

**Letter 26**

Public Hearing 6/27/2009

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REPORTER'S TRANSCRIPT

PUBLIC HEARING

RE: FAIRFAX TIMBERLAND CONVERSION PROJECT  
DRAFT ENVIRONMENTAL IMPACT REPORT

--oOo--

BE IT REMEMBERED, that on Saturday, June 27, 2009,  
commencing at the hour of 1:00 p.m. thereof, at Horicon  
Elementary School, 35555 Annapolis Road, Annapolis,  
California, before me, Deborah E. Taggart, Certified  
Shorthand Reporter of the State of California, the  
following proceedings were had:

P R O C E E D I N G S

MR. ROBERTSON: All right. We'll get under way.

My name is a Allen Robertson. I'm with the  
Department of Forestry and Fire Protection,  
affectionately known nowadays as Cal Fire. And we are  
here to have a public hearing on the Fairfax Timberland  
Conversion Draft EIR, the public comment right now.

Just a couple of housekeeping items: I'm sure  
most of you folks know, but the restrooms are open and  
just around the corner here to the left outside the  
auditorium, if need be.

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1           With me today, I have Tim Raney, representing  
2 Raney Planning. I have Nick Pappani also with Raney  
3 Planning. And David Gilbreth is in the audience and  
4 he's representing the applicant for the conversion  
5 permit and Timber Harvest Plan.

6           And I also have with us Deborah Taggart.  
7 She's a court reporter and she's preparing a transcript  
8 of what occurs here today at our meeting. So if you  
9 contact me after the meeting, we would be able to make a  
10 copy of the transcript for you, if you so desire.

11           I'm going to go through a couple of items  
12 myself, basically talking about where we are in the  
13 process for those of you who may not be familiar with  
14 the project as a whole. We will also have a project  
15 summary prepared or presented by the EIR writers, and  
16 then we will open the thing up for public comment and  
17 start the official hearing.

18           If anybody wants to make comments orally  
19 today, please put your name on one of the speaker's  
20 cards. I have some up here and there's some more over  
21 by the door. We will use those for calling up  
22 the speakers when we are prepared to have them make  
23 comments.

24           And occasionally during the discussion I'll  
25 make reference to public notice and public comment and

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1 where that may be addressed, and that is available in  
2 the Notice of Availability that was mailed to many of  
3 you and also available at the door. It's got e-mail  
4 addresses and mailing addresses for you to submit  
5 comments.

6 At this point, I will begin talking about the  
7 process and where we are today.

8 Many of you may recall back in 2001 the  
9 applicants submitted an application to convert a portion  
10 of their ownership to vineyard. And at that point a  
11 negative declaration was prepared by the department and  
12 released for public review. That was back in 2003.  
13 Subject to receiving public comment on that document, it  
14 was never approved by the department and the applicant  
15 chose to go back and redo their project and come up with  
16 a new project description.

17 And so in 2004, they revised the project  
18 application and submitted a revised one to the  
19 department. And at that point we determined that an EIR  
20 would be required to approve that project, that  
21 timberland conversion project. And so, therefore, they  
22 have embarked on the preparation of an EIR, and the  
23 department has been overseeing that EIR development over  
24 the past four years.

25 Questions have been raised about why it took

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1 so long to write an EIR, but there were tremendous  
2 changes made to the project, as many of you are aware.  
3 And we required that several studies be done in terms of  
4 biological surveys done to protocol, cultural resource  
5 surveys be completed as well as analyses of hydrology in  
6 the area and so forth. So it's been quite a long,  
7 laborious process, but we do have that draft EIR out for  
8 public review today, and that document is open for a  
9 60-day public comment period, which began on May 29th  
10 and closes on July 27th this next month.

11 I wanted to let you know that the earlier  
12 comments that were submitted by the public on the draft  
13 negative declaration that was prepared back in 2004,  
14 those comments have been incorporated into this EIR and  
15 considered in the current EIR and the design of the  
16 project as well as public comments that were made during  
17 the scoping when we opened the EIR process for the  
18 current application. So your comments are summarized in  
19 Chapter 1 of the EIR and addressed later on in the  
20 document.

21 The document's been available now since late  
22 in May and it's available on the department's public  
23 notice page electronically, if you are able to download  
24 it that way. It's also available through what you may  
25 be more familiar with is the department's THP review

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1 pages in our Santa Rosa office as well. And we have  
2 copies available at the school here. The school office  
3 has a copy. It's also available at the Santa Rosa  
4 library as well as Cal Fire offices in the Santa Rosa  
5 area.

6 I wanted to talk about coordination of what we  
7 have as both the Timberland Conversion Permit's been  
8 applied for and to harvest the timber, a Timber  
9 Harvesting Plan is also required. So the department's  
10 had the rather difficult task of trying to coordinate  
11 the review and public comment on two documents, two  
12 permits at almost simultaneous time.

13 The Timberland Conversion Permit is not  
14 covered by the forest or the Timber Harvest Plan review  
15 process. The Timberland Conversion Permit requires the  
16 department to comply with full CEQA. And that's why we  
17 prepared an EIR. There's also the Timber Harvest Plan  
18 which has to go through its own review process which is  
19 subject to the Forest Practice Rules. They are similar.  
20 They are both -- they are both CEQA processes, but they  
21 are different.

22 And we have the difficult job of trying to  
23 coordinate the review of both of those process  
24 simultaneously. And so occasionally, there maybe some  
25 noticing things that are handled differently, timing

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1 things that are handled differently. And it's not  
2 something that's done unintentionally. It's done  
3 because we are trying to comply with these two sometimes  
4 conflicting sets of rules, trying to harmonize two  
5 different processes. And we've tried to do that by  
6 trying to coordinate the public review period for both  
7 documents at the same time.

8 So when the THP was submitted for filing, that  
9 then initiated us releasing the draft EIR for public  
10 review. We will hold that document open, as I said,  
11 until the end of July. But the THP close-of-comment  
12 period is not determined by any set length of time.  
13 It's determined by when the preharvest inspection's  
14 completed, when second review of the THP occurs. And  
15 that date can sometimes keep extending out into the  
16 future. So we don't know today exactly when the THP  
17 comment period will end, but it appears it will end  
18 sometime after the EIR comment period.

19 So our department, in trying to harmonize  
20 these two processes is leaving public comment open on  
21 the project as a whole until the last public comment  
22 period ends. And in that case, it appears it will be  
23 the THP. So you'll be free to submit comments to any of  
24 ours offices, either the Santa Rosa THP review office or  
25 my office in Sacramento. You'll be able to submit

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1 comments on the project as a whole, either office, up  
2 until the close of the last comment period.

3 So that may be a little confusing, but it's  
4 not meant to be. It's actually intended to give you as  
5 much opportunity as possible to comment on the project.

6 And I wanted to let you know also that we are  
7 not going to differentiate between the comments that we  
8 receive. Any comment we receive, we will consider as  
9 being a comment on the project as a whole. And all  
10 those comments will be addressed and responded to in  
11 writing collectively, not individually, based upon which  
12 document we are looking at. So you'll see a complete  
13 response to comment or official response that will be  
14 identical for both permits.

15 As I said, close of comment is July 28th.  
16 However, we don't know when the close of comment is on  
17 the THP yet, is it will probably be in August sometime.  
18 And you can check on the close of comment through the  
19 THP Web site as well. It keeps the public notified  
20 about when THP's expected to close comment.

21 So you may submit comments to us in writing.  
22 We have an e-mail address that's available on this  
23 notice as well as a mailing address. And if you have  
24 detailed comments, that may be the best way to submit  
25 your comments is in writing through that process.

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1           However, we are accepting oral comments here  
2 today. So we welcome you to present those comments  
3 orally. We also have a sheet over there by door. If  
4 you choose to write down your comments today and hand  
5 them in to us, that's fine. Or you can mail that sheet  
6 in as well. Either way is fine.

7           When we are done with the public comment  
8 period, when that finally closes, both on the THP and  
9 for the EIR, we will then prepare a response to comments  
10 that have been received. And we will also make any  
11 edits or changes to the EIR that are warranted in  
12 preparation of a final EIR. And we may need to consider  
13 having to recirculate the EIR if we find that  
14 substantial changes in the EIR are required. That will  
15 be something we need to determine once the public  
16 comment period has ended and we have considered and  
17 responded to all the comments.

18           Once we have a final EIR prepared, it will be  
19 the director's determination as to whether to approve or  
20 disapprove the Timberland Conversion Permit and also  
21 approve or disapprove the Timber Harvesting Plan  
22 associated with the project. So that is something that  
23 our director will have to determine once the public  
24 review comment has ended and once the response to  
25 comments and the final EIR has been prepared.

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1           In addition to the permits that our department  
2 issues, the Timberland Conversion Permit and the Timber  
3 Harvest Plan, this project will also require permits  
4 from the Army Corps of Engineers for a 404 permit. And  
5 it's also going to require permits from the Department  
6 of Fish & Game for their Streambed Alteration Agreements  
7 necessary to implement the project.

