbrush with 88 percent, or 4,895 of the occurrences within the Project site that will be protected through permanent Conservation Easements designated within both lettered Lots A and H, which equates to a conservation on an occurrence basis of approximately 7:1. The conservation of the ashy-gray Indian paintbrush on-site is the mitigation necessary to reduce impacts to this species to a level of less than significant. The PRDEIR No. 3 acknowledges that the individual occurrences within the building setbacks may not be preserved in perpetuity once the lot is occupied by the homeowner. The analysis also notes that preservation of these 127 occurrences is not required to conclude impacts will be reduced to a less than significant level with the implementation of the identified mitigation measures. The implementation of MM **BR-1d** is solely intended to facilitate further protections to this species above and beyond the identified on-site conservation, wherever feasible.
- 12-12 The comment alleges that seed collection is not a viable mitigation measure because the EIR does not offer proof that the seeds could be successfully grown to maturity. As discussed under Response to Comment 11-4, the intent of MM **BR-1a**, is in furtherance of the 2021 USFWS 5-Year Review of the ashy-gray Indian paintbrush recommendations to reduce threats to the ashy-gray Indian paintbrush. This is discussed on pages 4-26 through 4-27 of the PRDEIR No. 3. The USFWS recommends the following: "*Collect ashy-gray Indian paintbrush seed and conserve seed in an ex-situ (off-site) conservation seed bank, to preserve the genetic diversity in the species.*" As noted in the preceding quote, the USFWS does not identify that the seed should be spread, but that it should be collected and conserved to preserve the genetic diversity in the species. Thus, there is no planned dispersal of the ashy-gray Indian paintbrush seed as part of MM **BR-1a**, intentionally, as USFWS identified seed collection and conservation as a means by which to reduce threats to ashy-gray Indian paintbrush (refer to page 16 of the 2021 USFWS 5-Year Review, as well as the analysis presented on pages 4-26 and 4-27 of the PRDEIR No. 3).

12-12 cont'd	Without full analysis that collecting these seeds would actually have a beneficial impact, this mitigation would actually do more harm to the species than benefit by taking the collected seeds out of the environment where they might possibly grow. The County must point to substantial evidence supporting a conclusion that BR-1 would be effective and feasible. Moreover, the County must designate performance criteria for this mitigation to ensure it is successful.
12-13	6) Mitigation BR-1b must include the designation of a conservation easement holder, such as the San Bernardino Mountains Land Trust, in addition to being in favor of the California Department of Fish and Wildlife. For this mitigation to have actually work as intended, the easement holder would need to visit the property monthly to check for adherence to the mitigations, such as fencing, signage, etc., and provide repairs and report status to CAFWS.
12-14	7) Regarding BR-1b, the minimum amount to be included in the non-wasting endowment fund must be defined in detail based on current market rates. Without these details being specified, this mitigation has no guarantee of having any impact on reducing the significance of the impacts to this species.
12-15	8) Mitigation measure BR-1c, using CC&Rs and a Homeowners Association to educate and police themselves is completely ineffective and a conflict of interest with the homeowners. There is no evidence this will be effective, especially since the HOA for this project is being tasked with a lot of maintenance work. This method has been shown in other developments by this same developer to be ineffective and almost a joke. Examples: a--At Eagle Point Estates, some of the bald eagle perch trees set aside as part of the mitigation were eliminated when the homeowners' association and developer returned to the City a year after the project approval and asked these mitigations to be changed so that a tennis court could be built. The public was not notified of the request for this change. b--At Castle Glen development, the pebble plains area set aside has now been turned over to another developer rather than a conservation agency and the Pebble Plains plants have been weed-wacked to the ground, virtually destroying them and their ability to seed themselves and continue growing in that habitat. Asking the homeowners to educate and police themselves to stay away from certain areas of their development, such as open space left for plants or the lake shoreline for the eagle perch trees is neither feasible nor effective. This mitigation offers no reduction in the potential significant impacts for this species.
12-16	9) Lots 1-5 contain a significant number of plants—1/10 or 10% of the total counted. Since the Dixie Lee property is no longer considered mitigation for the loss of these plants, there is no additional mitigation offered. There is no valid reason offered to justify the destruction of this significant amount of ashy-gray paintbrush habitat. There is nowhere else in the valley that a mitigation property could be offered to make up for this loss. Without other

