



## Interoffice Memo

DATE: November 9, 2017

PHONE: (760) 995-8140

FROM: **HEIDI DURON, SUPERVISING PLANNER**  
Land Use Services Department

TO: Honorable Planning Commission

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SUBJECT: **AGENDA ITEM # 2 – LAZER BROADCASTING CORPORATION**

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This item was originally scheduled for the September 7, 2017 Planning Commission meeting, but was not heard by the Commission on that date because the Planning Commission meeting was cancelled due to lack of a quorum.

Since the September 7 hearing date, staff has received additional correspondence regarding the project, which is provided to you in a separate attachment. The September 7 staff report provides the background information and staff recommendation on the Lazer Broadcasting project.



# LAND USE SERVICES DEPARTMENT PLANNING COMMISSION STAFF REPORT

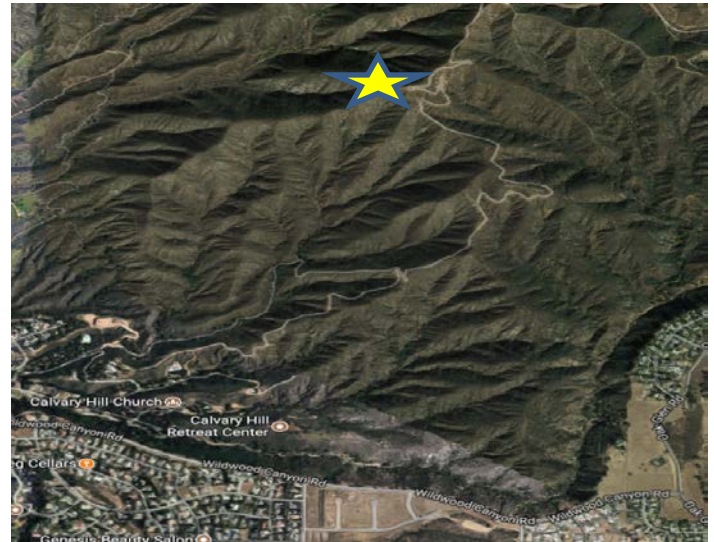
**HEARING DATE: September 7, 2017**

**AGENDA ITEM # 2**

Project Description

Vicinity Map

APN: 0325-011-19  
 APPLICANT: LAZER BROADCASTING CORPORATION  
 COMMUNITY: OAKGLEN  
 LOCATION: PISGAH PEAK ROAD, WEST SIDE APPROXIMATELY 1.5 MILES NORTH OF WILDWOOD CANYON ROAD.  
 PROJECT NO: P201000215  
 REP('S): DAVID MLYNARSKI  
 PROPOSAL: CONDITIONAL USE PERMIT TO CONSTRUCT AN UNMANNED RADIO BROADCASTING FACILITY CONSISTING OF A FREE STANDING 43 FOOT TALL MONOPOLE AND A 100 SQUARE FOOT EQUIPMENT BUILDING ON 38.12 ACRES.



339 Hearing Notices Sent On: August 25, 2017

Report Prepared By: Kevin White

**SITE INFORMATION**

Parcel Size: 38.12  
 Terrain: Steep Slopes  
 Vegetation: Mixed Chaparral

**SURROUNDING LAND DESCRIPTION:**

AREA	EXISTING LAND USE	LAND USE ZONING DISTRICT
Site	Vacant	Oak Glen/Rural Living – 20 Acre Minimum Lot Size.
North	Vacant	Oak Glen/Rural Living – 20 Acre Minimum Lot Size.
South	Vacant	Oak Glen/Rural Living – 20 Acre Minimum Lot Size.
East	Vacant	Oak Glen/Rural Living – 20 Acre Minimum Lot Size.
West	Wildwood Canyon State Park	City of Yucaipa

**AGENCY**

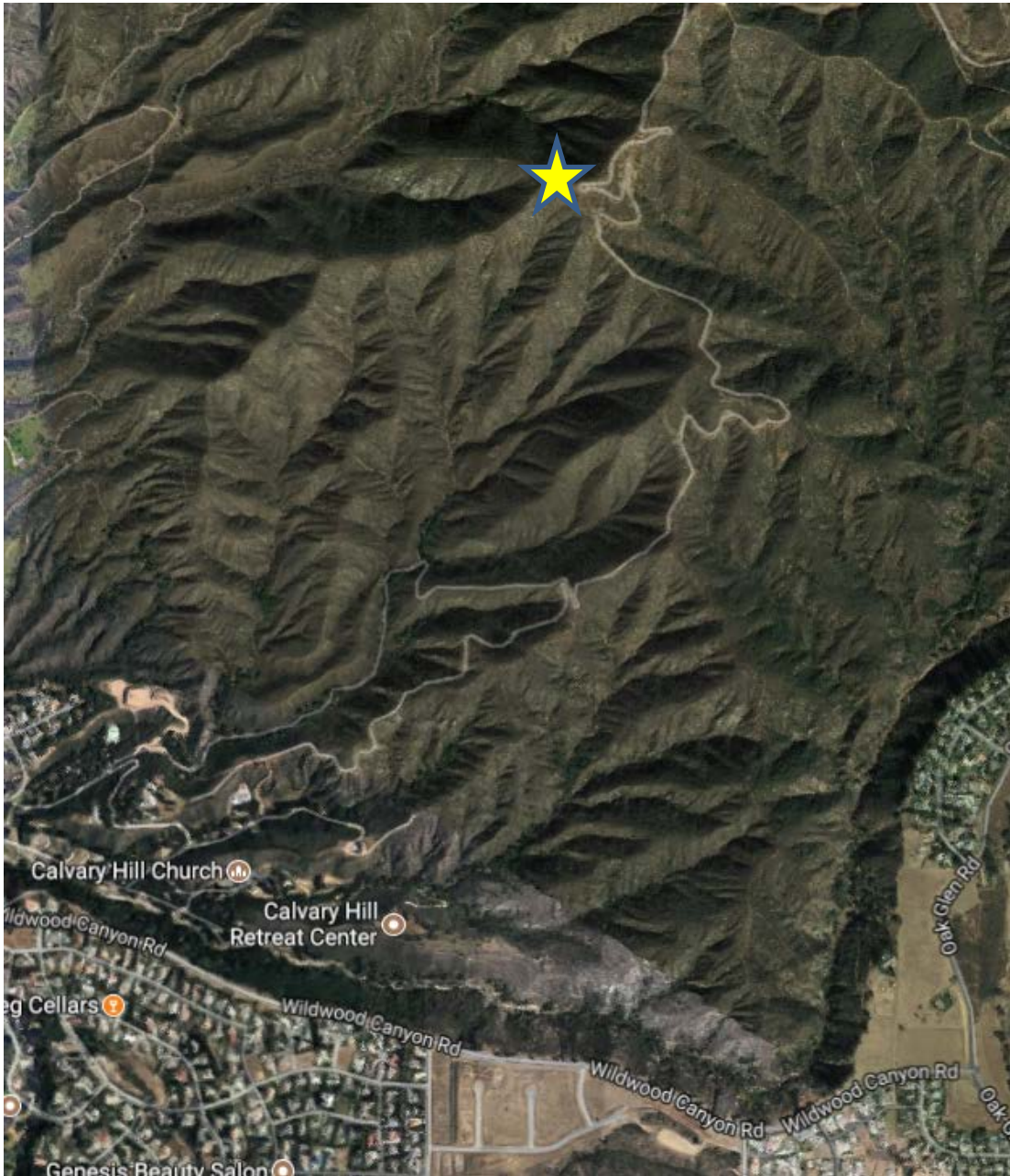
**COMMENT**

City Sphere of Influence	None	Adjacent to City of Yucaipa (opposed)
Water Service	None	N/A – Unmanned Facility
Sewer Service	None	N/A – Unmanned Facility

**STAFF RECOMMENDATION:** THAT THE PLANNING COMMISSION **CERTIFY** THE ENVIRONMENTAL IMPACT REPORT AND **APPROVE** THE PROJECT SUBJECT TO THE CONDITIONS OF APPROVAL