8           So there are other permits. Sonoma County  
9 also has some administrative approvals over the project  
10 for various phases and functions that will occur in  
11 carrying out the project. So other agencies will be  
12 involved in the permitting of the project as a whole.  
13 But our department is lead agency for the CEQA document,  
14 and it's our responsibility to ensure that that document  
15 includes all the things that those other agencies need  
16 to make their approves as well.

17           At that point, I'm concluding my comments.  
18 And I wanted to then turn this over to the EIR preparers  
19 to discuss the document itself. So Tim Raney is going  
20 start off.

21           MR. RANEY: Can you hear me okay?

22           Good afternoon, everybody. My name is Tim  
23 Raney. I am president of Raney Planning & Management.  
24 My firm has been contracted to prepare the draft --  
25 actually, the Environmental Impact Report for this

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1 project. And so I wanted to talk about our roles and  
2 responsibilities here. And then I want to turn it over  
3 to Nick here who is going to give an overview of the  
4 project and the environmental effects.

5 Our role here is to provide to the Department  
6 of Forestry and to Allen an adequate EIR, Environmental  
7 Impact Report, under the California Environmental  
8 Quality Act. Our direction has been provided to us by  
9 Allen and his staff. The California Department of  
10 Forestry is the lead agency for this project. So we are  
11 providing it for their use. It does end up being a  
12 document that belongs to them. We are under contract  
13 with the applicant. That is so that our bills get paid.  
14 But all discussions and information that we've received  
15 has come through Allen and as a part of very specific  
16 communication protocols that we followed all along this  
17 process to make sure that Cal Fire is providing us the  
18 direction for this document.

19 So with that, I'm going to turn it over to  
20 Nick to talk about the process and the project and the  
21 environmental effects.

22 MR. PAPPANI: Thank you, Tim. Again, my name is  
23 Nick Pappani. I'm division manager with Raney Planning  
24 & Management.

25 I just wanted to thank you all of you coming

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1 for out today. This is an important part of the  
2 process. CEQA's really intended to fully disclose  
3 impacts and mitigation so that the public can have an  
4 opportunity to review those conclusions and comment on  
5 those. And certainly your knowledge of the local area  
6 is absolutely pertinent. So we appreciate your being  
7 here, again.

8 I'm going to start with just an overview of  
9 the project, and then from that segue into the findings  
10 of the Draft EIR. And I'm not going to cover  
11 everything. It would take a while in terms of getting  
12 through each of the resource chapters. But I will kind  
13 of highlight what I think are probably, you know, those  
14 items that people may be most interested in here.

15 So just to begin, again, I'll try not to be  
16 redundant, but the project involves the issuance of a  
17 Timber Conversion Permit, which would exempt 171 acres  
18 from a 324-acre property from the Forest Practice Act  
19 tree stocking requirements in order to facilitate the  
20 development of the vineyard.

21 The timber Harvest Plan is also a component,  
22 as you know. Land-clearing activities are proposed to  
23 begin upon approval of the applicant's TCP and THP by  
24 Cal Fire.

25 Just to point out, Appendix E and the Draft

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1 EIR is the Timber Harvest Plan, and it might be good  
2 just at this point to just kind of -- basically, here  
3 are the documents. So we have the two volumes together,  
4 which constitute the full EIR.

5 So the first volume is the technical analysis,  
6 description of the project and then all the chapters:  
7 Biology, cultural resources, hydrology and so forth.  
8 And then the second volume includes all the technical  
9 appendices. So it's slightly larger than the first  
10 volume, and that has the various reports of the  
11 technical experts that we hired. Their reports are  
12 included within this document for additional review, if  
13 you'd like to view that. And I'll be referring to some  
14 of those reports as I continue here.

15 Timber conversion activities consistent with  
16 the Forest Practice Rules cannot occur during the winter  
17 period between November 15th and April 1st. The  
18 proposed timber conversion area does not contain any  
19 water courses. Timber harvesting and conversion  
20 operations would not occur in or immediately adjacent to  
21 any water courses on the project site. Class I streams  
22 do not exist on the site. The Class 2 and Class 3 water  
23 courses on site would be protected by water course and  
24 lake protection zones through Forest Practice Rules.

25 Just a couple of notes on roads. Timber

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1 harvesting access will be provided primarily by the  
2 existing seasonal roads. The installation of three  
3 temporary roads would be required for timber harvesting.  
4 With the exception of the two existing permanent roads,  
5 which provide access to neighboring residences, all  
6 existing seasonal roads, tractor roads, landings located  
7 within the area would be abandoned following completion  
8 of the timber harvest operations.

9 I spent a little time talking about,  
10 subsequent to the harvesting operations, what would  
11 occur. Really, the Phase 2 -- the harvesting would be  
12 Phase 1 and Phase 2 being the removal of the remaining  
13 nonmerchantable and noncommercial timber and other  
14 vegetation. The majority of this slash will be chipped  
15 on site for erosion-control purposes. Some piles will  
16 be left in place to provide wildlife habitat. And the  
17 burning of slash would not occur.

18 Phase 3 and 4, the final is the reservoir  
19 installation and vineyard development. The reservoir  
20 involves the construction of a 73-acre-foot reservoir  
21 and a sump, occupying approximately nine acres of the  
22 site, and it would supply the proposed vineyard with  
23 water.

24 The runoff capture system supplying the  
25 proposed reservoir would capture only overland sheet

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1 flow and would not draw water from any other channel on  
2 the project site. I'll be up, pointing at a few  
3 features in a short time here. So we will point out  
4 some of these items.

5 The vineyard plan itself, in addition to the  
6 171-acre conversion area, 19 acres would be converted  
7 from meadow to vineyard uses. And as you know, that's  
8 in the northernmost portion, the central portion of the  
9 project site, the 19-acre grassland area. So resulting  
10 in a total developed area of 190 acres.

11 The net plantable vineyard area is 135 acres,  
12 which would be composed of eight distinct vineyard  
13 units, which also have some subunits.

14 Conservation easement areas. So within the  
15 plan, several preserves have been set aside for resource  
16 protection. There may be at this point -- I'll come up  
17 here.

18 So this is, just as you can see, an exhibit  
19 really kind of tending to focus on the preserves. And  
20 this here is actually the vineyard plan that gives all  
21 the details. So it identifies the proposed reservoir.  
22 And it also identifies, and is probably going to be best  
23 if you like to come take a look after, but the various  
24 vineyard units, which are indicated by different  
25 hashings, the lines, line directions. There's unit 1.

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1 Again, there some subunits. So unit 1-A, 1-B. There's  
2 only a portion of it that's going to be north of  
3 Annapolis Road, and that's this unit right here. The  
4 rest will be, of course, south of Annapolis. And so you  
5 can see the various vineyard units that are placed  
6 throughout.

7 There's also an incorporation of sediment  
8 catch basins. I'll talk a little bit more about that as  
9 we go. Those are indicated in the kind of triangular  
10 shape here in red. And those are placed specifically to  
11 serve as the capture of runoff from the vineyard unit  
12 areas and to trap as much of the sediments as possible.  
13 And so the erosion control analysis is factored into  
14 those sedimentation catch basins and their  
15 effectiveness. And we'll talk about those numbers a  
16 little bit.

17 But in terms of the preserve areas, over here  
18 there's a 15.6-approximately-acre horkelia reserve. So  
19 that's the thin-lobe horkelia. And in addition to that,  
20 there's also two different preserves that constitute  
21 4.4 acres of the Annapolis manzanita, and those are in  
22 this preserve area here and then, again, here on the  
23 eastern side of the site.

24 And also within -- there's wetlands there also  
25 in the preserve in these areas, existing wetlands that

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1 you can see are indicated in these circular outlines.

2 And so I think there's -- I'll just hit this  
3 too. One-acre corporation yard. That will be utilized  
4 for storage of some of the equipment, and we will talk  
5 about that in just a little bit as well.

6 So that's kind of the basics there.

7 So for the total reserve, there's 20 acres of  
8 reserve area that -- which are comprised of the items I  
9 just pointed out. The corporation yard, again, is one  
10 acre, and there will be a low-yield potable water well  
11 drilled in the vicinity of the corp. yard on the north  
12 side of Annapolis Road. This is to provide water for  
13 washing and other incidental needs of vineyard workers.  
14 It's not in any way to provide irrigation water for the  
15 vineyard. It's just solely for the workers.

16 The document includes some details on the GPM.  
17 It's very low, 10 gallons per minute approximately. And  
18 there would be a water tank also that would provide some  
19 storage for the vineyard worker purposes.

20 Let me hit the Erosion Control Plan just a  
21 little bit and just kind of highlight some of the  
22 aspects of that. The Erosion Control Plan is included  
23 as appendix B in Volume II. So that's available,  
24 prepared by Lee Erickson, our agricultural engineer.