- 12-13 The comment insists that MM **BR-1b** must designate a Conservation Easement holder for the mitigation measure to be enforceable. Firstly, the commenter believes that the Conservation Easement in favor CDFW is insufficient, but does not explain why the commenter believes CDFW's role is insufficient. The County believes that CDFW is the appropriate party based on its established expertise. As the comment does not raise any specific concerns, no further response is necessary to this general assertion in opposition to the proposed project. Second, as stated under Response to Comment 12-5, this mitigation measure specifies that a Long Term Management Plan shall be developed. This Plan has already been developed in Draft form in order to satisfy the requirements of this mitigation measure. The Draft Long-Term Management Plan was attached as Appendix 11 to the PRDEIR No. 3. It specifies that a Conservation Easement Manager and/or responsible party shall complete the draft itemized responsibilities referenced under section 4.9 of the Draft Long Term Management Plan. The Conservation Easement Manager would be responsible for ensuring that MM **BR-1b** is implemented effectively.
- 12-14 The comment conveys that the minimum amount of money that is dedicated to the non-wasting endowment fund should be defined, because without these details, the commenter believes that there is no way of guaranteeing that MM **BR-1c** would be effective at minimizing Project impacts. The Draft Long-Term Management Plan indicates that *"a non-wasting endowment fund will be deposited in an account dedicated to preservation, maintenance and monitoring of sensitive biological resources on the Moon Camp property, including funding for rare plant habitat on Lots A and H, as well as on the Dixie Lee Lane pebble plain habitat conservation area. Revenues generated by the endowment fund shall be used by the land management entity for the sole purpose of implementation, maintenance and monitoring of the Conservation Easements and the biological resources contained therein."* Furthermore, specification within the MM **BR-1c** that a Property Action Report (PAR) will be prepared that will document costs for site security, maintenance activities, site preparation, restoration/enhancements activities, biological monitoring, contingency measure and annual reporting, is sufficient to guarantee that sufficient funds are endowed to carry forth the Long Term Management Plan actions and reporting requirements. Additionally, it is anticipated that CDFW shall oversee the preparation of the Final Long Term Management Plan as part of the Conservation Easement approval process, and CDFW shall review definition of the non-wasting endowment fund, and therefore, the assertions made in this comment that there are no protections in place identified in MM **BR-1c** to ensure that the non-wasting endowment fund is sufficiently funded to implement the Final Long Term Management Plan, is false.
- 12-15 The comment conveys concern that MM **BR-1c** would be ineffective as there is no evidence that utilizing CC&Rs and the Homeowner's Association to enforce mitigation is effective. The commenter cites anecdotal evidence but does not provide any evidence based studies from which to draw a conclusion that these assertions are true. As discussed under Response to Comment 11-6, first and foremost, MM **BR-1c** would limit access to the Conservation Areas through the installation of barriers around these areas. This, in and of itself, would ensure that the 88% of ashy-gray Indian paintbrush occurrences are preserved, by minimizing the potential for unauthorized human activity within these conservation areas. Furthermore, the provisions of MM **BR-1b** would implement the Long-Term Management Plan, which designates a Conservation Easement Manager that would effectively oversee that MM **BR-1c** are properly implemented, thereby not leaving the enforcement solely to the Homeowner's Association. The Draft Long Term

Management Program proposes the following protections that would be overseen by a designated Conservation Easement Manager:

- Fencing and signs shall be monitored and maintained monthly around Lots A and H on the Moon Camp property; and on the Sugarloaf pebble plain.
- Incidents of vehicular trespass shall be monitored and remedied by means of reparation of fencing and re-posting of signs, as necessary.
- Damage to rare plant habitat shall be repaired and/or restored as soon as possible. Incidents requiring major reparations may require consultation with botanical authorities who are familiar with pebble plain or rare plant habitat restoration
- The CE manager shall provide an annual report summarizing the monitoring and maintenance programs for bald eagles and rare plants on the Moon Camp property and on the Sugarloaf pebble plain. The annual report shall be submitted to the HOA and the CDFW.
- A presentation of the report findings shall be presented to the HOA to inform the Moon Camp residents about the unique resources on their community property.

Thus, based on the above, the County disagrees with the assertion that MM **BR-1c** would be infeasible and ineffective, as demonstrated herein and throughout these responses to comments.

It is entirely speculative to assume that valid mitigation measures may be changed or cancelled in the future. The County notes that a lead agency may only approve cancellation of a mitigation measure after reviewing the continuing need for it. If there is a reason to change the measure, the County may do so supporting its decision with substantial evidence. *Katzeff v Department of Forestry & Fire Protection* (2010) 181 CA4th 601, 614. The reasons for cancelling a mitigation measure and the effect of doing so must be addressed in a supplemental EIR or other appropriate CEQA document such as an addendum. See *Lincoln Place Tenants Ass'n v City of Los Angeles* (2005) 130 CA4th 1491, 1508.

- 12-16 The comment conveys that the mitigation to protect the ashy-gray Indian paintbrush is insufficient without the inclusion of the Dixie Lee Lane property, as there is “no additional mitigation offered” when compared to the July 2020 FEIR. First, there is additional mitigation that has been offered in the PRDEIR No. 3, when compared to the July 2020 FEIR, through MM **BR-1a**. As discussed in Response to Comment 10-3, the 2021 USFWS 5-Year Review, as well as the 2023 Memo prepared by Daniel Smith and provided as Appendix 9, indicate that the Project applicant should consider coordinating with an organization, such as the California Botanic Garden, to salvage ashy-gray Indian paintbrush seed prior to any Project related impacts to this species. This is because seed collections allow for genetic conservation of the species and help develop propagation protocols for the species, thereby preserving its existence outside of known occurrences, as documented in the USFWS 5-Year Review for the species. The USFWS has requested ashy-gray Indian paintbrush seed collection in the past, and even references the specific project in Big Bear Lake that Jacobs Engineering Group reported in the City of Big Bear Lake in its 2021 USFWS 5-Year Review for the species, for which the USFWS requested that ashy-gray Indian paintbrush seed be collected similar to the provisions of MM **BR-1a**. Thus, seed collection would provide an additional valuable conservation measure to further protect the ashy-gray Indian paintbrush species as part of the Moon Camp Project. MM **BR-1a** establishes the seed collection that would take place prior to construction within Lots 1, 4, 47, 48, 49, and 50. Thus, additional mitigation measures have been provided to protect this species beyond what was identified in the July 2020 FEIR.

In regard to the assertion that there is not sufficient mitigation to minimize impacts to ashy-gray Indian paintbrush. As stated under Response to Comment 10-8, neither the County nor USFWS mandate that in order for a less than significant determination to be made that no individual plant can be impacted. The principal of mitigating impacts to special status plant species, such as the ashy-gray Indian paintbrush is to conserve areas containing the species at, generally, a minimum 1:1 ratio. Additionally, compliance with USFWS recommendations for specific actions that can be taken to mitigate potential impacts to the special status species can further minimize impacts to the special status species, as these recommendations have been created in furtherance of reducing threats to the special status species, in this case the ashy-gray Indian paintbrush.