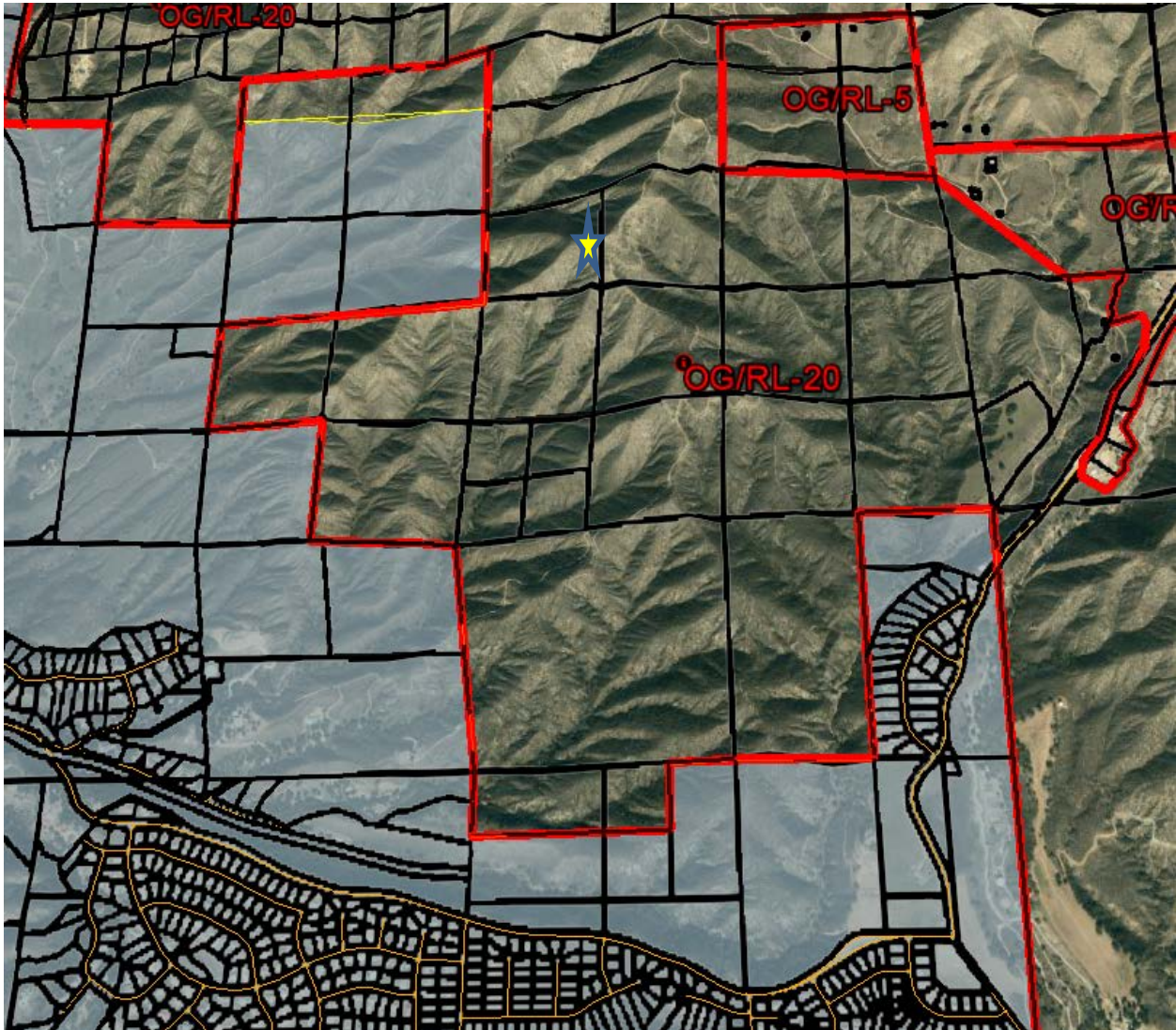
In accordance with the Development Code, the Planning Commission action may be appealed to the Board of Supervisors.

## VICINITY MAP

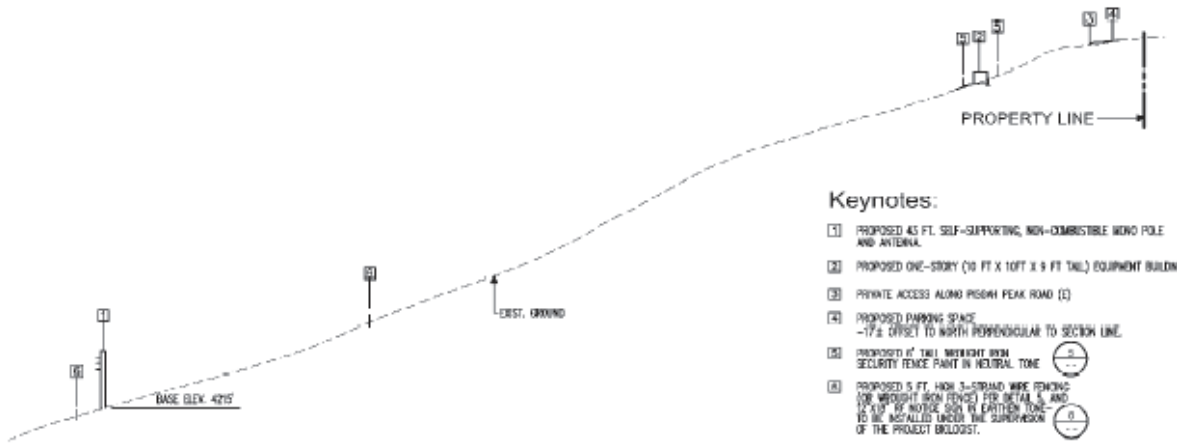
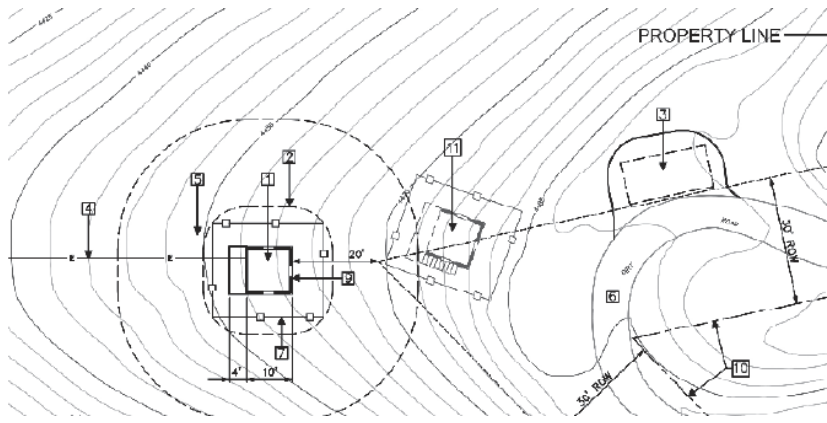
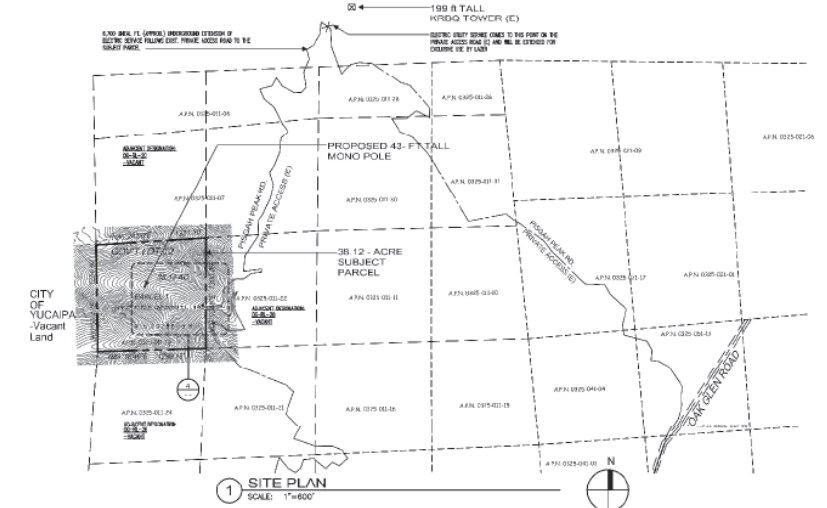




## LAND USE DISTRICT MAP



## Site Plan Sections



- Keynotes:**
- 1 PROPOSED 43 FT. SELF-SUPPORTING, NON-COMBUSTIBLE MONO POLE AND ANTENNA.
  - 2 PROPOSED ONE-STORY (10 FT X 10 FT X 9 FT TALL) EQUIPMENT BUILDING
  - 3 PRIVATE ACCESS ALONG PISGAY PEAK ROAD (E)
  - 4 PROPOSED PARKING SPACE -17'± OFFSET TO NORTH PERPENDICULAR TO SECTION LINE.
  - 5 PROPOSED 17' TALL WROUGHT IRON SECURITY FENCE PAINT IN NEUTRAL TONE
  - 6 PROPOSED 5 FT. HIGH 3-STRAND WIRE FENCING FOR WROUGHT IRON FENCE (FOR DETAIL S, AND 12' HIGH OF NOTICE SIGN (E) CRITICAL TO BE INSTALLED UNDER THE SUPERVISION OF THE PROJECT BIOLOGIST.