25 And there's seven mitigation sites and

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1 activities proposed for the project. And, really, these  
2 were identified in conjunction with Matt O'Connor from  
3 O'Connor Environmental, who is a geomorphologist that  
4 we've hired to do analysis of the hydrology and the  
5 erosion on site. And as he did his field visits and  
6 began his modeling, one of the purposes was to identify  
7 any areas on site where existing erosion was occurring  
8 that he felt could be ameliorated as part of the plan.  
9 And so what resulted from that was identifying certain  
10 areas that could be targeted for improvement and  
11 reduction of erosion.

12 I don't want to take too long here because  
13 it's quite detailed, but I'll give a few examples.

14 Elimination of a degraded ATV trail under  
15 power lines.

16 Rock arm and outfall on Annapolis Road culvert  
17 outside the vineyard.

18 Seepage control on an abandoned skid road.

19 Groundwater and seepage control in existing  
20 gully.

21 Van and skid trail repairs below vineyard Unit  
22 5.

23 And roadside ditch dewatering and armoring.

24 And there's a paragraph on each one, but I  
25 won't get into each one.

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1           And then there's various measures proposed  
2 additional for erosion. And while some of these are  
3 rather standard, some of these are actually kind of over  
4 and above what is commonly implemented.

5           Let me just point out a few:

6           Hillside vineyard rows, temporary and  
7 permanent cover crop required for those areas.

8           Field avenues and perimeter roads around the  
9 vineyard units providing access to the units for the  
10 workers. Those will include drainage and runoff  
11 controls as well as temporary and permanent cover crop.

12           Sediment basins, as I mentioned. They are  
13 located outfall of major soil drains.

14           Vineyard access roads would be crowned and  
15 graded to prevent flow and wheel tracks. And erosion  
16 control vegetation, permanent cover crops and straw  
17 mulching of the area overall.

18           I'll segue now into the Draft EIR because I  
19 think that's probably what the main focus should be.  
20 And Allen already hit some of the items in terms of the  
21 public noticing and review and the incorporation of the  
22 comments from the previous Mitigated Negative  
23 Declaration. Those are included as Appendix B to the  
24 EIR as well as the NLP comments.

25           But I'll just run down really quickly the

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1 technical subconsultants: Matt O'Connor from O'Connor  
2 Environmental, as I mentioned, is sediment load and  
3 yield assessment as well as a hydrological, looking at  
4 changes in the peak flows during stormy events.

5 We also have Geoff Monk of Monk & Associates  
6 doing biological analysis.

7 Glenn Merron from Inland Ecosystems did the  
8 fisheries assessment.

9 Thomas Orger did an archeological  
10 investigation.

11 Lee Erickson is engineer that developed the  
12 vineyard plan and Erosion Control Plan.

13 And Jeff Longcrier of Northcoast Resource  
14 Management prepared the Timber Harvest Plan for the Cal  
15 Fire review.

16 So the EIR is certainly a collaborated effort.  
17 And it's been reviewed intensively by Cal Fire. They  
18 went through a review process where they provided  
19 extensive comments and input on the administrative  
20 document, and we worked with Cal Fire to further revise  
21 the document. And Cal Fire had their professionals,  
22 hydrologists, biologists, cultural archeologists review  
23 each of those respective sections. And so this really  
24 has been, as Allen said, a lengthy process that, you  
25 know, has resulted in that time so that the utmost care

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1 and accuracy could be produced.

2 I'll hit a couple of different areas. I'll  
3 hit biology; that's Chapter 3.4 in the EIR. I'll hit  
4 some items from Hydrology, which is Chapter 3.7 and  
5 Hazards, Chapter 3.8. All the impacts are summarized in  
6 Chapter 1 of the document. So that's a good place to go  
7 if you want to get an overview. You'll notice those --  
8 that there's a hard copy here at the school. So those  
9 that want to see the hard copy, there are -- there's a  
10 yellow highlighted section. That's the summary table.  
11 It has all the impacts and mitigation measures, which  
12 are condensed for easy review. I wanted to point that  
13 out.

14 So after the analysis was completed and in  
15 working with Cal Fire, potentially significant impacts  
16 identified were in the areas of air quality, biological  
17 resource, cultural resources, geology, hydrology and  
18 water quality, hazards, traffic and noise.

19 And, again, I'm going to highlight just those  
20 three areas, but through analysis and the mitigation  
21 measures incorporated that are presented in Chapter 1  
22 and throughout the document, the determination was that  
23 there wouldn't be any significant and unavoidable  
24 impacts. So that's the ultimate determination.

25 And I'll get into a few specifics. I already

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1 talked a little bit on thin-lobe horkelia. This plant  
2 doesn't have any protected status under the state or  
3 federal Endangered Species Act and is not protected  
4 pursuant to any state or federal regulation or law.  
5 It's listed on the California Native Plant Society list,  
6 and the California Department of Fish & Game requires  
7 that the EIR documents address these species that are on  
8 the California Native Plant Society list.

9 Most of the project site doesn't actually  
10 include horkelia. It's in the Northwestern corner,  
11 which I indicated is the preserve area. As a  
12 mitigation, just to ensure -- even though it's part of  
13 the project design, mitigation has been included to  
14 establish a 15.6-approximately-acre preserve. And this  
15 preserve will be dedicated on a permanent deed  
16 restriction, and it will run with the land in  
17 perpetuity. So there's absolutely no development that  
18 could occur on it, and that gets recorded as such.

19 I talked just briefly on Annapolis manzanita.  
20 Annapolis manzanita is hybrid manzanita unique to the  
21 Annapolis area. Two Annapolis manzanita populations  
22 occur on the project site. The plant does not have any  
23 state or federal status, nor is it listed by the  
24 California Native Plant Society. However, two  
25 professors at San Francisco State University recommended

23

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1 that the project include some protection for that  
2 species. And because CEQA documents are concerned with  
3 the local uniqueness or rarity of the species, we've  
4 addressed that.

5 So while it isn't protected under state or  
6 federal Endangered Species Acts, typical mitigation  
7 requirements for listed plants are included in this  
8 project to really ensure a greater level of protection  
9 and compensation for rare plants. So that's where the  
10 4.4-acre preserves come in. That's a mitigation measure  
11 requirement identified in the document. And, again,  
12 those -- that reserve or two reserves in this case will  
13 run with the land and be dedicated in perpetuity.

14 Northern spotted owl. No northern spotted  
15 owls were identified on the project site during a  
16 two-year protocol process. And that gives you an idea  
17 of why it's taken some time in terms of getting to this  
18 point. Two-year protocol surveys were done in  
19 accordance with the U.S. Fish and Wildlife Service  
20 guidelines by Monk & Associates. Again, negative  
21 detections during those surveys: There are two owl  
22 territories south of the project site. These were last  
23 recorded in 2007 and approximately .7 miles south of the  
24 project site. And in 2007 the document indicates one of  
25 the owls had reportedly moved closer to the project site

24

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1 but still .7 miles away.

2 So though the protocol surveys have determined  
3 that no owls are present on the site, the document has  
4 included, as a mitigation measure out of an abundance of  
5 caution, just to do a preconstruction survey prior to  
6 any operations on the site to ensure that no owls have  
7 moved into the area since the time the protocol-level  
8 surveys were done. And, of course, if they were to be  
9 detected, there would be appropriate protection measures  
10 and buffers implemented, as set forth in this here.

11 Red legged frog. I'm going to just hit that.  
12 The California red-legged frog is federally protected.  
13 In September '08 the U.S. Fish and Wildlife Service  
14 repropoed critical habitat for the frog. The closest  
15 map to the critical habitat units are located quite some  
16 distance, approximately 28 miles from the site. The  
17 closest record for the species is 9.7 miles northwest of  
18 the site.

19 Owing to the populations of the red-legged  
20 frog found in Mendocino County, there's evidence that  
21 range of the red-legged frog extends northward from its  
22 traditionally recognized coastal habitats to the south.  
23 So even though Monk & Associates does not believe  
24 there's adequate habitat on the site, they have  
25 identified the need for a protocol-level survey and have

25

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1 already surveyed intensively on the site, but they are  
2 following up with protocol-level surveys consistent with  
3 the U.S. Fish and Wildlife Service guidelines. So even  
4 though, again, they don't believe that there's adequate  
5 habitat and current surveys have not resulted in any  
6 detections, they are moving forward with protocol-level  
7 surveys. And, of course, if any species are detected,  
8 there will be appropriate implementation measures  
9 consistent with the regulatory agencies.

10 I'll hit really briefly special-status salmon.  
11 So referring to Coho salmon and steelhead trout. The  
12 fisheries assessment that was done indicates, consistent  
13 with what the Regional Water Quality Control Board has  
14 stated, that the steelhead are found in the lower  
15 Class I reaches of Patchett Creek commencing about  
16 4800 feet downstream of the project site. There's an  
17 impassible area in Patchett Creek that precludes the  
18 fish from being able to move up near the project site.