On an occurrence basis, there are approximately 5,567 occurrences of ashy-gray Indian paintbrush occurrences are located within the proposed Project site. Of the 5,567 occurrences, 4,895 will be permanently protected within the Open Space Conservation Easement of Lot A and H, representing 88 percent of the total occurrences of ashy-gray Indian paintbrush within the Project site. Thus, the Project would mitigate impacts to this species at an approximately 7:1 ratio on an on-site plant occurrence basis, and on an acreage basis at a 1.68:1 ratio, and this excludes the potential for the protection of up to an additional 127 plants through the implementation of MM **BR-1d**. The PRDEIR No. 3 acknowledges that the Project may result in the loss of up to 672 individual plants, and it provide analysis explaining why the loss of these individual plants can be minimized to a level of less than significant through the implementation of mitigation discussed herein, and under Response to Comments 10-3, 10-6, and 10-7, as well as Responses to Comments 12-5 through 12-15, and elsewhere throughout these Response to Comments.

With respect to the assertion that the impacts disclosed in PRDEIR No. 3 are not justified, the comment will be part of the administrative record and considered by the decisionmakers in approving the Project and adopting the Statement of Overriding Considerations. As this pertains to the merits of the project and not to any specific concern with any specific environmental issue or the analysis in the PRDEIR No. 3, no further response is required.

12-16
cont'd | mitigation alternatives, these lots must be eliminated to become part of Lot A to be set aside as ashy-gray paintbrush habitat.

12-17 | 10) Having a road, along with sewer lines and water pipes go through the middle of the set aside habitat invalidates much of the reduction in significance of that set aside. As stated in the 5-year review (Attachment B) on page 6, "Non-native species are specifically identified as a concern in the Fawnskin, Arrastre/Union Flat, Sawmill, North Baldwin Lake, South Baldwin Ridge/Erwin Lake, and Broom Flat complexes in the Pebble Plain Habitat Management Guide (USFS 2002). Finally, vehicular activity can result in soil compaction and can cover individuals with dust and mud that can impair physiological functions (USFWS 2005; USFS 2002)." Having the road run through the middle of the conservation parcels would both increase the invasive species and increase the dust and mud that would be brought in to impact the plants and habitat in general. It also creates substantial fragmentation of the habitat, which is a known adverse impact.

Rather than running the road through the middle of the conservation habitat, which will greatly limit the benefits of the conservation area, it would be more appropriate to run the road to the east of the entire conservation area. This would serve to reduce road dust and mud, to reduce the high potential for non-native species invasion and to eliminate the potential for a sewer line leak to destroy section of the conservation lot's habitat. If the County claims this would be infeasible, it must explain in detail why that is.

12-18 | 11) Page 4-26 of the PRDEIR No. 3 falsely states that "though not necessary to reduce ashy-gray Indian paintbrush impacts to a level of less than significant". Further, on page 4-38 the document states "Because no true pebble plain habitat exists onsite, disturbance of the area previously characterized as pebble plain and included within the boundaries of Lot 2, does not constitute a significant impact. Accordingly, no impacts to pebble plain habitat would occur as a result of Project implementation as no pebble plain habitat exists within the Project site."

However, it is the plant species ashy-gray paintbrush that is listed as part of the federal endangered species list, not pebble plains habitat. And as also stated in the document on page 4-38, "It should be noted that CEQA requires all potentially significant impacts be avoided or substantially reduced prior to project approval, to the extent feasible." Therefore, it is absolutely necessary to reduce the impacts to this species below the level of significance. If not, and as this document and plan currently stands, the impact to ashy-gray paintbrush must be stated as "significant and unavoidable."

12-19 | 12) Forest edge impacts have not been properly stated nor mitigated for, especially given the lack of easily accessible and useable open space that would be available for residents of this proposed development. Lack of open space inside the development makes the nearby National Forest land, and