## SITE PHOTOS

**View from the site looking southeast.**



**View of the project site, looking northwest**



## **BACKGROUND INFORMATION**

### Project Description

Lazer Broadcasting Corporation (“Lazer” or “Applicant”) has proposed a Conditional Use Permit (CUP) to establish a radio broadcast facility (Project). The Project includes a 43-foot tall monopole, a 100-square foot equipment shelter, a parking space, and security fencing on 38.12 acres located near the intersection of Oak Glen and Wildwood Canyon Roads, west of Pisgah Peak Road, in the Oak Glen Community Plan area. Existing access to the site is via Pisgah Peak Road, a private access road. Immediate access to the proposed equipment building and monopole antenna would be accessed on foot from a single parking space/turnaround on the Project site, adjacent to Pisgah Peak Road. Upon completion of construction of the Project, the site would be accessed one to two times per month for brief operation and maintenance activities by technical personnel. Therefore, water and sewer services are not required.

The proposed 43-foot tall monopole would be placed approximately 200 feet below the prominent ridgeline. The Project, including construction of the parking space and equipment building, would require grading of approximately 50 cubic yards of soil that would remain in balance on-site upon completion of the Project. The 100 square-foot equipment building is designed to be partially recessed into the hillside. The parking improvement provides for a single parking space and turnaround area, which would also serve as a construction staging area. The Project includes undergrounding of approximately 6,700 feet of electrical and telecommunication lines from a location northeast of the Project site to the proposed equipment shed along Pisgah Peak Road. Undergrounding of the lines would continue from the equipment shed to the monopole, a distance of approximately 650 feet.

### Location and Land Use Land Use Jurisdictions

The San Bernardino County General Plan (General Plan) land use designation for the Project site is OG/RL-20 (Oak Glen/Rural Living – 20-acre minimum lot size), and the site is within the FS (Fire Safety) overlay district. Broadcasting antennas and towers are permitted by the Development Code in the Rural Living land use zoning district, subject to a use permit. The Project site abuts the eastern boundary of Wildwood Canyon State Park (Park). The Park is located within the boundaries of the City of Yucaipa (City), but the Project site is not within the City’s Sphere of Influence. All properties abutting the Project site are vacant.

### Technical Requirements of the Project

Lazer owns and operates 20 Spanish Language Radio Stations in 10 regional markets in California and in Reno, Nevada. KXRS is licensed by the Federal Communications Commission (FCC) to Lazer for operation in Hemet, California, to operate on 105.7 MHz. Lazer has been granted a construction permit by the FCC to change the KXRS operating frequency to 105.5 MHz and relocate the transmitter for KXRS to the Project site. These actions will significantly increase the population currently served by KXRS.

Lazer’s KXRS is licensed as a “Class A” FM station and is currently limited to a maximum of 3 kW effective radiated power (“ERP”) due to its proximity to neighboring stations on the same and immediately adjacent frequencies. The FCC Rules for Class A stations were revised in 1989 to allow an increase in the maximum operating power of a Class A station to 6 kW ERP in certain circumstances. In particular, the change in the rules also increased the minimum distance that radio stations must be separated from one another based on their frequency (channel) relationship.

In order for Lazer to increase KXRS to the maximum 6 kW ERP, the station must be relocated to another site that meets the separation criteria of the current FCC Rules. Choosing any site that meets all transmitter location requirements is not a simple matter, particularly in the mountainous regions of southern California. All minimum distance separation requirements must be met or a station's signal strength must be reduced to protect neighboring stations on neighboring frequencies. Coverage of the principal community receiving the radio transmission signal must also be maintained. Other criteria, including protection of the public from radio frequency energy and availability of equipment space, must also be considered.

There is an additional limitation to KXRS being located at its current channel. It is believed to be part of a specially negotiated short-spacing agreement the FCC has made with Mexico with regard to co-channel Mexican FM station XHBCE. KXRS is likely to be prohibited from doing anything to increase its signal strength toward the XHBCE station on its current licensed frequency. This limitation does not exist if the KXRS operating frequency changes to 105.5 MHz, as proposed in the FCC construction permit. While operationally constrained by the current limitations, the station could choose to remain licensed at the present location and operating power for the foreseeable future.

Throughout its history, the technical need for the Project to be located at the proposed site has been debated. The Applicant provided an engineering statement which indicates that there are no other alternative locations for the Project that will allow Lazer to meet the objectives sought to be achieved from relocation. A community-interest organization opposed to the Project, the Citizens for Preservation of Rural Living (CPRL) provided a contradictory engineering statement that concluded there are additional sites that could meet Lazer's objectives. Cavell Mertz & Associates, Inc. (CMA) was retained to provide the County an independent technical analysis of the rules and policies of the FCC as they relate to the location of FM radio stations. CMA was asked to consider and evaluate the merits of the KXRS proposal to construct a facility on the Project site and for additional sites proposed by CPRL. CMA also reviewed and provided comments on the engineering statements provided by Lazer and CPRL.

Although the engineering statements provided by CPRL suggested four alternative locations, CMA found that only Alternative Site #2, located in the community of Cherry Valley in Riverside County, would meet the FCC criteria. This alternative would require construction of a 400-foot tall tower. Further, CMA noted that more than half of the city of Hemet would not be served from this alternative location. CMA concluded that the current Project as proposed would provide a much greater coverage in area and population than that predicted from Alternative Site #2. The feasibility of building Alternative Site #2 was beyond the scope of the CMA analysis, since it would be within the regulatory jurisdiction of Riverside County.

#### Previous Applications/Original Project History

The applicant previously applied for a CUP for a radio broadcast facility (Original Project) on the same parcel in 2007. However, the previous submittal was based on a different design, including a steel lattice tower 140 feet in height, located lower on the hill, a 250-square foot equipment shelter (also housing a backup generator with a 500-gallon fuel tank), and overhead electrical lines. During the review process, the Original Project was revised to reduce the tower height to 80 feet and to underground the electrical lines. The original Project also included an application for a Major Variance to reduce the fuel modification requirement around the tower and the equipment structure from 100 to 30 feet. Staff recommended approval of the Original Project, and on November 6, 2008 (Agenda Item #4), the Planning Commission conditionally approved it by a 4-1 vote (Commissioner Collazo opposed).



CPRL appealed the Planning Commission's conditional approval of the Original Project to the Board of Supervisors (Board). That appeal was initially heard on January 27, 2009 (Agenda Item # 84) and continued to March 3, 2009 (Agenda Item # 59) when the appeal was granted and the Original Project denied with prejudice. Denial with prejudice means that the applicant must wait at least 12 months before resubmitting the same or substantially similar application (Title 8 of San Bernardino County Code (Development Code) § 86.06.080). At the appeal hearing, the Board adopted findings to deny the Original Project based on reasons stated in testimony provided at the public hearing. This action by the Board represented the independent judgment of the Board that the Original Project was not appropriate for the site and that the Original Project was not compatible with the existing and future land uses in the vicinity.

#### Current Project History up to Board Hearing on April 18, 2017

On May 6, 2010, the Applicant refiled the Project application, with a 43-foot high triangular-shaped lattice tower, 10-foot by 10-foot single-story equipment building, and a Major Variance to reduce the fuel modification are from 100 feet to 30 feet, with 10 feet of clearing and 20 feet of selected thinning to be coordinated with the County Fire Department (County Fire) and monitored by a third party biologist. Further, the applicant proposed installing a mock-up of the tower to identify its location and assist in the evaluation of impacts. On December 21, 2010, the County issued a Temporary Use Permit for installation of a 43-foot tall wooden pole.

Based largely on the previous findings for denial of the Original Project that had been adopted by the Board, staff recommended that the Project be denied. The Project was heard by the Planning Commission on March 17, 2011 (Agenda Item #3), and continued to May 5, 2011 (Agenda Item #2). The applicant revised its application, replacing the lattice tower with a wooden monopole of the same height. At the May 5, 2011, hearing, the Planning Commission voted 3-1 (Commissioner Allard opposing and Commissioner Collazo abstaining) to adopt an intent to approve the Project with directions to staff to complete the required environmental analysis pursuant to the California Environmental Quality Act (CEQA) and to prepare findings for approval. The matter was taken off-calendar to allow staff to comply with the Planning Commission directives.

As part of the environmental analysis, Staff determined that a third party expert should be commissioned to prepare a visual assessment. That, and other focused environmental analysis, indicated that a Mitigated Negative Declaration (MND) was appropriate. Impacts were found to be less than significant with mitigation incorporated to reduce potential impacts related to aesthetics, biological resources, geology and soils. All other potential impacts reviewed were found to have no impact or to be less than significant. In response to comments about the Project, further minor revisions were made, including a change in the location of the equipment building and proposed parking space, additional fencing around the monopole and clarification in the amount of grading proposed.