19 And really, key to this item here is the  
20 results of the erosion and control analysis. And the  
21 estimated net increase in sediment yield from proposed  
22 vineyard areas with incorporation of sediment basins is  
23 approximately 11 tons per year. However, with the  
24 inclusion of several different protection measures as  
25 part of the project design, which includes gully

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1 protection, reinforcing some of the gully areas, the  
2 sites that are occurring significant erosion already.  
3 And those are -- Chapter 3.7 spells out: Here is this  
4 site, here this gully here, so on and so forth, they are  
5 sensitive to erosion. They did a channel assessment,  
6 looked at how susceptible is this channel to erosion, so  
7 on and so forth, measured characteristics, and  
8 determined that there were some mechanisms that they  
9 could implement that would strengthen those channels.  
10 And with that, there would be an estimated reduction in  
11 sediment annually from a low of 10.6 to approximately  
12 20 tons per year.

13 So with the sediment basins and the additional  
14 gully protection measures implemented across the site,  
15 there's an estimated net reduction in sediment from  
16 existing to proposed project of 10 to 20 tons per year.

17 And so with that, that's really the heart of  
18 the hydrology and erosion chapter. I think, you know,  
19 I'll kind of let that encapsulate the findings of  
20 hydrology chapter so I don't take up too much of the  
21 comment time. I want to be sensitive to that.

22 Just the last thing I'll hit here, two more  
23 items.

24 Impacts to waters of the U.S.: Currently on  
25 site, as determined by Monk & Associates, is a

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1 3.35 acres of waters of the U.S. And that consists of  
2 seasonal wetland, other waters. 3.04 or 91 percent of  
3 those acres will be avoided by the project, and those  
4 areas will be retained in perpetuity in stream buffer  
5 areas.

6 There's also 3.61 acres of waters of the  
7 state, and that's associated with the Water Quality  
8 Control Board. And 89 percent of those waters will be  
9 avoided by the project and protected in deed-restricted  
10 areas. So total impacts to jurisdictional waters of the  
11 state and U.S. will be .414 acres.

12 And there's also wetland creation that's going  
13 to occur in the portion on the horkelia preserve, and  
14 that's indicated in that preserve I outlined there on  
15 the map.

16 But there are also be to offset the .4-acre.  
17 Two-to-one mitigation is required by the resource  
18 agency. In this case the project achieves nearly a 3.1.  
19 So it ensures that there will, in fact, be a 2.1. So  
20 there is a slight increase in actually the amount that  
21 they will be preserving or creating.

22 And also the stream site areas, there's  
23 134 acres that will be deeded in perpetuity for stream  
24 site conservation areas, and that's to maintain the  
25 existing riparian beds and preserve those areas for any

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1 wildlife habitat value that exists.

2 The last item is from the Hazards chapter and,  
3 of course, ties to hydrology, and that is potential  
4 impacts from pesticide use. And so to start this off,  
5 it's important to just note that, as described in the  
6 project description and the hazards chapter as well,  
7 that the proposal is to implement integrated pest  
8 management, which is a process whereby pesticides are  
9 not utilized, and that's spelled out in detail in the  
10 document. But it includes such things as planting,  
11 resistant stock, modification of planting schedules and  
12 timing, careful attention to irrigation and organic  
13 waste-disposal procedures, use of traps, mulches, cover  
14 crops, nontoxic spray oils and natural pest enemies. So  
15 that's the intent of the applicant.

16 What the document here does is it evaluates  
17 the potential impacts if pesticides are, in fact,  
18 utilized, if the determination is made that the  
19 effectiveness of the IPM is just not enough to sustain  
20 the crop.

21 Then the document evaluates the potential  
22 impacts from pesticide use. So that's spelled out in  
23 detail in Chapter 3.8; it's impact, 3.84. And it  
24 identifies the various storage areas, mixing areas that  
25 are in place, spill prevention areas, remedial measures.

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1 There's a pesticide management plan, actually, that's  
2 been developed.

3 And the mitigation, ultimately, is to develop  
4 a contingency plan with the resource agencies. And in  
5 the event that a spill occurs, that this contingency  
6 plan will set forth in detail the proper responses. And  
7 that's, again, Chapter 3.8.

8 So with that, I want to open it up for public  
9 comment. I'll turn it back to Allen here. But, again,  
10 this is a time where we are trying to receive verbal  
11 comments from you. And, please, keep in mind that the  
12 intent of the meeting is to comment on the environmental  
13 document itself, potential environmental impacts and the  
14 conclusions in the document. So any specific comments  
15 on the project or the merits of it, that's outside the  
16 purview of the Draft EIR comment meeting.

17 With that said, thank you for your time and we  
18 will turn it over the Allen.

19 MR. ROBERTSON: Thank you, Nick and Tim.

20 At this point we will begin the official  
21 hearing. And if anybody has comments to make, I would  
22 appreciate it if you fill out a speaker's card and bring  
23 it up to the front, or maybe Tim can pick them up.

24 I'd like you to focus your comments on the  
25 adequacy of the EIR in addressing the environmental

30

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1 impacts that you may see arise from the project. So  
2 please try to articulate what your concerns are and what  
3 you feel the document does or does not do in terms of  
4 achieving the mitigation as necessary for alleviating  
5 those impacts.

6 And if you have highly detailed comments, I  
7 really encourage you to submit them in writing. We more  
8 than welcome you to make any comment you wish today, but  
9 detailed comments I think are much better delivered if  
10 they are submitted in writing. But we will try to  
11 capture your comments as best we can today with the  
12 court reporter, and those will be considered in the  
13 final EIR and responded to in the final EIR.

14 So I would like to call to the microphone  
15 Randall Sinclair, the first speaker, and you can present  
16 us with your comments.

17 RANDALL SINCLAIR: I think I'm going to lower this  
18 down so I can sit with this book. I kind of want to  
19 open on a little humorous note here.

20 MR. ROBERTSON: Just to let you know, I'm not going  
21 to hold you to any time limits.

22 RANDALL SINCLAIR: I'm going to be quick.

23 MR. ROBERTSON: So feel free to take as long as you  
24 wish then. We will be here.

25 RANDALL SINCLAIR: Just a little humor here in that

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1 having spent 20 years in Annapolis and done a lot of  
2 repair work and water work and well witching and  
3 developing water, on Chapter 3.7, Page 15 under Water  
4 Quality, it says: "Groundwater in the Annapolis area  
5 has been characterized as being sodium bicarbonate water  
6 of excellent quality."

7 I've scrubbed and tried to remove iron stains  
8 and bacterial stains from water of 80 percent of this  
9 community, and I have to say that that's a very strange  
10 comment to say about water in Annapolis.

11 I made a comment back in 2004 about the  
12 possibility of toxics on the site, the old mill site.  
13 And on the same page, 3.7 chapter, Page 15: "The Raney  
14 staff visually inspected the portion of the site and  
15 nearby segment of the Patchett Creek in wet conditions,  
16 March 2005. Evidence of hazardous materials in or  
17 entering Patchett Creek, which was flowing strongly at  
18 the time, was not observed."

19 Now, having walked that creek for many years,  
20 I find it hard to see where they couldn't see the  
21 20-gallon oil drums in the creek, the upside-down cars  
22 in the creek, the transmissions in the creek, the  
23 iridescent leachate at low water levels. And I'm  
24 thinking somebody really needs to look into this and see  
25 what's in that buried waste pile of the mill.

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1 I've talked to people who have actually worked  
2 in that mill site and described extremely hazardous,  
3 toxic conditions back in the early '50s. So I'd like to  
4 see further exploration of that site for toxic  
5 materials.

26-2

6 As a person, a California Native American, not  
7 of this local tribe, but I want to make some comments on  
8 the cultural and historical aspects of this project, and  
9 I want to quote out of Chapter 3.5, Page 24. Big book.

10 "Although the known significant archeological  
11 sites on the project site would be avoided, the project  
12 site could contain further significant prehistoric sites  
13 that have yet to be discovered. Furthermore, the  
14 potential exists that unknown human remains exist on the  
15 project site. Ground-related construction activities  
16 could result in the uncovering of undiscovered cultural  
17 resources and/or human remains. Therefore, the proposed  
18 project would result in a potentially significant impact  
19 to unknown prehistoric cultural resources."

20 Now, the mitigation suggested in Chapter 1,  
21 Page 48, is the tribal historical preservation officer  
22 for the Kashia band of Pomo Indians has provided general  
23 information regarding the Kashia needs for monitoring  
24 and treatment of the human remains. It is recommended  
25 that the project applicant enter into an agreed

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1 treatment plan with the tribe, plural, people, many  
2 people, prior to beginning any ground-disturbing  
3 activities in the project area.