- 12-17 The comment conveys that the roadway should be redesigned to avoid conservation habitat. The comment cites a 5 Year Review by the USFWS from 2008, as well as the references therein. The PRDEIR No. 3 utilizes the most recent USFWS 5-Year Review from 2021 as a resource from which to forecast impacts. The comment effectively requests that the Project be redesigned to avoid what is perceived as “the middle of conservation habitat,” but fails to recognize that the Project itself has been designed to avoid 88% of the occurrences of ashy-gray Indian paintbrush. It should be noted that there are only 40 individual plants located within the roadway. The County directs the commenter to Response to Comment 12-16, which indicates that the metric of 100% avoidance is not the standard that the County perceives USFWS or the County itself must achieve to reach a level of less than significant. The protection in place of ashy-gray Indian paintbrush, as discussed under Response to Comment 12-16, would result in the preservation of 4.84 acres of ashy-gray Indian paintbrush will mitigate Project impacts on a 1.68:1 ratio, on an acreage basis. On an occurrence basis, the Project site contains 5,567 occurrences of ashy-gray Indian paintbrush with 88 percent, or 4,895 of the occurrences within the Project site that will be protected through permanent Conservation Easements designated within both lettered Lots A and H, which equates to a conservation on an occurrence basis of approximately 7:1. This is considered sufficient to achieve a level of less than significant with respect to the ashy-gray Indian paintbrush.
- 12-18 The comment references a quote that the commenter claims is false, but the commenter does not clarify what is false about the quote “though not necessary to reduce ashy-gray Indian paintbrush impacts to a level of less than significant.” The comment references quotations pertaining to pebble plains habitat extracted from the PRDEIR No. 3, and further relates this to an assertion that ashy-gray Indian paintbrush must be fully mitigated. The County finds this comment hard to follow, but believes that effectively, the commenter is relating the quote pulled from the PRDEIR No. 3 pertaining to pebble plain habitat to the impacts pertaining to ashy-gray Indian paintbrush. The 2010 Focused Special Status Plant Species Survey indicates that the ashy-gray Indian paintbrush mostly occurs in association with pebble plains habitat, but also basin sagebrush scrub, yellow pine, and lodgepole pine forest. On the Moon Camp property, ashy-gray Indian paintbrush occurs in the yellow pine forest (*Pinus jeffreyi*) plant community. Thus, the connection between pebble plains habitat and the presence of ashy-gray Indian paintbrush, is improperly correlated by the commenter in this comment. Furthermore, as stated under Response to Comment 11-7, the preservation of 4.84 acres of ashy-gray Indian paintbrush will mitigate Project impacts on a 1.68:1 ratio, on an acreage basis. On an occurrence basis, the Project site contains 5,567 occurrences of ashy-gray Indian paintbrush with 88 percent, or 4,895 of the occurrences within the Project site that will be protected through permanent Conservation Easements designated within both lettered Lots A and H, which equates to a conservation on an occurrence basis of approximately 7:1. The conservation of the ashy-gray Indian paintbrush on-site is the mitigation necessary to reduce impacts to this species to a level of less than significant.
- 12-19 The comment pertains to edge impacts that the commenter believes have not been adequately mitigated for. The substantiation for this claim is not provided by the commenter, particularly in regards to “lack of open space inside the development making the USFS land look like a ‘playground’.” Throughout the commenter’s comment letter, the commenter conveys concern over the open space easements, and the protections needed to prevent human disturbance within these spaces, in contrast to the commenter’s query here that additional open space is necessary to ensure that the residents of the Moon Camp Project do not utilize the USFS land as a “playground.” Because the commenter

does not provide any evidence that the residents or visitors of the Project site would, more than any other visitor of the Big Bear Valley, utilize the neighboring lands as a “playground,” the County denounces that there is substantial evidence to support that this would occur. Furthermore, as discussed throughout these Responses to Comments, the PRDEIR No. 3 focuses solely on the topics of Biological Resources (impacts to ashy-gray Indian paintbrush and pebble plain habitat), Hazards and Hazardous Materials (wildfire evacuation), and Land Use and Planning (consistency with the San Bernardino Countywide Plan). The analysis and CEQA determinations for topics that fall outside of the narrow focus of the PRDEIR No. 3 were deemed adequate by the Court, and therefore no longer warrant discussion or consideration beyond what was presented in the July 2020 FEIR, pursuant to CEQA Statute 15234(d).

Only new comments submitted on the recirculated portions of the PRDEIR No. 3 will be considered by the County. As an example, the comments in this comment letter pertaining to impacts on the edge impacts will not be considered in the responses to comments, because the Court determined that the impacts on such impacts were adequately analyzed in the July 2020 FEIR. Thus, the opportunity to comment on impacts determined to be adequate by the Court that were not the aforementioned focus of the PRDEIR No. 3 has concluded.

12-19
cont'd

the endangered plant habitat immediately adjacent to this project site look simply like a backyard playground. These edge impacts must be properly stated, analyzed and properly mitigated.

12-20

13) Conservation open space has a high probability of being seen as public open space for the residents. Even with signage and fences, it would be a constant issue to keep the conservation areas, including the shoreline near the eagle perch tree, free of human and pet disturbance. Separating this area from the homes by moving the road to avoid this area would make this open space less accessible to detrimental disturbance. This separation would entail moving the road and connecting it to the highway on the eastern side of the conservation area rather than through the middle of it.

12-21

14) As stated in the 5-year plan (Attachment B) on page 7, "the two primary threats identified at listing, urbanization and off-road vehicle use, continue to impact ash-grey (Indian) paintbrush. On private lands, development activities continue to threaten habitat and occurrences of the ash-grey (Indian) paintbrush. Among the threats identified in the final listing rule for this species were non-native species, and this threat still exists. Introduced species of grasses and forbs can displace ash-grey (Indian) paintbrush by competing for nutrients, water, light, and space." And on page 9, "Weedy plant invasions are facilitated by disturbances (71 FR 67712; Stephenson and Calcarone 1999) such as off-road vehicle use, urban and residential developments, and various recreational activities. In addition, fuels management activities, including vegetation removal and fire suppression activities, have the potential to facilitate non-native species introductions." These issues of development activities on the developable lots with ashy-gray paintbrush, and on the conservation lettered lots have not been addressed. What measures are planned to avoid and eliminate the issue of non-native plants in these areas?

Bald Eagle

12-22

As stated in the PRDEIR No. 3, the project would continue to have Significant, Unavoidable impacts on the bald eagles. Also as stated in the document on page page 4-38, "It should be noted that CEQA requires all potentially significant impacts be avoided or substantially reduced prior to project approval, to the extent feasible." According to the document <https://cbop.audubon.org/conservation/human-activity-and-disturbances-near-active-bald-eagle-nests> eagles can be most disturbed where they forage and eagles are most vulnerable to disturbance early in the nesting period, i.e. during courtship, nest building, egg laying, incubation, and brooding. With the nest within less than a mile of this shoreline, it should be noted that "a decrease in productivity, or nest abandonment are a violation of the federal Bald and Golden Eagle Protection Act." This violation has not been accounted for in the overall