On September 20, 2012, the Project was again presented to the Planning Commission with a draft MND, findings for approval, and conditions of approval, in accordance with the Planning Commission's previous direction. At the hearing, the Planning Commission conditionally approved the Project by a 3-2 vote (Commissioners Kwappenberg and Allard opposing). On September 21, 2012, an appeal to the Board was filed by CPRL. At its meeting on November 27, 2012 (Agenda item # 81), the Board denied the appeal and upheld the Planning Commission's approval of the Project by a 4-0 vote (Supervisor Rutherford absent).

On December 21, 2012, CPRL filed a petition for a Writ of Mandate, seeking an order that the County be required to set aside its adoption of the MND and all Project approvals. CPRL alleged that substantial evidence in the record supported a fair argument that the Project may have

significant impacts on visual and recreational resources, land use, and fire safety. Because of this, CPRL claimed: 1) the County violated CEQA and the Project required an Environmental Impact Report (EIR); 2) the findings required for the CUP were not supported by substantial evidence; and 3) the County violated the Development Code with respect to the enforcement of fire-safety development standards. Significantly, the County's evaluation of all other environmental impacts was not challenged.

On October 1, 2013, the Superior Court granted the writ petition, but only as to impacts to visual and recreational resources, land use and fire safety. The Court ordered the County to vacate approval of the MND, CUP, and Major Variance and prepare an EIR for the Project. The Applicant appealed the Court's ruling to the Court of Appeal of California, Fourth Appellate District, but the appeal was denied on July 28, 2015.

#### Environmental Impact Report

As ordered by the Superior Court, the County has prepared an EIR (SCH #2008041082). Certain environmental factors required to be considered under CEQA were analyzed in the MND adopted by the Board on November 27, 2012, and were not challenged as part of the December 21, 2012, petition for a Writ of Mandate filed by CPRL. Evaluation of these topics and the reasons for determining that associated impacts would be less than significant are summarized in the EIR. The topics with less-than-significant impacts include: Agricultural and Forestry Resources, Air Quality, Cultural Resources, Greenhouse Gases, Hydrology and Water Quality, Mineral Resources, Noise, Population/Housing, Public Services, Transportation/Traffic, and Utilities and Service Systems.

Under Section 15128 of the California Code of Regulations, Title 14, Chapter 3 (CEQA Guidelines), if the Lead Agency determines that an EIR will be required for a project, the Lead Agency must focus on the significant effects of a project and indicate the reasons that other effects would not be significant or potentially significant. The County issued a Notice of Preparation (NOP) to surrounding property owners, interested parties, and state agencies on October 24, 2014, pursuant to the CEQA Guidelines. The NOP indicated the following topics would be analyzed as potentially significant impacts in the EIR: Aesthetics, Biological Resources, Geology and Soils, Fire Safety Hazards, and Land Use and Planning.

#### Aesthetics

The Project site is adjacent to the Wildwood Canyon State Park (Park), which is located in the City of Yucaipa. The Park consists of 900 acres of land and provides trails for hikers, mountain bikers and equestrians. Portions of the Project would be visible along portions of trails within the Park. The primary view shed for hikers and equestrians within the Park is northeast toward Pisgah Peak, as a majority of the marked trails trend in this direction. Rolling hills, valleys and steep slopes occur throughout the Park, with marked and unmarked trails trending generally southwest to northeast. Residential structures located outside of the Park are visible along ridgelines from within the Park. Recreational areas for Park users include: a horse staging area, corrals, a meeting area with picnic tables, portable toilets, and an event/meeting building. Portions of the Park contain above-ground electrical utility poles and overhead wires that are visible at the Park entrance, along trails, and near the horse corrals.

The demonstration pole that was previously installed on the Project site has been removed. The purpose of the demonstration pole was to help interested individuals observe the Project location and evaluate visual impacts of the Project. From trails within the Park located approximately one mile west of the Project site, the demonstration pole was barely visible, to the extent that it was difficult to locate visually. However, from eastern trails (e.g. North Valley and Stinson trails) within

the Park, the monopole was visible due to the contrast created by the darkened weathered wood that stood out against the lighter colored vegetation on the surrounding hills.

The Applicant proposes to completely revegetate the Project site after the Project is constructed. Landscape plans will be prepared under the direction of a biologist to ensure restoration of the vegetation affected by construction or testing activities. Complete revegetation will not apply to areas within the fuel modification zones that are required around the monopole and the equipment building. The first 10 feet of the fuel modification area (closest to the pole/structure) will contain only fire resistant plants approved by County Fire.

Since the current Project application was submitted in 2010, visual impact analyses of the Project have been completed following three different methodologies (Federal Highways Administration, Bureau of Land Management, and the US Forest Service). Under each methodology it was determined that with implementation of mitigation measures requiring revegetation of the Project site and painting of the facility to blend with surrounding vegetation, potential visual impacts perceived by sensitive receptors, including nearby residents and Park visitors, would be reduced to a less than significant level. However, this area of CEQA is highly subjective, and public comments previously received by the Board indicate a high level of viewer sensitivity to the monopole's visual impact. In consideration of this sensitivity, and the lack of a feasible alternative site that could avoid these visual impacts, the EIR concludes that the visual impact is significant and unavoidable, at least to some portion of the population.

#### Biological Resources

The Project footprint is less than 350 square feet, including the monopole with antenna, equipment building, and parking space. Additional permanent impacts to vegetation would occur on a 30-foot vegetation removal and thinning radius around the equipment building and monopole, consistent with the requirements defined in the Development Code §82.13.060(h) for fire fuel safety modification.

As previously noted, the Project site is located near the boundaries of both the Park and the San Bernardino National Forest. The Project site is entirely within the Pisgah Peak Open Space Policy Area of the General Plan, an area that supports a diversity of wildlife species, including large mammals. One of the goals of this Policy Area is to maintain habitat values, potentially by consolidating public/private ownership to reduce the potential for destruction of habitat. Vegetation at the Project site is generally described as mixed chaparral with varying degrees of disturbance occurring near Pisgah Peak Road and along the ridgeline trail that would provide access to the equipment building and monopole with attached antenna.

The firm of Biological Assessment Services (BAS) conducted biological surveys on four separate occasions to determine if the Project would result in significant impacts to biological resources at the Project site and along the access road. BAS made site visits on June 2, 2006; December 30, 2006; March 5, 2007; and August 10, 2007. Updates to the biological investigations were completed in 2009 and 2010. Most recently, a biological survey was conducted in the spring of 2015. A General Biological Assessment report of the Project site was also completed by the firm of Natural Resources Assessment, Inc., in August 2015. All reports conclude that no native riparian vegetation or other sensitive natural community occurs on the Project site.

#### Geology and Soils

The Project is located within the Geologic Hazard (GH) Overlay District designated by the General Plan. The GH overlay in this area indicates a potential for slope instability. The Geotechnical investigation and updates prepared for the Project detail the results of field exploration, laboratory

testing and geotechnical analysis. The conclusion of the geotechnical investigation is that the Project is considered feasible from a geotechnical standpoint, provided that recommendations in the 2007 Geotechnical Investigation are implemented. These recommendations include requirement of an updated Geotechnical Report to confirm its findings prior to construction. Recommendations included in all geotechnical reports prepared for the Project will be implemented as conditions of approval. In addition, the Project is subject to the requirements of the latest edition of the California Building Code. These mitigation measures and standard requirements ensure that impacts associated with geology and soils will be less than significant.

#### Fire Safety Issues

Three primary fire safety concerns have been analyzed in the EIR: 1) an increase in the risk of wildfires caused by introducing a new source of electricity and a 43-foot tall wooden monopole that could attract lightning during a storm event; 2) a reduction in the fuel modification requirements from 100 feet to 30 feet; and 3) access from Pisgah Peak road that contains steep grades exceeding 14 percent.

The concern of a lightning strike will be mitigated by the requirement for the Applicant to install an earthing system to safely ground the monopole and equipment. County Building and Safety will inspect the system for compliance with safety standards. In addition to grounding the antennas, the Applicant will be required to apply a latex-based, fire protective coating to the monopole. The monopole shall be free from creosote or pentachlorophenol, materials that are often applied to wooden poles that may affect the adhesion of the required fire retardant.