4 Now, on June 12th, I met with some tribal  
5 members and ran this project by them. Needless to say,  
6 they were kind of astounded that their tribal historical  
7 preservation officer had mentioned nothing about this  
8 project to them over all these years. He no way, in any  
9 way appraised them as a whole concerning the project or  
10 cultural and historical losses possible of this project.  
11 First of all, shame on their tribal historical officer  
12 for not bringing this to their attention; shame on  
13 Artesa for not involving the tribe in the beginning  
14 until now.

26-3

15 Lastly, I want to suggest a no-project  
16 alternative that is donation or sale of the entire  
17 property to the traditional band of Kahina Pomo. And I  
18 respectively ask Artesa and the agencies involved with  
19 this project to contact the Kashia tribal counsel for  
20 further discussions. Thank you.

21 MR. ROBERTSON: Thank you.

22 Next speaker is Paul Chappell.

26-4

23 PAUL CHAPPELL: My name is Paul Chappell. I'll run  
24 down a little bit about myself. I'm married to Violet  
25 Parish. And Chappell was a daughter of -- the oldest

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1 daughter of Essie Parish, which is the -- will be the  
2 last religious leader of her kind for Kashia.

3 We follow the old rules. I have to follow  
4 them myself. I've been doing that for the last 50  
5 years. And I want to tell you about some of the things  
6 about these sites that may be found on the property. Of  
7 course, it was taken away from the native people. They  
8 couldn't return or they couldn't live there or take the  
9 things with them. A lot of things they had to leave  
10 behind, sometimes under heavy pressure that they were  
11 forced out.

12 These sites are -- there's a lot of sacred  
13 sites in the area. And some have been destroyed  
14 already, you know, by projects. The artifacts that's in  
15 these sites, I can't even touch them myself. I'm not  
16 supposed to pick one up or even move it. I'm not to do  
17 that. That is part of the old ways of the native  
18 people.

19 And so I understand that -- I've talked to the  
20 tribal chairman this morning. He knows nothing about  
21 the project. He's received none of the information.  
22 I've reported before to them, and it seems like my  
23 report fell on some deaf ears. It didn't go anywhere.  
24 And I asked them to become involved and so forth.

25 Reno Franklin is a representative. He's been

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1 going out on the sites. We have no reports from him at  
2 all. And so as far as the rancheria's concerned, we  
3 have no reports. It's what he's done or been doing.

4 And then I talked to his aid. I was with him  
5 when he said we have covered very little of the area as  
6 of this time. And all this time's gone by -- not  
7 negotiated by it. So they haven't been coming to you  
8 and giving you information on this. It's healthy for  
9 both those that are -- where the sites are located not  
10 to destroy them as well as us to leave them alone, you  
11 know. And so on the sites is where I am on that. So  
12 protection I guess is what I'm talking about.

26-5

13 Another thing is I'm a water plant operator.  
14 I'm environmental liaison for the tribe. That the -- of  
15 course, there's going to be quite a bit of transpiration  
16 probably from the vineyards when they are -- through  
17 irrigation. We don't know at the time, you know, how  
18 many more wells may be dug, you know, by other entities  
19 that's coming into the area. We don't know the extent  
20 of it at the time. But I do know that our water in our  
21 river in the Wheatfield Fork right now and our medium  
22 static level in our wet well is 11 feet and 8/10ths  
23 inches. At our dryest year in the past since 1970, they  
24 have measured the water in the dryest times of year.  
25 The medium level is 11 feet. So right now, we are only

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1 then about 8/10ths of a foot more water in the well.  
2 And the -- so our total well depth is not that much, you  
3 know. So -- and we are concerned about that.

4 That's our only source of water. I pump water  
5 920 feet under 400 pounds head pressure at the rancheria  
6 because we can't have any local wells. There's not  
7 enough water for that.

8 That's about it for now. Thank you.

9 MR. ROBERTSON: Thank you very much for your  
10 comments.

11 Chris Poehlmann.

12 CHRIS POEHLMANN: Couple of questions and also  
13 along with some comments.

14 Some of the places where a Draft EIR really I  
15 think needs some work is perhaps the greenhouse gas  
16 treatment. This has become a state priority, a national  
17 priority, a world priority, and the applicants should do  
18 a fair and honest assessment basically of the impacts of  
19 their project in regards to greenhouse gases. They  
20 should quantify where those gases might emanate from as  
21 far as the project goes and also -- identify and  
22 quantify.

23 And also, along with that, assess the  
24 individual cumulative aspects of the project's  
25 production of greenhouse emissions and how they play

26-6

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1 into cumulative effects with local projects, either  
2 past, present or future.

26-7

3 Also cumulative effects. That goes into  
4 cumulative effects as far as it properly assessing the  
5 nearby projects that are ongoing: Martin Roessler  
6 conversion, plus the Preservation Ranch, which I  
7 think -- I think in the assessment area, there's 750  
8 acres that this project shares, but it should go beyond  
9 that, talking about a regional land-use trend which this  
10 project I think exacerbates detrimentally as far as  
11 conversion of forest and what that impacts upon the  
12 water quality and quantity for the river. And how this  
13 project -- how it does not generate more development by  
14 its approval.

26-8

15 Alternatives: Some talk has already been  
16 presented as far as that goes, with the possible  
17 alternatives goes. Has the plan preparer actually  
18 looked in other areas where there aren't forests that  
19 would supply the need for grapes for their intentions  
20 and generated, basically, any surveys there to see  
21 whether there alternatives, outside alternatives for  
22 this project, other than the 170-so acres of forestland  
23 conversion?

26-9

24 Why haven't they applied for organic  
25 certification is a question. Basically the IPM promised

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1 basically if it's good the first time, they decide that  
2 something is in danger and spray rigs will come out. So  
3 it doesn't seem to me that's too reassuring as far as  
4 the unmandated promise as far as management practices  
5 go. At least the organic certification. You do have  
6 something at stake. If you start spraying things, you  
7 lose your certification.

26-10

8 The efficacy of some of your protocol surveys:  
9 I mean I haven't seen in any of your literature so far  
10 mentions of white kites, for instance. I've passed by  
11 that piece of property many, many, many times and have  
12 observed white kites hunting that property and flying  
13 above it. It seems to me there have to be nest sites  
14 nearby. Not once have they been mentioned in any of the  
15 protocols at all, and I think they are covered under the  
16 Migratory Species Acts as far as being protected. It  
17 brings into question, you know, the efficacy and the  
18 completeness of your wildlife surveys which this bird,  
19 which is the most prominent raptor on the property is  
20 not mentioned at all.

26-11

21 Esthetics: We have a corporation yard which  
22 looks like it's going to be kind of within visibility or  
23 a stones thrown away from Annapolis Road. It brings up  
24 the esthetic questions. That seems like it's a gray  
25 area and one for generalizations to be made, but in my

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1 mind, having the terrain covered with fences and  
2 trellises and corporation yards and pumping and storage  
3 of equipment is an esthetic impact that I think should  
4 be mitigated or attempted to be mitigated.

26-12

5 And let's see here. And you say unavoidable  
6 impacts. I think Tim was talking about that as far as  
7 mitigated -- the reason why it could be passed is  
8 because there are unavoidable impacts. It seems to me  
9 if there are unavoidable impacts, those are impacts  
10 which should be regarded as such, not saying: Well,  
11 they are unavoidable so, therefore, they can be  
12 discounted.

26-13

13 Let's see. Herbicides mentioned that they  
14 will be used. And I think a representative from Kashia  
15 brought up an interesting point about future well  
16 drilling. I mean what prevents the owner or future  
17 owners from drilling wells on the property, if basically  
18 the system by which they are catching sheet flow is not  
19 sufficient to well supply?

26-14

20 Frost protection: How's that going to be  
21 implemented since basically we've had recent droughts  
22 recently, and the climate seems to be on an interesting  
23 trend towards less rainfall and more droughts it seems.

26-15

24 And we will submit written comments and expert  
25 comments before the deadline of -- the 27th you say?

40

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1 MR. ROBERTSON: July 27th, yes.

2 CHRIS POEHLMANN: Thank you.

3 MR. RANEY: July 28th.

4 MR. ROBERTSON: July 28th, excuse me.

5 CHRIS POEHLMANN: Thank you very much.

6 JOHN HOLLAND: Or the close of comment of the THP,  
7 whichever is later.

8 MR. ROBERTSON: You're absolutely correct. The  
9 close of comment on the EIR that's been officially  
10 noticed will be July 28th. But the THP will go on for  
11 sometime longer than that.

12 CHRIS POEHLMANN: I always thought that the THP is  
13 approved and the wait starts --

14 MR. ROBERTSON: We try to coordinate the approval  
15 of the TCP and the approval of the THP just about the  
16 same time. Technically, the TCP has to be approved  
17 first and then the THP, and we try to bring those as  
18 close together as possible.