- 12-20 The commenter raises a concern that the Conservation Easements would not be sufficient to prevent poor human behavior from resulting in disturbance within the Conservation Easements. The commenter refers to the concept that the roadway should be moved to further protect the ashy-gray Indian paintbrush. The movement of the roadway has been fully addressed under Response to Comment 12-17. Furthermore, as discussed under Response to Comment 11-6, MM **BR-1c** would limit access to the Conservation Areas through the installation of barriers around these areas. This, in and of itself, would ensure that the 88% of ashy-gray Indian paintbrush occurrences are preserved, by minimizing the potential for unauthorized human activity within these conservation areas. Furthermore, the provisions of MM **BR-1b** would implement the Long Term Management Plan, which designates a Conservation Easement Manager that would effectively oversee that MM **BR-1c** are properly implemented, thereby not leaving the enforcement solely to the whims of human behavior.
- 12-21 The comment conveys concern over non-native plant invasion that could adversely impact ashy-gray Indian Paintbrush. Response to Comment 11-11 indicates that the Draft Long Term Management Plan (Appendix 11) specifies that the Conservation Easement Manager must provide an annual report on the rare plants on the Moon Camp property, which would include a reporting of any damage to the habitat resulting from invasive plants. Remediation actions, such as invasive species management, through maintenance would be managed through the Rare Plant Habitat Management Program, and would be performed on a monthly basis.

Outside of the Conservation Easements identified above, as described under Response to Comment 12-11, 10-3, and 11-7, the conservation of ashy-gray Indian paintbrush outside of the Conservation Easements established on site are not necessary to fully mitigated the Projects' impacts on ashy-gray Indian paintbrush. The implementation of MM **BR-1d** is not required to achieve a level of less than significant, as has been discussed in prior responses to comments. MM **BR-1d** is solely intended to facilitate further protections to this species above and beyond the identified on-site conservation, wherever feasible. Thus, the protection of this species on site outside of the Conservation Easements established on site from invasive plants is not necessary to minimize impacts to this species to a level of less than significant and commenter's requests for additional discussion regarding development activity is not necessary.

- 12-22 The comment conveys concern over the impacts on bald eagle from implementation of the proposed Project, and quotes the PRDEIR No. 3 noting *"that CEQA requires all potentially significant impacts be avoided or substantially reduced prior to project approval, to the extent feasible."* The sentence that follows this quote on page 4-38 notes that *"As previously noted, the Project is likely to result in significant unavoidable impacts to the bald eagle. Based on the County of San Bernardino criteria for determining impacts to bald eagles, any removal of perch trees or human activity resulting in light noise impacts are considered a significant impact under CEQA. This threshold is so restrictive that there is no reasonable configuration to the Moon Camp Project that could avoid a significant impact to the bald eagle. Therefore, further project modifications would not avoid or substantially reduce the identified impacts to bald eagles."* Importantly, this is the same language that was utilized in the July 2020 FEIR. As discussed in the introduction to these responses to comments, and under Response to Comment 2-1, the PRDEIR No. 3 focuses solely on the topics of Biological Resources (impacts to ashy-gray Indian paintbrush and pebble plain habitat), Hazards and Hazardous Materials (wildfire evacuation), and Land Use and Planning (consistency with the San Bernardino

Countywide Plan). The analysis and CEQA determinations for topics that fall outside of the narrow focus of the PRDEIR No. 3 were deemed adequate by the Court, and therefore no longer warrant discussion or consideration beyond what was presented in the July 2020 FEIR, pursuant to CEQA Statute 15234(d).

Only new comments submitted on the recirculated portions of the PRDEIR No. 3 will be considered by the County. As an example, the comments in this comment letter pertaining to impacts on the bald eagle will not be considered in the responses to comments, because the Court determined that the impacts on bald eagle were adequately analyzed in the July 2020 FEIR. Thus, the opportunity to comment on impacts determined to be adequate by the Court that were not the aforementioned focus of the PRDEIR No. 3 has concluded.

impacts. There are additional changes to the project that could serve to avoid more impacts to the bald eagle that have not been done to help avoid a violation of this law.

12-22
cont'd

- 1) Eliminating Lots 1-3 of the project and adding that area to Lot A for conservation would allow for additional bald eagle perch trees to be included in the conservation area.
- 2) The LTMP must be included as part of the adoption of this project and the requirements in the LTMP must be upgraded to include accounting for nesting and year-round bald eagles rather than only wintering eagles.
- 3) BR-8 regarding motorized boating only serves the wintering population of bald eagles and not the year-round population and nesting bald eagles since the impacts would continue to be adverse and significant so long as the shoreline area is being used for parking and a marina with motorized boating during the summer months.

Land Use Planning

12-23

- 1) RTP/SCS/Connect SoCal Goal 10: Since the project would have an unavoidable adverse impact to bald eagles, this goal of promoting the conservation of natural resources and of restoration of natural habitats is absolutely NOT met by the project. In addition, since much of the ashy-gray paintbrush located on the project site would be destroyed by development of the project and since the mitigations offered do not serve to lower the impact to this species below the level of significance, this goal again is not being met by this project.

12-24

- 2) Policy LU-2.3 Compatibility with natural environment: Having housing planned to be on top of existing endangered species and habitat and building a road through the proposed conservation area makes this Moon Camp project definitely not compatible with the natural environment. The mitigations offered both for the ashy-gray paintbrush and for the bald eagle leave it so that both are left with the project creating unavoidable significant impacts. This situation makes it completely contrary to being compatible with the natural environment.

12-25

- 3) Policy LU-2.8 Rural lifestyle in the Mountain/Desert regions: 50 large homes, along with streetlights, sidewalks and many of the other things planned for this project are not consistent with the current area of Fawnskin nor with the existing housing element in Fawnskin and therefore does not match the rural lifestyle of this area.