Fuel modification and emergency access to the Project site have been reviewed by County Fire. County Fire noted the remote location of the Project site at the top of an upward slope, with limited access. Placing firefighters at this location to defend equipment would not be authorized by County Fire. Therefore, emergency access to fight fire on the site is not an issue. With regard to fuel modification, the Project structures would not be occupied, so there is no life safety risk. Fuel modification fulfills two primary functions for occupied structures: 1) providing defensible space where firefighters can successfully defend a home or business (the original 100-foot modification zone was the standard for protecting homes); and 2) providing for passive fire protection in remote areas where firefighter response is not likely. County Fire concluded that the 30-foot fuel modification proposed at the site is appropriate for the unmanned facility.

County Fire also concluded that the maximum 14% grade and minimum access road width standards stated in the Fire Safety Overlay are not relevant to the Project. These standards allows fire response vehicles access to protect areas, while maintaining safe egress to evacuate residents. As previously stated, fire-fighting access and emergency evacuation requirements are not applicable for a project site with unmanned structures. The fuel modification zone in the Project design ensures that Project-related impacts to fire safety will be less than significant. Previously, the Project proposal required a variance from the fire safety overlay improvement standards. However, the Development Code has since been revised to allow flexibility in the improvement standards with respect to unmanned facilities, as recommended by County Fire. Therefore, the current Project does not include a variance request.

To further evaluate potential fire safety impacts of the Project, the County contracted with Don Oaks, a Fire Safety expert with over 50 years of experience. Mr. Oaks was asked to evaluate the Project, the potential fire safety impacts, and the proposed mitigation measures concerning the fire safety, considering the concerns raised by CPRL. Mr. Oaks concurred with the conclusions of County Fire regarding lightning strikes, fuel modification and the recommendation to approve the Project from a fire safety standpoint.



### Land Use Planning

CPRL challenged the consistency of the Project with the goals and policies of the General Plan and the Oak Glen Community Plan, both of which encourage protection and enhancement of open space resources. For example, the General Plan Open Space Element, Goal OS 7 states, "The County will minimize land use conflict between open spaces and surrounding land uses." Since the Project is located adjacent to the Park, the EIR analyzes potential environmental impacts of the Project in terms of creating a conflict with enjoyment of the Park or the potential future expansion of the Park.

The following General Plan policies stem from Goal OS 7, and have been considered in the environmental analysis of land use and planning, as well as in the Project review for consistency with the General Plan:

- Policy OS 7.2 – "For natural open space areas that require separation from human activities to preserve their function and value, limit construction of roads into or across natural open space areas."
- Policy OS 7.5 – "Require that natural landform and ridgelines be preserved by using the following measures: a) Keep cuts and fills to an absolute minimum during the development of the area; b) Require the grading contours that do occur to blend with the natural contours on site or to look like contours that would naturally occur; c) Encourage the use of custom foundations in order to minimize disruption of the natural landform; and d) Require that units located in the hillsides be so situated that roof lines will blend with and not detract from the natural ridge outline."
- Policy OS 7.6 – "Require that hillside development be compatible with natural features and the ability to develop the site in a manner that preserves the integrity and character of the hillside environment, including but not limited to, consideration of terrain, landform, access needs, fire and erosion hazards, watershed and flood factors, tree preservation, and scenic amenities and quality."

The Project design minimizes potential impacts of the Project on the Park. The equipment building is designed to be partially concealed within the hillside, and the entire site design respects the natural features of the site, preserving its natural character. The monopole placement is proposed below the ridgeline, and at a scale that would minimize visual impacts to the extent feasible, as viewed from adjacent open space areas. Access to the site is planned to come from Pisgah Peak Road, and no additional roadways are proposed from the parking space to the monopole. Access to the monopole would be limited to a foot path.

Upon approval of a CUP, the Project would be consistent with the General Plan and Oak Glen Community Plan Land Use and Zoning designations, as well as the policies and guidelines of the General Plan and Oak Glen Community Plan. However, to ensure that the Project would not conflict with the future expansion of the Park, a mitigation measure requires that a deed restriction be applied to the unused portion of the 38.12-acre Project site, to allow passive use by the public. This measure would ensure that the Project is consistent with Conservation Goal (OG/CO-1) of the Oak Glen Community Plan, by promoting conservation of the natural features of Oak Glen, including native wildlife, vegetation and scenic vistas. The Project does not preclude potential expansion of the Park.

### CEQA Findings

Pursuant to Section 15093 of the State CEQA Guidelines, decision-makers are required to balance the benefits of a project against its unavoidable environmental risks in determining whether to approve a project. In the event the benefits of a project outweigh the unavoidable adverse effects, the adverse effects may be considered acceptable. Because not all of the Project's impacts can be reduced to a level that is less than significant, Findings of Fact and a Statement of Overriding Considerations must be adopted to approve the Project as proposed. Overriding benefits of the Project proposed for consideration include, but are not limited to:

- Rectifying Lazer's short-spacing deficiency by relocating its broadcasting antenna to a location that complies with FCC location criteria, minimum field strength requirements over its community of license, and allowing for operation at maximum effective radiated power of 6 kW (approximate service radius of 28 kilometers).
- Maintaining and operating a fully-licensed FM Radio Broadcast Facility in accordance with all applicable local, state and federal requirements.
- Significantly enhancing coverage of emergency broadcast, public service announcements, and commercial programming for San Bernardino and Riverside County residents.
- Increasing County broadcast coverage of the above emergency broadcast and public service announcements to include an additional estimated 1 million Spanish-speaking listeners.

### April 18, 2017 Board of Supervisors Public Hearing

After completion of the Final EIR the Project was scheduled for a hearing by the Board of Supervisors. This matter was not brought back to the Planning Commission since, among other reasons, the Planning Commission does not have the authority to comply with the Superior Court order to set aside and vacate a Board action. Staff recommended that the Board of Supervisors take the following five actions:

- (1) Set aside and vacate the adoption of the MND and the approval of a CUP to establish a radio tower broadcast facility with a Major Variance to reduce the Fire Safety Overlay setback requirements (the actions taken by the Board on November 27, 2012).
- (2) Certify the Final Environmental Impact Report (SCH # 2008041082).
- (3) Adopt the Findings of Fact and Statement of Overriding Considerations.
- (4) Approve the Conditional Use Permit for the Project, subject to the Conditions of Approval.
- (5) Direct the Clerk of the Board to file a Notice of Determination.

The Public Comment portion of the hearing was opened and a total of 39 speakers including those in opposition and those in support of the Project provided comments. Speakers opposed to the Project contended that there were more suitable locations for the Project and that the natural conditions and views in the Park and surrounding areas should be preserved. Speakers in favor of the Project cited its important public service objectives, including emergency information (e.g., flash floods, etc.) for Spanish-speaking audiences in both San Bernardino and Riverside counties.

Following public comment, the Board deliberated on the item, discussed public comments, the General Plan Land Use designation of the site, and the adequacy of the environmental document. Environmental concerns discussed included aesthetics, open space, alternative sites, and the Statement of Overriding Considerations.

The Board voted 4 to 0) on recommendation (1) to set aside and vacate the prior MND adoption and CUP approval for the Project. Supervisor Rutherford abstained since she was not present for the entire public hearing and a motion to continue the item to allow her time to review the video of the portions of the hearing that she missed was rejected. With respect to recommendation (2), the certification of the EIR, Supervisors Gonzales and Hagman voted in favor; Supervisors Lovingood and Ramos were opposed, and Supervisor Rutherford abstained. Because every action taken by the Board must be approved by a majority (Government Code 25005), the failure of the motion to certify the EIR to garner three votes is deemed a denial. Furthermore, because a project cannot be approved before the EIR is certified (CEQA Guidelines § 15090(a)), no actions on recommendations (3) – (5) were taken.

The Board's action to set aside and vacate the prior Project approvals did not rescind or revoke the Project application, which remains on file with the Land use Services Department. Therefore, this item is being presented to the Planning Commission as the approval authority for a Conditional Use Permit, with that decision being appealable to the Board.

Lilburn Corporation, the County's EIR consultant, has prepared a memo to the Planning Commission to provide additional information and clarification of the analysis within the EIR that was addressed in public comments and discussion at the April 18, 2017 Board hearing.

#### Public Input

More than 20,000 letters have been received expressing both opposition to and support of the Project. Approximately 17,000 letters express opposition, based on issues of aesthetics, fire safety, biological resources, growth inducement, cultural resources, and requests for the preparation of an EIR. Included within the opposition correspondence are letters submitted by the City of Yucaipa, CPRL and the Wildlands Conservancy. The letters in support of the Project (approximately 3,500) generally speak to the desire for Lazer to increase its coverage area and expand its listenership. The majority of the letters submitted are "form" letters; many unsigned.

**RECOMMENDATION:** That the Planning Commission

- 1) **Certify** the Environmental Impact Report
- 2) **Adopt** the Findings for Project approval
- 3) **Approve** the Conditional Use Permit to construct a 43-foot monopole radio broadcast tower and 100 sq. ft. equipment building on 38.12 acres, subject to the Conditions of Approval;
- 4) **File** a Notice of Determination.