19 Next speaker is John Holland.

26-16

20 JOHN HOLLAND: I wanted to speak about the changed  
21 conditions since the scoping section that I don't think  
22 the EIR really adequately dealt with. And then I'll  
23 also talk about my other concern is tied in with this  
24 with the recharge of the river and the changes that are  
25 going on in the entire area.

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26-17

1           The changed conditions that last year was the  
2 first year -- I documented it with photographs, that  
3 the -- well, it was reported the year before that the  
4 river was fluctuating during the summer. One day you'd  
5 go there, it would be dry, the algae would be dry. You  
6 go there a few days later, it would be up and the dried  
7 algae would be under water, and then later it would be  
8 down again and up again.

9           And this is happening near Clarks Crossing  
10 underneath the Kendall Jackson vineyard. I actually --  
11 now the vineyards stretch from Soda Springs Road to  
12 Clarks Crossing. I kind of call it the vineyard  
13 corridor. And the river goes around the vineyards. The  
14 vineyards are on the top of the ridge and the river is  
15 down below. Back this way is the Y camp, and then  
16 there's a bridge, and then it goes on down into Fuller  
17 Creek and all those.

18           About 200 yards above the bridge, the water  
19 stayed. The water was -- the pools were full, the water  
20 is flowing. There's bedrock areas. The water's  
21 flowing. From the bridge down, this fluctuation started  
22 happening. And last year was the largest count of  
23 steelhead fry in the river in many, many years. Going  
24 up Hop Creek, there were just baby steelhead everywhere.  
25 By August this fluctuation started happening, and it

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1 went to the point to where the river went entirely dry,  
2 but only from the bridge underneath the vineyards and  
3 downstream from there. All those fish died. Hundreds  
4 of thousands, a big fish kill and the injured species  
5 and all that.

6 My concern is that this is -- nobody really  
7 knows what the cause of this is. I think you can draw  
8 some suspicious conclusions, but nobody knows and  
9 nobody's studied it. And until that is answered, it's  
10 really hard to get an idea of impacts of this project or  
11 any other project in the area to find out why it's going  
12 up and down, why the waters are not recharging.

13 Anyway, that's the changed condition I wanted  
14 to talk about that I really feel needs to be addressed  
15 one way or another. I don't know how.

26-18

16 The other thing that ties into it is I believe  
17 is the recharge which is essential for the -- getting  
18 water into the river during the summer and the dynamics  
19 of that. And there's a county map that's called the  
20 schematic map of -- I can't think of the whole title --  
21 of areas subject to resource conservation requirements.  
22 And it shows the different areas that have water  
23 requirements. And they are either -- it's a major  
24 groundwater basin, major natural recharge area, marginal  
25 groundwater availability areas, and areas with highly

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Cont'd

1 variable water yield. And if you look on the map, the  
2 corridor -- it's actually -- the gray areas are the  
3 groundwater recharge areas. And it starts at Soda  
4 Springs Road and ends at Clarks Crossing. And it's  
5 identical to -- you can just map the vineyards right on  
6 all the recharge areas.

26-19

7 And there's been -- all of the projects now  
8 seem to be changing to -- the popular way to do it is to  
9 collect the sheet flow. And basically by cutting the  
10 trees and converting it to the vineyards, you're  
11 increasing the sheet flow and reducing the recharge on  
12 the recharge areas. And the recharge is what gives us  
13 water during those essential dry periods, whereas --  
14 since I've lived here, 20 years, I haven't seen it go  
15 dry until this year, this last year. And like I say,  
16 with the fluctuations, it's really strange and it's very  
17 abrupt.

26-20

18 And then a strange thing happened. Right  
19 after harvest, the river was flowing again. And one  
20 creek over, Buckeye Creek, I have access to that. And  
21 during the period where the river was dry, Buckeye Creek  
22 was full and filled with steelhead. And there was no  
23 fluctuations at all. And we are just talking 5 miles  
24 apart, you know, two different tributaries.

26-21

25 So my concern is that this project and all the

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Cont'd

1 other projects are not adequately taking a look at the  
2 cumulative impacts of alteration of the recharge  
3 dynamics I guess you could call it. And I guess that's  
4 my comment.

5 MR. ROBERTSON: Thank you very much, Mr. Holland.

6 Thank you. You're up. Dave Jordan.

7 DAVE JORDAN: Is this just so people can hear me or  
8 are you recording this?

9 MR. ROBERTSON: We are not recording it.

10 DAVE JORDAN: Okay. So I don't really need this at  
11 all.

12 MR. ROBERTSON: We can hear you just fine.

26-22

13 DAVE JORDAN: I think maybe there's a logical flaw  
14 in the alternatives analysis, or maybe there's a flaw in  
15 my understanding of what the nature of the project is.  
16 'Cuz in the alternatives analysis, one of the things  
17 that you did was say, okay, we are going to try to find  
18 other sites in the area that are similar geologically in  
19 a bunch of different characteristics: Similar slopes so  
20 that you are getting similar amounts of sun. And  
21 similar vegetation, other areas which have not yet been  
22 converted to vineyards that are still forested. So in  
23 other words, the analysis specifically excluded areas  
24 around Annapolis that had already been converted to  
25 agricultural land of some kind, whether it was vineyards

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1 or pasture land.  
2 And that makes me -- and then it says, well,  
3 here's another area that is similar in terms of biology  
4 and geology and hydrology. And if we did the same  
5 project over there, the impacts would be very similar.  
6 Well, yeah, if you make everything as similar as you  
7 possibly can, then the impacts are going to be pretty  
8 similar.

26-23

9 But that makes me wonder, if I understand the  
10 nature of the project, is the nature of the project that  
11 Artesa wants a vineyard? Or is the nature of the  
12 project that Artesa specifically wants to destroy forest  
13 land in order to create a vineyard? Because that's the  
14 only reason I can see for excluding land that's  
15 agricultural land. It's a circular logic. Well, we're  
16 going to go exclude land that's already agricultural  
17 and, therefore, if we do it somewhere else, it's going  
18 to have just the same impacts. Well, that's true. But  
19 why are you excluding land that's already been  
20 converted?

26-24

21 In other words, look at land that's not  
22 forested land and say: Okay, compared to the current  
23 proposal, what would the impact be if Artesa bought a  
24 vineyard which was already an existing vineyard or they  
25 bought agricultural land that was pastoral land that

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1 they could plant grapes on? And I think that's Artesa's  
2 goal, is to have a vineyard. They probably want to have  
3 certain varieties. I hope their goal is not  
4 specifically to destroy redwood forest.

26-25

5 So I think you need to look at: Have you  
6 really examined all of the potential off-site  
7 alternatives for this project?

8 That's my comment. Thanks.

9 MR. ROBERTSON: Thank you.

10 I don't have any more speaker's cards. Does  
11 anybody want to turn one in and make a comment?

12 GINNI YAGER: I would like to say something.

13 MR. ROBERTSON: Would you mind jotting your name  
14 down.

15 GINNI YAGER: Sure.

16 MR. ROBERTSON: And we will pass that on to the  
17 court reporter.

18 Ginni Yager.

26-26

19 GINNI YAGER: I'm not really sure I understand  
20 exactly, and maybe you can help me. But we went to a  
21 Preservation Ranch presentation, and they also are  
22 talking about this collecting sheet water. So my idea  
23 of that is that -- and from what their description was,  
24 that when it first starts raining in the fall, all the  
25 water that comes down this hill will run into their pond

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Cont'd

1 until their pond is full.

2 And what bothers me about that is that that's  
3 when the fish really need it, those first rains in  
4 September, October, sometimes not until November. And  
5 that's when the river is at its dryest. And if that  
6 project and your project and other projects are catching  
7 as much sheet water as they can, that's all water that's  
8 not going into the creeks. And they made it sound like  
9 oh, this is just excess water that nobody needs, but I  
10 really think the fish do.

11 MR. ROBERTSON: Thank you.

12 More comments?

13 PAUL MIER: Yes, please.

14 MR. ROBERTSON: Raul Mier.

26-27

15 PAUL MIER: Raul Mier. I own a piece of land right  
16 across the street from the school here. And I moved  
17 here 10 years ago mostly for the esthetic reasons. I  
18 love the forest, I love my neighbors. I'm an artist and  
19 it inspires me in my painting. And I'm concerned with  
20 the immediate beauty of the area being destroyed.

26-28

21 Also the traffic and what impact may be on  
22 Skaggs Spring Road. We know that it's a very rough road  
23 already, and I fear, you know, having trucks and heavy  
24 equipment being towed through that area may deteriorate  
25 the road even further.

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Cont'd

1 I don't know what provisions may have been  
2 made or thought about, you know, for this particular  
3 concern, but I just wanted to voice it. And that's my  
4 comment.