12-26

- 4) Policy NR-5.8 Invasive species: There are no mitigations or HOA regulations or anything in the Moon Camp plans that do anything to eliminate or avoid the

- 12-23 The comment alleges that the goal of promoting conservation of natural resources and restoration of natural habitats is not met due to significant and unavoidable impacts on bald eagle, and ashy-gray Indian paintbrush. First, the commenter alleges that “much of the ashy-gray Indian paintbrush will be destroyed” by the implementation of the Project. Further the commenter alleges that the Project would result in significant and unavoidable impacts on ashy-gray Indian paintbrush. In regards to the first assertion, throughout these Responses to Comments and in the PRDEIR No. 3, the County has provided substantial evidence that the Project would only impact 12% of the ashy-gray Indian paintbrush occurrences on site, with the remaining 88% of the ashy-gray Indian paintbrush occurrences on site protected through the establishment of Conservation Easements. Thus, it is false to presume that “most” of this species would be extirpated by the Project. A fundamental goal of redesigning the Project as part of the 2011 RRDEIR No. 2 was to avoid development in the areas of the highest concentrations of ashy-gray Indian paintbrush. Throughout these Responses to Comments, particularly in Response to Comment 10-3, the County has demonstrated that the impacts to the ashy-gray Indian paintbrush would be less than significant with the implementation of mitigation. Thus, the County disagrees that the Project would result in destruction of ashy-gray Indian paintbrush outside of that which has been disclosed throughout the PRDEIR No. 3 analysis and herein.

The comment alleges that Connect SoCal Goal 10 cannot be met by the Project due to significant and unavoidable impacts to bald eagles. The County, utilizing its authority under CEQA, reviewed the analysis regarding Connect SoCal Goals and San Bernardino Countywide Plan Goals and Policies in circulating this PRDEIR No. 3 for public review. A Court case based in San Bernardino County—Joshua Tree Downtown Business Alliance v. County of San Bernardino is 1 Cal.App.5th 677 (2016) (Case No. E062479)—found that, the language utilized in, in this case the County’s General Plan, are “precisely the sort of amorphous policy terms that give a local agency some discretion.”⁹ In this case the Connect SoCal Goal 10 utilizes the term “promote” conservation of natural resources and agricultural lands and restoration of habitats. It does not mandate that every Project achieve each and every one of these principals without significantly impacting any of the above resources. It promotes these principals in that it is at the lead agency’s discretion to determine what consistency with these goals and policies looks like. In the case of the Moon Camp Project, the San Bernardino Countywide Plan has designated the Project site for Very Low Density Residential (VLDR) use, which presumes that the site may be developed under this land use designation at some point in time. The analysis provided in response to this policy notes that the Project has incorporated the principal of conservation into the site plan, including preservation of many, though not all bald eagle perch trees, and through the Conservation Easements that would protect ashy-gray Indian paintbrush. The County recognizes that, based on the San Bernardino County’s threshold regarding removal of perch trees for bald eagle, the Project would result in a significant and unavoidable impact on bald eagle, but this does not preclude the Project from being consistent with this Connect SoCal Goal, as determined in the PRDEIR No. 3.

- 12-24 The comment alleges that Project cannot be consistent with the Countywide Policy LU-2.3, compatibility with the natural environment. The comment further argues again that the

⁹ Miller Starr Regalia, 2016. Court Rejects General Plan Consistency Challenge Regarding City’s Approval of Franchise Retail Store Where Applicable Economic Development Goals and Policies are Alleged to Favor Small, Independent Businesses. <https://www.landusedevelopments.com/2016/07/court-rejects-general-plan-consistency-challenge-regarding-citys-approval-franchise-retail-store-applicable-economic-development-goals-policies-alleged-favor-small-indep/> (Accessed 04/10/24)

Project would result in significant and unavoidable impacts on ashy-gray Indian paintbrush. This part of this comment was responded to fully under Response to Comment 12-23, above. As referenced above, a Court case based in San Bernardino County—Joshua Tree Downtown Business Alliance v. County of San Bernardino is 1 Cal.App.5th 677 (2016) (Case No. E062479)—found that, because policies in a general plan reflect a range of competing interests, the governmental agency must be allowed to weigh and balance the plan's policies when applying them, and it has broad discretion to construe its policies in light of the plan's purposes. In this case, the County has, in its discretion as the Lead Agency over its Countywide Plan, interpreted that the proposed Project has been designed to be compatible with the natural environment through establishment of Conservation Easements, retainment of many bald eagle perch trees, no development along the Big Bear Lake shoreline, and compliance with the VLDR land use designation. Once again, the San Bernardino Countywide Plan has designated the Project site for VLDR use, which presumes that the site may be developed under this land use designation at some point in time, and the County has judged that the proposed Development, consistent with the VLDR land use designation, is consistent with Policy LU-2.3.

- 12-25 The comment disagrees with the analysis in the PRDEIR No. 3 that the development would be consistent with the rural lifestyle of the Community of Fawnskin. Please refer to Responses to Comments 12-23 and 12-24, above. The County has exercised its discretion as the Lead Agency over its Countywide Plan, interpreted that the proposed Project, particularly as it would comply with the Countywide Plan's land use designation and the County's zoning classification (Bear Valley/Single Residential–20,000 SF Minimum (BV/RS-20M)) for this Project site, that the Project would be consistent with Policy LU-2.8 related to compatibility with the rural lifestyle in the Mountain region.
- 12-26 The comment alleges that the Project would not be consistent with Policy NR-5.8, which requires the use of non-invasive plant species and encourages the management of existing invasive species that degrade ecological function. Firstly, the commenter alleges that the Project could not eliminate or avoid the introduction of invasive species. The Policy encourages the management of existing invasive species, and does not pertain to ongoing management of invasive species as the commenter suggests in this comment. Regardless, refer to Responses to Comments 12-21 and 11-11, which reiterate that, the Draft Long Term Management Plan (Appendix 11) specifies that the Conservation Easement Manager must provide an annual report on the rare plants on the Moon Camp property, which would include a reporting of any damage to the habitat resulting from invasive plants. Remediation actions, such as invasive species management, through maintenance would be managed through the Rare Plant Habitat Management Program, and would be performed on a monthly basis. Thus, invasive species management has been considered and would be feasible, as demonstrated herein.