#### Attachments:

Exhibit A: Lilburn Memo

Exhibit B: CEQA Findings

Exhibit C: Project Findings

Exhibit D: Conditions of Approval

Exhibit E: Correspondence Posted at: <http://www.sbcounty.gov/uploads/lus/pc/LazerCorr.pdf>

Exhibit F: EIR Posted at: <http://www.sbcounty.gov/Uploads/lus/Environmental/FinalEIRLazer.pdf>  
<http://www.sbcounty.gov/Uploads/lus/Environmental/LazerBroadcasting/LazerEIR.pdf>

# EXHIBIT A

## Lilburn Memo



## MEMORANDUM

**DATE:** August 31, 2017 **PROJECT NO.** P201000215

**TO:** County of San Bernardino, Planning Commission Members

**FROM:** Cheryl A. Tubbs, Principal-in-Charge/Project Director  
Natalie P. Patty, Project Manager

**SUBJECT: Background of Lazer Project and April 18<sup>th</sup> Board of Supervisors Hearing**

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### Honorable Planning Commission

Lilburn Corporation is the County's consultant for the preparation of an Environmental Impact Report (EIR) and related Findings pursuant to the California Environmental Quality Act (CEQA) for the proposed Lazer Broadcasting Radio Tower Project (Project). This letter is submitted to provide additional background information and clarification of the CEQA process and details of the analysis and Findings related to the Project that were addressed in public comments and discussed at the San Bernardino County Board of Supervisors Hearing on April 18, 2017.

### Focus of 2016 Environmental Impact Report Analysis

Certain environmental factors required to be considered under CEQA were previously reviewed in the October 26, 2011, Mitigated Negative Declaration (MND) approved by the County of San Bernardino Board of Supervisors on November 27, 2012. The adequacy of the analysis for these environmental topics was not challenged as part of the December 21, 2012, petition for writ of mandate filed by Citizens for Preservation of Rural Living (CPRL), and therefore these topics were not further evaluated within the EIR. These environmental factors include: Agricultural and Forestry Resources, Air Quality, Cultural Resources, Geology and Soils, Greenhouse Gases, Hydrology and Water Quality, Mineral Resources, Noise, Population/Housing, Public Services, Transportation/Traffic, and Utilities and Service Systems.

The EIR consultant evaluated prior CEQA documents prepared for this Project, minutes of public hearings, the Superior Court's Ruling On Petition for Writ of Mandate (Ruling), and comment letters received during circulation of the NOP. Following this review and meetings with the applicant, it was determined that the following potential environmental issues should be analyzed in the EIR:

- Aesthetics
- Land Use
- Fire Safety Hazards
- Geology and Soils
- Biological Resources

Each of the specific issues and environmental topics identified in the Ruling as requiring additional environmental analysis was included in the EIR analysis. In summary, the following points were made in the Ruling:

#### *Visual and Recreational Impacts*

- Use of the incorrect baseline (should include pristine before mock pole conditions).
- Visual studies (October 2011 and September 2012) did not consider multi-use trails

#### *Land Use Impacts*

- Growth inducing impacts, may prevent expansion of Wildwood Canyon State Park (State Park), and violates the development code regarding grading.
- May lead to applications for additional radio towers
- Extending electrical power to an area over 1.25 miles long, along Pisgah Peak Road may be growth inducing.
- Project is located directly adjacent to the Park and it may prevent the Park's expansion to include Pisgah Peak.

- Project violates Development Code 83.08.040(b)(2), which prohibits grading of building pads on parcels exceeding 40 percent in slope.

### *Fire Impacts*

- Increased the risk of wildfire; attracting lightning storms.
- County Development Code requires that fire access roads be at least 20 feet wide and less than 14 percent in grade

Since the areas of Geology and Soils and Biology included mitigation measures, as analyzed in the MND, these sections have also been included in the EIR.

### **Preparation of the EIR**

The Draft Environmental Impact Report (State Clearinghouse No. 2008041082) was completed in 2016 for the Proposed Project. The Project evaluated was the construction and operation of a radio broadcast facility to include a 43-foot tall monopole with attached antenna and a 10-foot by 10-foot single-story (nine-foot tall) equipment building on a 38.12-acre site located near Wildwood Canyon and Oak Gen Roads, west of Pisgah Peak Road in the unincorporated Yucaipa area of San Bernardino County.

The proposed monopole would be a self-supporting, fire-preventative treated wood pole that would either remain in a natural wooden condition, painted a neutral color to blend with the surrounding environment, or would be a painted metal pole in a non-metallic, weathered gray color. The monopole would support a 25-foot long antenna that would be mounted per industry standards on the monopole's southwesterly facing side.

The Project Site evaluated in the Draft EIR was the location of a demonstration pole installed in 2010 under a Temporary Use Permit and subsequently removed in 2015.

## **Draft EIR Public Comments Received**

The public comment period for the Draft EIR began June 6, 2016, and ended July 20, 2016. A total of seven (7) comment letters were received including: a letter from the Yucaipa Valley Conservancy, two letters from the City of Yucaipa, one letter from the Wildlands Conservancy, two letters from CPRL, and one letter from the California Native Plant Society.

Below is a bullet list of the major concerns that were submitted. Details responses to all comments/concerns can be found in Section 3.0 of the Final EIR.

- Project conflicts with County plans, policies, codes, and ordinances.
- Project breaks and disturbs the eastern boundary of the State Park, causing habitat disturbance and destruction; breaking up pristine area used by hikers, equestrians, and bird watchers.
- Project results in high wildland fire risk from lightning strikes.
- Alternatives site analysis is incomplete; there is more than one alternative site that would be suitable.
- Tower is incompatible with surrounding open spaces of the State Park.
- Tower would not allow expansion of the State Park.
- EIR does not analyze total scope of construction; including the installation of the 6,700 linear feet of underground cable and related equipment and Project disturbance along a narrow road; greater area of road would be disturbed.
- Impacts to Pisgah Peak Road such as aesthetics and biological resources not addressed.
- Project objectives, which relate to current programs offered by the radio station, is not an accurate set of objectives for purposes of CEQA; should include underlying purpose of the Project, which is to simply expand broadcast coverage.
- The conclusion provided for aesthetics, “significant and unavoidable” undermines the potential impacts that would be generated by the development.



- Other vantage points for visual analysis should have been included; no simulations were provided for Oak Glen Road and Wildwood Canyon Road.
- Cumulative analysis does not address future ties to the extended electrical line.
- Growth inducing impacts are not limited to radio towers, but need to include permits that could be issued in the future for cellular towers; “tower farm” would occur.
- Project would develop portion of the site that has slopes greater than 40% increasing erosion potential.
- Re-vegetation of site where temporary/demonstration pole was installed cannot be effective
- Over 17,000 comments or signatures were sent in opposition of the Project.
- Radio frequency waves are dangerous.

### **Clarifications Regarding Alternative Sites**

Many public comments questioned whether there was more than one alternative site that would be suitable. As provided in Section 3.0 Response to Comments of the Final EIR, the County hired Cavell Mertz & Associates, Inc. as a third-party independent expert in Federal Communications Commission (“FCC”) regulations to peer review the previously prepared reports submitted by both the Project applicant and by those opposed to the Project. The DEIR conclusions related to the alternative sites were based on the peer review conducted by the County’s independent consultant. Even if the commenters’ suggested alternative sites were considered, there is nothing to suggest that they would be superior. The suggested alternative sites would both require towers significantly higher than the 43-foot tower proposed for this Project. As a result, it might well be concluded by the other jurisdictions where those possible sites exist that the height of the towers would make them objectionable.

CEQA considers the possibility of disagreement between/among experts and states in Guidelines Section 15151: “Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.”

### **Clarifications Regarding Aesthetics Analysis and Findings**

The topic of aesthetics and the DEIR conclusion of “significant and unavoidable” was also discussed by a number of commenters. Comments received on the Draft EIR discussed that this conclusion seemed to undermine the potential impacts that would be generated by the development. Responses to these comment indicated that impacts to aesthetics for the No Project Alternative and the Proposed Project would be less than significant. However as stated in Section 4.1 Aesthetics of the EIR, this area of CEQA is highly subjective and public comments previously received by the County Board of Supervisors indicated a high level of viewer sensitivity to the monopole’s visual impact. In consideration of this and the alternatives analysis showing that no other feasible Project Sites could avoid such impacts, although the Project is considered highly beneficial, the County determined that the visual impact, at least to some portion of the population, is significant and unavoidable.