5 MR. ROBERTSON: Thank you very much.

6 Anyone else?

7 Bob Gardiner.

26-29

8 BOB GARDINER: I just wanted to have a brief  
9 anecdotal statement. I bought the first parcel on  
10 Fairfax Ranch when that was being subdivided in the  
11 early '70s. So I lived on the west border of the  
12 Fairfax Ranch for a number of years. And I was pretty  
13 familiar with Patchett Creek which starts at the old  
14 ranch house, which is now Starcross and runs down in a  
15 southerly direction to the shoot hole line on the  
16 Wheatfield River. And halfway between those two points  
17 at the Patchett Ranch, originally they built a dam out  
18 of old cars and made some sort of water catchment area  
19 there, which kind of broke loose.

20 But there's a waterfall halfway -- fairly  
21 steep drop, maybe 50 to 60 feet. And below that  
22 waterfall, the shoot hole and the waterfall in the early  
23 rainy season I saw a three-foot -- two to three-foot  
24 steelhead in the narrowest rivulet you can imagine going  
25 upstream. And I thought that is maybe significant, and

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1 you might want to think about it when you're considering  
2 these aspects.

3 MR. ROBERTSON: Thank you very much.

4 Anyone else?

5 Anybody know of any neighbors that plan to  
6 show up late?

7 CHRIS POEHLMANN: I know one of the neighbors,  
8 Robin, said that she might come. That's the only person  
9 I know.

10 MR. ROBERTSON: If you know others that wish to  
11 make comment, as I said, we are very happy to receive  
12 written comments. Better able to capture your concerns  
13 and issues through written comments, so we encourage  
14 anybody who chooses not to comment today or is not  
15 available to comment today to please submit comments in  
16 writing.

26-30

17 CHRIS POEHLMANN: I have one question, Allen. Is  
18 the THP the same THP, the same number as the one that  
19 was filed originally?

26-31

20 MR. ROBERTSON: Let me finish the public comment,  
21 and then when we break up the meeting, if we want to  
22 have a question and answer about a couple of things,  
23 that would be fine.

24 So if we have no other public comments at this  
25 point, I would like to close the official hearing and

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Cont'd**

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1 encourage people to submit written comments. As we  
2 said, close of comment on the EIR is set for July 28th.  
3 However, if you keep track of the close of the THP date  
4 on the Santa Rosa THP Web site, you'll be able to find  
5 out when the anticipated close of that THP comment  
6 period will be.

7 And you are welcome to submit comments through  
8 that channel on the project as a whole, timberland  
9 conversion and the THP itself. So I encourage you to  
10 keep track of that close-of-comment date. As I said, I  
11 can't tell you when that date is because it varies  
12 depending on how the THP review process goes on. So it  
13 can keep extending due to various circumstances. So I  
14 encourage you to keep track of close of comment through  
15 that Web site and feel free to send in any comments and  
16 comment --

17 MR. PAPPANI: I was going stay the Web site's  
18 located on the third page of the notice that we have  
19 out. So if you're not aware of the address, it's  
20 located on the Notice of Availability with copies on  
21 that table over there.

22 CHRIS POEHLMANN: Would there be a possibility of  
23 getting CDs? Since this -- try downloading that. No  
24 matter how fast your Internet access is, I mean as far  
25 as people who have come in, I don't think it's an

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Cont'd

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Cont'd

1 onerous amount of people who have made comments who have  
2 interest in the plan, CDs could be sent out to them so  
3 they can actually look at the plan article.  
4 MR. ROBERTSON: Okay. The hearing's over.  
5 (Whereupon the hearing concluded at 2:20 p.m.)  
6 ---oOo---  
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**LETTER 26: PUBLIC HEARING TRANSCRIPT – JUNE 27, 2009**

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**Response to Comment 26-1**

Please see Response to Comment 22-4.

**Response to Comment 26-2**

Please see Response to Comment 13-5 regarding the in depth cultural resources analysis prepared for the project, including additional analysis performed at the request of CAL FIRE since the release of the DEIR for public review in June 2009.

**Response to Comment 26-3**

The comment expresses opinion on the project, which will be considered by CAL FIRE. Please see Response to Comment 19-19 regarding the scope of the alternatives analysis in the DEIR.

**Response to Comment 26-4**

Please see Response to Comment 26-2.

**Response to Comment 26-5**

Please see Responses to Comments 10-50 and 12-5.

**Response to Comment 26-6**

Please see Response to Comment 6-8.

**Response to Comment 26-7**

Table 4-1, Timber Harvest Plans in the Project Area Watersheds, on pages 4-4 to 4-6 of the DEIR, provides a list of timber harvest plans filed in the Annapolis, Little Creek, and Grasshopper Creek watersheds over the last 10 years. The list includes both the Roessler and Sleepy Hollow Conversions, though these projects are no longer being actively processed and the environmental review of said applications has ceased. In addition, the DEIR notes that a proposal has been made by Premier Pacific Vineyards to develop approximately 1,861 acres of vineyard in the area. Approximately 750 of the 1,861 acres fall within the assessment area of the Fairfax Conversion Project THP and are considered to be part of the cumulative setting.

This cumulative setting is evaluated in Impact Statement 4-1 of the DEIR, which concluded:

The proposed project would replace the existing timberlands with a vineyard, the project is consistent with the types of allowable uses (agricultural) allowed on the project site by the General Plan. As a result, the changes in land use would be consistent with the General Plan. It should also be noted that the proposed project would place 133 acres of sensitive habitats, archaeological sites, and buffer areas in conservation easements which would ensure that they

remain forested in perpetuity. Furthermore, as stated above, the loss of timber is largely an issue of resultant impacts to special-status species and water resources. These issues are addressed in Sections 3.4 and 3.7 of this EIR, respectively. Therefore, the proposed project's incremental contribution to the significant cumulative land use impacts is not cumulatively considerable, resulting in a *less-than-significant* impact.

As noted elsewhere in this Final EIR, the total on-site preserve area is now 151 acres, not 133 as originally noted in the DEIR.

Please also see Response to Comment 7-11 for a response to concerns about cumulative hydrology impacts.

### **Response to Comment 26-8**

The DEIR evaluates a reasonable range of alternatives to the proposed project in Chapter 6, *Alternatives Analysis*, including alternative locations. The DEIR on pages 6-2 through 6-3 explains how the alternatives were selected to inform the decision-making process.

The type of evaluation that the commenter requests was conducted by reviewing maps of Sonoma County displaying soils, elevations, and slopes similar to the project site. As discussed in the DEIR, very specific criteria pertaining to soil type and microclimate must be met to satisfy the proposed project's basic objectives. In addition, the potential site must be of comparable size to attain most of the proposed project objectives. Based on extensive evaluation, the DEIR determined that sites of appropriate acreage that include most of the necessary site characteristics are quite rare. Nevertheless, the DEIR considered offsite alternatives, as well as a reduced acreage alternative and two "no project" alternative scenarios. See also Response to Comment 19-19.

### **Response to Comment 26-9**

Please see Response to Comment 7-9.

### **Response to Comment 26-10**

White-tailed kites are considered raptors, which are protected under the Federal Migratory Bird Treaty Act. As discussed in Chapter 3.4, *Biological Resources*, of the DEIR, implementation of Mitigation Measure 3.4-5 would ensure that the proposed project would not result in significant impacts to nesting raptors and would result in a less-than-significant impact (See Response to Comment 1-17 for an updated version of DEIR MM 3.4-5). In addition, as stated on page 3.4-72 of the DEIR, "...fully protected" birds, such as the white-tailed kite (*Elanus leucurus*) and golden eagle (*Aquila chrysaetos*), are protected under California Fish and Game Code (§3511). "Fully protected" birds may not be taken or possessed (that is, kept in captivity) at any time."

### **Response to Comment 26-11**

Please see Response to Comment 10-68 regarding aesthetics concerns. Furthermore, it is important to note that the 1-acre corporation yard will not be visible from Annapolis Road or from any point on the Starcross Monastery, including the Chapel on the hill. The approximately 1-acre corporation yard has been relocated from vineyard Unit 1c to Unit 6, just south of the proposed irrigation reservoir, in order to address aesthetics and noise concerns expressed by the public in the comments on the DEIR (See Figure 1-1 in the Introduction chapter of this Final EIR). Proposed vineyard blocks would be more readily visible along the western portion of the project site.

### **Response to Comment 26-12**

According to CEQA Guidelines, as stated on page 5-2 of Chapter 5, *Statutorily Required Sections*, of the DEIR, an impact is considered significant and unavoidable when it has been determined that with the implementation of mitigation measures, the impact would not be reduced to a less-than-significant level.

According to CEQA Guidelines §15126.2(b), a Draft EIR must include a description of those impacts identified as significant and unavoidable should the proposed action be implemented. Such impacts would be considered unavoidable when it has been determined that either no mitigation, or only partial mitigation is feasible, such that the impact is not reduced to a level that is less than significant. The final determination of the significance of impacts and of the feasibility of mitigation measures would be made by CAL FIRE as part of its certification action.