12-26
cont'd introduction of Invasive species into the landscaping of the homes that would be on this property. This project is not consistent with this policy.

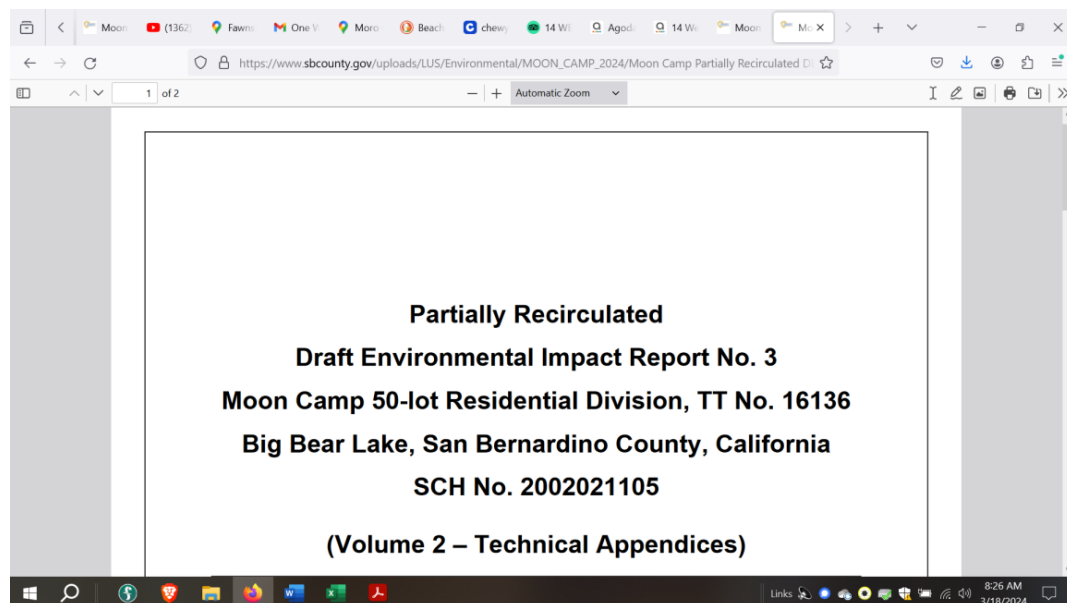
12-27 5) Policy RE-1.1: The PRDEIR claims that the project is consistent with this policy but there are no mitigations nor HOA requirements

12-28 Moving forward with this proposed project continues to have unmitigated significant adverse impacts on protected species, both bald eagles and ashy-gray paintbrush. In addition, this project is inconsistent with several of the county's stated policies and goals for land use and approval of a development project.

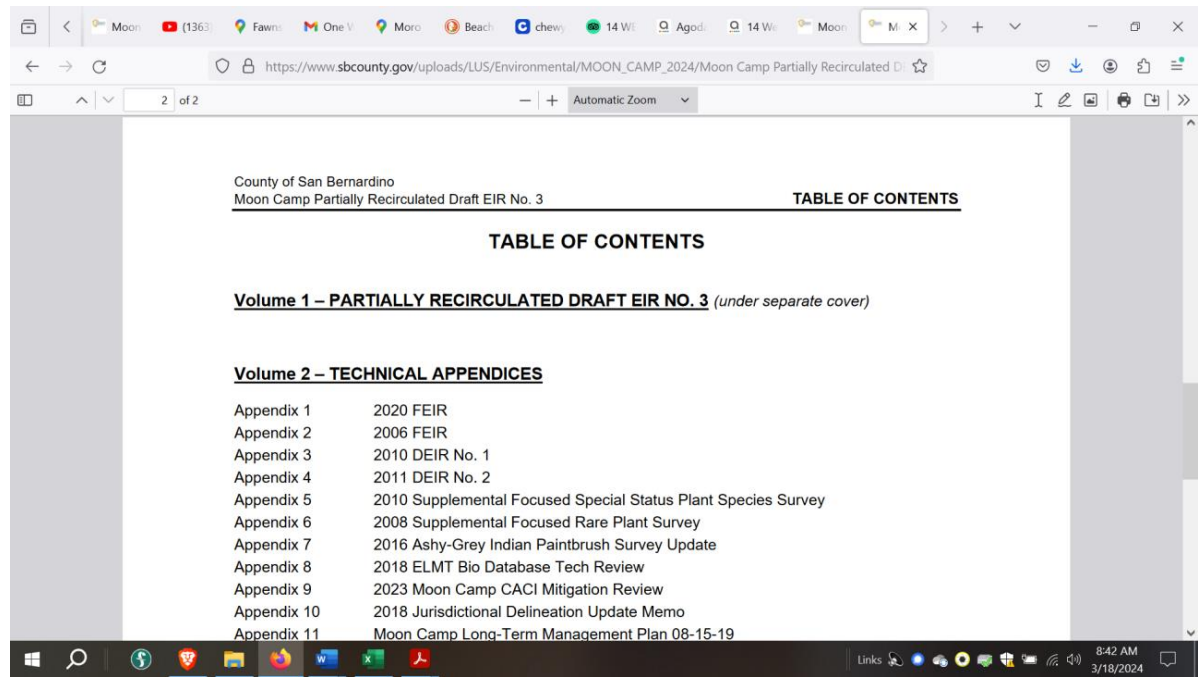
We also request an extension of the public comment period since Volume 2, the Technical Appendices, are not available on the County website containing the environmental documents for this project. When I tried to obtain access to these documents to find answers to some questions and concerns I have regarding this PRDEIR No. 3, I emailed Mr. Morrissey, the planner in charge of this project. His automatic return email said that he was out of the office and would not return until March 19, which is after the close of the public comment period. It said to email Mr. Steven Valdez, which I did. I received another automatic reply saying that Mr. Valdez no longer works for the County and referred me to Mr. Liang. When I called Mr. Liang at the number provided, the message said that he was working remotely and to please call his cell phone or email. I have done both and not received any response.