# EXHIBIT B

## CEQA Findings

**CEQA FINDINGS OF FACT  
FOR THE  
LAZER BROADCASTING FACILITY PROJECT  
(SCH NO. 2008041082)**

**A. INTRODUCTION**

Lazer Broadcasting Corporation (herein Applicant) is proposing the construction and operation of a radio broadcast facility (Project) to include a 43-foot tall monopole with attached antenna and a 10-foot by 10-foot single-story (nine-foot tall) equipment building on a 38.12-acre site located near Wildwood Canyon and Oak Glen Road, west of Pisgah Peak Road in the unincorporated area of San Bernardino County (County), called Oak Glen.

An Environmental Impact Report (EIR), State Clearinghouse No. 2008041082, has been prepared for the Project. On October 1, 2013, in the Superior Court of the State of California, in and for the County of San Bernardino, San Bernardino District, the court on its review of the Petition of Writ of Mandate (Case No. CIVDS 1213273) granted the writ petition to require the County to vacate its previous approval of the a Mitigated Negative Declaration (MND), Conditional Use Permit (CUP), and major variance for the proposed Project. The decision was appealed to the District Court of Appeal 4<sup>th</sup> District Third Division as case number G050884, and was affirmed on July 28, 2015. *Citizens for the Preservation of Rural Living v. County of San Bernardino (Lazer Broadcasting, Inc.)* 2015 WL 4554609.

The Lead Agency for the EIR is the County.

**B. PROJECT SUMMARY**

The proposed monopole would be a self-supporting, fire-preventative, treated wood pole that would either remain in a natural wooden condition or painted a neutral color (light beige, sage) to blend with the surrounding environment. The monopole would support a 25-foot long antenna that would be mounted per industry standards on the monopole's southwesterly facing side. The antenna would extend from the surface of the monopole out to 21 inches and would be constructed of metal, and include four (4) "arms" that would extend from the main monopole support at 45 degree angles. The antenna would be approximately 4 inches in diameter and constructed of a non-glare, metallic material. Based on the guidelines of the Federal Aviation Administration and Federal Communications Commission, the proposed monopole and attached antenna would not require lighting or the application of red/white striped paint.

The Project site is situated in the foothills of the San Bernardino Mountains near the community of Oak Glen. The Project site is located west of Pisgah Peak Road approximately 1.5 miles north of its intersection with Wildwood Canyon Road within an unincorporated portion of San Bernardino County and in the Oak Glen Planning Area.

The Project site is located approximately 1.5 miles south of the San Bernardino National Forest, on a west facing slope below the ridgeline, and is currently vacant. In 2010, a demonstration

pole was installed to identify the location of the monopole and represent the pole height; the pole was removed in 2015. The Project site elevation varies from 3,850 feet above mean sea level (amsl) to 4,500 feet amsl. The entire Project site consists of densely mixed chaparral and occurs on slopes greater than 30 percent but less than 40 percent.

A complete description of the Project is provided in Chapter 3.0 of the Draft Environmental Impact Report (Draft EIR) prepared and circulated for public review and comment between June 6, 2016, and July 20, 2016 (State Clearinghouse Number 2008041082).

## **B.1 PROJECT OBJECTIVES**

CEQA Guidelines (California Code of Regulations, Title 15, Division 6, Chapter 3) § 15124(b) requires that the project description include a statement of objectives sought by the proposed Project. The statement of objectives will assist the Lead Agency in developing a reasonable range of alternatives for evaluation in the EIR. The objectives will also assist the Lead Agency in developing findings for a statement of overriding considerations, if required.

The specific Project Objectives stated below are intended to be consistent with the County's goals for implementing the County General Plan and Oak Glen Community Plan, and include the following:

- Rectify the Applicant's FCC short-spacing deficiency by relocating its broadcasting antenna to a location that complies with FCC location criteria, minimum field strength requirements over its community of license, and allows for operation at maximum effective radiated power of 6 kW (approximate service radius of 28 kilometers [Sections 73.207 and 73.315 of Part 73 of the Code of Federal Regulations (CFR)]).
- Maintain and operate a fully licensed FM Radio Broadcast Facility in accordance with all applicable local, state and federal requirements.
- Significantly enhance coverage of emergency broadcast, public service announcements, and commercial programming for San Bernardino and Riverside County residents.
- Increase County's broadcast coverage of above emergency broadcast and public service announcements to include an additional estimated 1 million Spanish-speaking listeners.
- Increase San Bernardino City Unified School District's listening audience (Spanish-speaking) for its educational show ("Buenas Escuelas, Buenas Noticias").
- Increase Casa de San Bernardino's and other social programs' listening audience (Spanish-speaking) for social educational information.
- Contribute to the expansion of Wildwood Canyon State Park (WCSP) through the implementation of a passive, not active, land use. As a passive land use broadcast towers have been implemented in many California State Parks
- Create long term buffering of passive land uses within and adjacent to the eastern WCSP boundary through dedication of development rights and/or transfer of ownership in fee of an area equal to approximately four percent of the current WCSP land area.



## **B.2 PROJECT DESCRIPTION**

The Applicant is proposing the construction and operation of a new FM radio broadcast facility to include a 43-foot tall monopole with attached antenna, a 10-foot by 10-foot single-story (nine-foot tall at its highest point) equipment building, and a single 10-foot by 20-foot parking space/turnaround area on a 38.12-acre site. The Project is located near Wildwood Canyon and Oak Glen Road, west of Pisgah Peak Road in an unincorporated area of the County (see DEIR Figure 1-1 – Regional Map and DEIR Figure 1-2 – Vicinity Map). The Project also includes a 30-foot radius fuel modification area on the perimeter of the monopole and equipment building, security fencing on the perimeter of the monopole and equipment building, and installation of approximately 650-lineal feet (LF) of underground conduit for radio transmission lines between the monopole and the equipment building. Off-site, the proposed Project includes the extension of and undergrounding of electric line and utility approximately 6,700 LF located within Pisgah Peak Road, from the existing KRBQ tower. The electric utility line will be extended for exclusive use by the Applicant.

The proposed monopole and antenna would be self-supporting. The monopole would be fire preventative and constructed of treated wood. The proposed antenna would be attached to the side of the monopole in a due south and due west direction and would begin approximately midway up the pole (about 21.5 feet above the ground) to within one-foot below the top of the pole. The antenna would extend approximately 4.5 feet out from the side of the pole and would have an overall length of 21 feet (see to Figure 3-1 – Antenna Detail). The antenna would be composed of four bent dipoles (elements) and be made of copper. Based on Federal Aviation Administration (FAA) and FCC guidelines, the proposed monopole and attached antenna would not require lighting or the application of red/white striped paint.

### Fuel Modification

The subject parcel is located within the San Bernardino Fire Safety Overlay Review Area One (FS-1) Overlay District' therefore, development of the Project site is subject to fuel modification requirements. Per the County Development Code §82.13.040(f)(3) a Fuel Modification Plan must be submitted as part of the preliminary and/or final plan. The Applicant proposes a 30-foot wide fuel modification area on the perimeter of the monopole and equipment building. Vegetation within the inner 10-foot radius from the building walls would be cleared and/or selectively thinned per the direction of County Fire and coordinated through a third party biologist. Vegetation in the next 20-foot radius from the initial clearance area would be selectively thinned per the direction of County Fire and coordinated through a third-party biologist. The fuel modification plan has been designed to minimize visual impacts and soil erosion at the site and is consistent with County Development Code §82.13.060(h) for development of unoccupied structures located within a Fire Safety Overlay.

### Security

Security fencing is proposed around the perimeter of the equipment building and monopole. At the equipment building, wrought iron security fencing would be placed approximately five (5)-feet from the building walls within the vegetation clearance area. The fencing would consist of six (6)-foot tall steel tube supports with vertical steel pickets (apache points) painted in a neutral

color to blend in with the surrounding environment. At the monopole, the security fencing would be installed as required by regulations of the FCC due to radio frequency (RF) conditions. Security fencing would follow site topography and be placed up to 200-feet away from the monopole. Fencing would consist of five (5)-foot tall 3-strand wire fencing. Line posts would be wooden with a minimum diameter of four (4)-inches and studded or punched with anchor plates. Corner posts would be at least five (5)-inches in diameter and braced. Three strands of standard galvanized double strand wire would span the line posts. Alternatively, security fencing at the monopole may consist of wrought iron as previously described for the equipment building.

### Utility Service

Under existing conditions no utilities are available on-site. Because the Project would require electrical service, extension of a private underground line would be installed in Pisgah Peak Road from the existing KRBQ tower site to the subject parcel. The total extension of utility service from the KRBQ tower to the subject parcel is approximately 6,700 LF. Approximately 650 LF of underground conduit for radio transmission lines would be installed within the subject parcel from the equipment building to the monopole. During construction, water would be delivered to the site on an as-needed basis by a light duty, 4-wheel drive vehicle, for dust suppression and to establish landscaping and revegetation. No revegetation of the disturbance proposed along the 6,700 linear-foot area of Pisgah Peak Road is proposed as the road is currently unpaved and does not support vegetation.