Therefore, as demonstrated in the technical chapters of the DEIR and in this Final EIR, implementation of the proposed project would not result in any significant and unavoidable impacts given the careful design of the project and the rigorous mitigation measures required to be implemented. Please refer to Chapter 2 of this Final EIR for a list of the current mitigation measures for the project. The design of the project has undergone further refinements since the release of the DEIR as a result of public input. The carefully selected changes to the Vineyard Plan serve to further refine the design of the overall project, resulting in an even greater level of protection of natural resources, though the project's impacts to natural resources, including biological, cultural, and hydrological resources, were adequately determined to be less-than-significant in the Fairfax Conversion DEIR with implementation of all identified mitigation measures. See the Introduction chapter of this Final EIR for a detailed description of the changes to the Vineyard Plan since the release of the DEIR for public review.

### **Response to Comment 26-13**

Please see Response to Comment 7-9 concerning herbicides and Responses to Comments 10-50 and 12-5 regarding well concerns.

### **Response to Comment 26-14**

Please see Response to Comment 7-23.

### **Response to Comment 26-15**

The comments do not address the adequacy of the DEIR. Please see Response to Comment 4-1.

### **Response to Comment 26-16**

The comment is an introduction to the following comments – please see the below responses.

### **Response to Comment 26-17**

Low and fluctuating flows in gravel bedded rivers in the Coast Range likely result from a combination of factors, including rainfall patterns and geology. The Mediterranean climate of the region is characterized by strongly seasonal rainfall that occurs from October through April, with little or no rainfall through the summer months, producing a parallel pattern of runoff and stream flow. Low flows are typical in the summer months. The commenter’s observations correspond with a period of low rainfall during the winters of 2006-07, 2007-08, and 2008-09. The difference in surface flow conditions above and below Clarks Crossing is likely caused by deeper alluvial deposits in the river bed below Clarks Crossing and the shallow deposits above Clarks Crossing where the commenter notes the presence of “bedrock areas.” During low flow periods in a bedrock controlled channel bed, there is limited alluvial storage space for water. In contrast, where alluvium is deeper, there is more abundant storage space for water and surface flows may dissipate in the space. A combination of factors accounts for the flow conditions reported by the commenter.

### **Response to Comment 26-18**

The hydrogeologic conditions in the project area are described in the DEIR in Appendix M. The County map referenced by the commenter identifies the area overlain by the Ohlsen Ranch Formation. The sedimentary formation is the parent material for the Goldridge soils which are well-suited to production of wine grapes, hence the correlation with vineyard development. The Ohlsen Ranch Formation is thin, ranging in depth from about 50 to 150 feet and overlies Franciscan bedrock that comprises the vast majority of rock in the Gualala River watershed. The Wheatfield Fork flows over Franciscan bedrock. Groundwater in the Ohlsen Ranch Formation aquifer is a locally important resource primarily for domestic wells, but is not in direct hydrologic contact with the Wheatfield Fork. Groundwater seepage from the Ohlsen Ranch aquifer may ultimately reach the Wheatfield Fork via lengthy and indirect flow paths through tributary streams or through fractured bedrock aquifers in Franciscan rocks. As discussed in the DEIR, project development impacts include potential increases in summer base flows (low flows). Low summer flow conditions in the Wheatfield Fork are more likely attributable to climate conditions as described in Response to Comment 26-17.

### **Response to Comment 26-19**

Please see Response to Comment 12-5.

### **Response to Comment 26-20**

Please see Responses to Comments 26-17 and 26-18.

### **Response to Comment 26-21**

Please see Response to Comment 12-5.

### **Response to Comment 26-22**

Please see Response to Comment 19-19.

### **Response to Comment 26-23**

The comment includes speculation concerning the applicant's intent for the project and does not address the adequacy of the DEIR.

### **Response to Comment 26-24**

Please see Responses to Comments 7-6 and 19-19.

In addition, please see Response to Comment 4-6 for a discussion regarding the fact that the proposed agricultural use for the project site – vineyards – is an allowable land use for the current Sonoma County zoning designation of Resource and Rural Development (RRD).

### **Response to Comment 26-25**

Please see Responses to Comments 19-19 and 26-24.

### **Response to Comment 26-26**

The proposed reservoir on the project site is designed to collect stormwater runoff from the surrounding Patchett Creek watershed during the winter rainy season, after significant rains have saturated soils and excess water is flowing in downhill directions. The project would capture runoff from only 39 acres (approximately 4 percent) of the 1,124-acre Patchett Creek watershed. By extension, filling the reservoir would not have a significant effect on downstream reaches of the Wheatfield Fork. Patchett Creek is a tributary of the Wheatfield Fork of the Gualala River, which has a drainage area of about 111 square miles. The project area occupies about 0.6% of the Wheatfield Fork watershed, and the Patchett Creek watershed contributes about 1.6% of the Wheatfield Fork watershed. Potential impacts to steelhead and other native fish species downstream of the project site would be minimal to none as collection of runoff would occur when flows are seasonally high and water temperatures low and within the preferred range for steelhead.

Based on the analytical studies conducted on hydrology and sediment control, the project would improve water quality conditions above existing conditions by reducing erosion and increasing

summer baseflow through an increase in groundwater recharge. Any increase in summer baseflows would help maintain cooler water and enhance habitat which is beneficial to steelhead at this time of year. See also Response to Comment 12-5 pertaining to groundwater recharge and special-status salmonids

#### **Response to Comment 26-27**

Please see Response to Comment 10-68.

#### **Response to Comment 26-28**

The level of traffic being added to the surrounding roadways as a result of project traffic would not be expected to degrade roadway surfaces requiring substantial repairs. As stated on page 3.9-15 of the *Transportation and Circulation* Chapter of the DEIR,

Due to the short duration of pruning and harvesting operations and the limited number of vehicles required to transport project personnel, this traffic would not significantly change current traffic patterns along the local roadways. Nor would the addition of a maximum of three commercial truck trips per day, for a maximum of one month per year, be expected to result in a significant adverse impact on current traffic patterns along the project haul routes.

#### **Response to Comment 26-29**

While the DEIR evaluation for Impact 3.4-11 assumed for discussion purposes that steelhead are present downstream of the project site and dependent on continuing summer baseflow to maintain juvenile rearing habitat, there is little to no surface flow contribution from the project site to lower Patchett Creek or the Wheatfield Fork of the Gualala in mid- to late-summer. During these months Patchett Creek is reduced to a series of isolated pools (See Response to Comment 12-7). The project may improve summer baseflows through an increase in groundwater recharge, which would benefit steelhead rearing at this time of year. Steelhead in lower Patchett Creek would not be adversely affected from changes in summer baseflow and the impact would be less-than-significant.

#### **Response to Comment 26-30**

The comment does not address the adequacy of the DEIR.

#### **Response to Comment 26-31**

The comment does not address the adequacy of the DEIR.

## Letter 27



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[baye@earthlink.net](mailto:baye@earthlink.net)

### MEMORANDUM

TO: Allen Robertson, California Department of Forestry and Fire Protection  
P.O. Box 944246, Sacramento, CA 94244-2460 [allen.robertson@fire.ca.gov](mailto:allen.robertson@fire.ca.gov)

FROM: Peter Baye, Friends of the Gualala River – Resource Regulatory Committee  
[baye@earthlink.net](mailto:baye@earthlink.net)

Cc: Richard Grassetii, Grasseti Environmental Consulting [gecons@aol.com](mailto:gecons@aol.com)

SUBJECT: Status of Artesa Vineyard Conversion Environmental Impact Report (SCH# 2004082094) and archaeological/cultural resources surveys conducted during DEIR comment period

Date: September 18, 2009

via e-mail

Mr. Robertson:

On behalf of the Friends of the Gualala River, and as a private citizen who commented on the subject EIR, I am requesting information on the status of the Fairfax (Artesa) Vineyard Conversion Final Environmental Impact Report (FEIR). Specifically, I request response to two questions:

1. FEIR status: What is the schedule, if any, for preparation and public review of the FEIR? Have the applicant and CDF decided to proceed with finalization of the EIR?
2. Additional studies: Neighbors of the project site reported Artesa's cultural resource/archeological consulting firm field crew activity on the project site during the comment period of the FEIR. What data were being collected for what purposes, and when will the information gathered by the consultants (which were not available to the public for review prior to the close of comments) become available for review by the public and CEQA trustee or responsible agencies?

Thank you for your cooperation in providing timely responses to these questions.

*Peter Baye*

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95412

27-1

**Letter 27  
Cont'd.**

Respectfully submitted,



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**LETTER 27, PETER BAYE**

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**Response to Comment 27-1**

Please see Response to Comment 13-5 regarding cultural resources.