Here are screenshots of the 2-page document that opens from the link provided on the County website: the figures show page 1 of 2 and page 2 of 2.

12-29



12-29
cont'd



County of San Bernardino
Moon Camp Partially Recirculated Draft EIR No. 3

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Volume 2 – TECHNICAL APPENDICES

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Appendix 5	2010 Supplemental Focused Special Status Plant Species Survey
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Appendix 7	2016 Ashy-Grey Indian Paintbrush Survey Update
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Appendix 10	2018 Jurisdictional Delineation Update Memo
Appendix 11	Moon Camp Long-Term Management Plan 08-15-19

Sincerely,



Sandy Steers

Cc: Babak Naficy

Attachments:

Attachment A – Map: mc pebble plain map.pdf

Attachment B – Report: Ash-grey (Indian) Paintbrush
(*Castilleja cinerea*) 5-Year Review—March 2008

- 12-27 The commenter alleges that the Project would not be consistent with RE-1.1 because there are no mitigations in place to enforce the design attributes and elements of the Project that are intended to conserve energy. The mechanism in place to ensure compliance with the design attributes is that the CEQA documentation has been modeled utilizing several assumptions regarding the energy efficiency objectives listed in response to Policy RE-1.1, on pages 4-98 and 4-99 of the PRDEIR No. 3. If changes are made to the Project design, these changes must be reviewed by the County and in light of the analysis presented in the CEQA Documentation, and if substantial changes are proposed, a follow on CEQA document would need to be prepared to address these changes. Again, here the County has, in its discretion as the Lead Agency over its Countywide Plan, interpreted that the proposed Project is consistent with the energy conservation and energy efficiency measures identified in the County of San Bernardino Greenhouse Gas Emissions Reduction Plan.
- 12-28 The comment conveys that the Project would be inconsistent with the County's land use goals and policies, and would result in significant and unavoidable adverse impacts on bald eagle and ashy-gray Indian paintbrush. As demonstrated throughout these Responses to Comments, the County has judged the Project's as consistent or not in conflict with the applicable Countywide Plan goals and policies, and the Connect SoCal goals. Furthermore, as demonstrated throughout these Responses to Comments, the impacts to ashy-gray Indian paintbrush were determined to be less than significant *"through site design and the implementation of MMs **BR-1b** and **BR-1c**, which establish and ensure the permanent preservation of on-site conservation easements that would protect 88 percent of the ashy-gray Indian paintbrush within the Moon Camp Project site, thereby resulting in mitigation protecting the species at an approximately 7:1 ratio on an on-site plant occurrence basis, and on an acreage basis at a 1.68:1 ratio. Furthermore, the proposed project would protect up to an additional 127 species through the implementation of MM **BR-1d** by restricting the building envelopes or building setback lines to prevent construction in the occupied ashy-gray Indian paintbrush habitat. Finally, to ensure adherence with USFWS recommendations for reducing threats to and providing conservation for the ashy-gray Indian paintbrush, and thereby mitigation impacts to the species, MM **BR-1a** would establish a seed collection program to conserve the ashy-gray Indian paintbrush seed for the up to 672, or as few as 545 affected occurrences of the species on-site. The above-described implementation of mitigation measures would facilitate not only protection of the species in place on site totaling at least 88% of on-site occurrences, but would also preserve the existence of the species through genetic conservation by way of a seed collection. Thus, the impacts to ashy-gray Indian paintbrush would be fully mitigated through adherence to the provisions of the USFWS recommendations for conservation and protection of the species, thereby impacts to ashy-gray Indian paintbrush are collectively concluded to be less than significant."* Page 4-27 of the PRDEIR No. 3.

The focus of PRDEIR No. 3 impacts related to Biological Resources (impacts to ashy-gray Indian paintbrush and pebble plain habitat), Hazards and Hazardous Materials (wildfire evacuation), and Land Use and Planning (consistency with the San Bernardino Countywide Plan). The analysis and CEQA determinations for topics that fall outside of the narrow focus of the PRDEIR No. 3 were deemed adequate by the Court, and therefore no longer warrant discussion or consideration beyond what was presented in the July 2020 FEIR, pursuant to CEQA Statute 15234(d). Thus, impacts to bald eagle were deemed fully adequate by the Court and therefore remain significant and unavoidable.

12-29 Please refer to Response to Comment 11-13. This comment requests an extension of the comment period due to the commenter's inability to access the Appendices. The Appendices have been available on the County's website, but there appears to be some confusion. The Appendices were not compiled into one singular PDF because the documents were incredibly large files. The County posted a Volume II Table of Contents, with the remaining Appendices labeled and made available as independent files. No extension of the comment period shall be granted. The comment is noted, and will be made available to the County decision-makers as part of the RFEIR package prior to a decision on the proposed Project.