### Access

Existing access to the subject parcel is via Pisgah Peak Road, a private access road. Access to the proposed equipment building and monopole antenna would be available on foot from a single parking space/turnaround on the subject parcel and adjacent to Pisgah Peak Road. Upon completion of the Project, access to the site would be only by technical personnel for operation and maintenance of the site one to two times per month. The monopole would be self-supporting and would require occasional maintenance (1 to 4 times per year).

### Grading

The proposed Project including the construction of the parking space and equipment building would require the movement of a total of less than 50 cubic yards of soil to be balanced on-site. The construction of the 100 square-foot equipment building would be partially recessed approximately 10 feet into the hillside. The single parking space would provide access for vehicular turn-a-round and also serve as a short-term construction staging area.

### Revegetation

The Applicant is proposing to revegetate portions the Project site after the Project is constructed. Landscape plans will be prepared under the direction of a biologist to restore the vegetation of areas that were effected by construction-related activities associated with the monopole demonstration activities and that would be effected with construction of the proposed Project. However, complete revegetation will not apply to areas within the fuel modification zones that are required around the monopole and the equipment building. The first 10 feet of the fuel

modification area (closest to the pole/structure) will require only fire resistant plants, as shall be approved by the Fire Department.

### Signage

The applicant is proposing radio frequency (RF) notice signage to comply with FCC Regulations related to fence installation. Signs would be posted along the exposed sides of the equipment building and around the 3-strand wire fencing surrounding the monopole. Signs would be approximately 9-inches by 12-inches and would be an earthen tone to blend with the surrounding environment.

### Construction

Construction of the monopole antenna, security fencing, 100 square-foot equipment building, parking space, fuel modification/landscaping, and installation of transmission line conduit would be completed as one phase and would be coordinated with a ground crew and a helicopter (or a light duty, 4-wheel drive vehicle with trailer). Use of a helicopter would be short-term and required only for the delivery of material from an off-site construction staging area to the Project site. The helicopter would transport and assist in the placement of the monopole and antenna. The helicopter (if used) would also deliver materials for the construction of the equipment building including the delivery of lumber, steel reinforcements and other hardware, concrete and paint. Earthwork required for the placement of the equipment building within the hillside would be via manual labor. No heavy equipment (i.e., bulldozer, loaders) would be used during construction at the Project site.

### Construction Schedule

It is anticipated that the Project, including the installation of utility lines, would be constructed in approximately eight (8) weeks and would require a maximum of ten workers on-site per day.

## **B.3 SITE LOCATION AND SURROUNDING LAND USES**

### **Regional Setting**

The Project site is located in the unincorporated portion of the County in the Oak Glen Planning Area. The Oak Glen Community Plan describes the community as being located at the foot of the San Bernardino Mountains and adjacent to the San Bernardino National Forest, just east of the City of Yucaipa. Oak Glen Road is the only main access road through the Oak Glen community. The plan area includes approximately 14,213 acres, or 22 square miles of unincorporated County area.

The elevation of the Oak Glen community ranges from 4,000 to 6,000 feet above sea level. It is a foothill region with oak woodland, scattered coniferous forest, and streams. The San Andreas Fault cuts through the most densely populated portion of the community. The composition of the soil, coupled with the fault line on which the community lies creates a significant seismic hazard. The thin alluvium of the valley south of Oak Glen and the semi-consolidated alluvium and bedrock of the remainder of the area are subject to strong/very strong shaking due to

earthquakes. Some portions of the hills and mountains of Oak Glen also have a moderate to high potential for landslides, particularly during earthquakes, with the highest risk for large-scale landsliding located along the slopes of the Yucaipa Ridge in the northern portion of the planning area. Although there are no major flood problems, the steep slopes in the Oak Glen area can create a high velocity of water flow in stream beds which causes greater than normal erosion to occur in and adjacent to drainage courses.

The entire Oak Glen residential community is within a hazardous fire zone due to the ruggedness of the terrain, the types and amounts of vegetation present, and the climatic factors. Oak Glen features a somewhat cooler version of a Mediterranean climate with cool to chilly winters, with occasional frost and snow flurries, and hot, dry summers. The arid climate during the summer prevents tropospheric clouds from forming, which accounts for the area's high temperatures with the highest recorded summer temperature at 114 °F in 1995 (Yucaipa, CA). Oak Glen receives an annual average of 21.82 inches of rain.

### **Site Location**

The Project site is situated in the steep foothills of the San Bernardino Mountains between the City of Yucaipa and the community of Oak Glen. The Project site is located west of Pisgah Peak Road approximately 1.5 miles north of its intersection with Wildwood Canyon within an unincorporated portion of San Bernardino County and in the Oak Glen Planning Area.

The Project site is located approximately 1.5 miles south of the San Bernardino National Forest, and occurs on a west facing slope below the ridgeline. The site is currently vacant; a demonstration pole was previously installed to identify the location of the monopole and represent the pole height. The demonstration pole has since been removed. The Project site elevation varies from 3,850 feet above mean sea level (amsl) to 4,500 feet amsl. The entire Project site consists of densely mixed chaparral and occurs primarily on steep slopes greater than 30 percent but less than 40 percent.

### **Surrounding Land Uses**

Land uses surrounding the 38-acre site include vacant land to the north, south, east and west. Table B-1 lists surrounding land uses, and County General Plan/Zoning designations for surrounding properties as well as the Project site.

Broadcasting facilities, defined as towers, antennas, and related equipment in the County Development Code are a permitted use within the Rural Living land use zoning designation (County Development Code §84.27). Per County Development Code §84.27.060(a): Broadcasting facility projects shall be subject to a CUP in compliance with County Development Code §85.06; this includes requiring a public hearing before the Commission.

**Table B-1  
Existing Land Use and General Plan/Zoning Designations**

<b>Direction</b>	<b>Existing Land Use</b>	<b>Official Land use District/Zoning</b>
Project Site	Vacant	OG/RL-20 (Oak Glen/Rural Living – 20 acre minimum lot size)/Rural Living
North	Vacant	OG/RL-20 (Oak Glen/Rural Living – 20 acre minimum lot size)/Rural Living
South	Vacant	OG/RL-20 (Oak Glen/Rural Living – 20 acre minimum lot size)/Rural Living
East	Vacant	OG/RL-20 (Oak Glen/Rural Living – 20 acre minimum lot size)/Rural Living
West	Wildwood Canyon State Park	City of Yucaipa

**C. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION**

The County conducted an extensive environmental review for this Project that included a Draft EIR, Final EIR, appendices and attachments, along with public review and comment periods.

The implementation of the EIR scoping and review process is described in Chapter 1.0 of the Draft EIR. The following is a summary of the County’s environmental review for this Project.

- *A Notice of Preparation (NOP) was distributed to responsible agencies, local organizations, and individuals on October 29, 2014 for a 30-day comment period. A copy of the NOP, the NOP distribution list, and written comments received by the County on the NOP are included in Appendix A of the Draft EIR.*
- *The Draft EIR was distributed for a 45-day public review and comment period starting on June 6, 2016.*
- *The Final EIR was distributed for a 10-day notification period by the County beginning April 6, 2017.*
- *The County Board of Supervisors held a public hearing to consider the Project on April 18, 2017. Following public testimony, the Board of Supervisors recommended that the Project be approved and certified the Final EIR.*

**D. FINDINGS REGARDING ENVIRONMENTAL IMPACTS**

The County’s staff report, the EIR, written and oral testimony at public hearings, these CEQA Findings of Fact, and all other information before the County and that constitutes the administrative record for this Project serve as the basis for the County’s environmental determination. The Final EIR includes the Draft EIR (under separate cover), public comments

and the County's responses, and the Notice of Determination. The detailed analyses of potential environmental impacts and proposed mitigation measures for the proposed Project are presented in Chapter 4.0 of the Draft EIR. Written comments received on the Draft EIR and the County's responses are provided in Chapter 3.0 of the Final EIR.

Presented below are the environmental Findings made by the County decisionmaker ("County") after its review of the documents referenced above, as well as the written and oral comments on the proposed Project presented at the County's public hearing. Factual discussion in this document summarizes the information contained in the EIR and the administrative record upon which the County bases its decision to certify the EIR and approve the Project.

## **D.1 FINDINGS REGARDING LESS THAN SIGNIFICANT IMPACTS NOT REQUIRING MITIGATION**

Consistent with Public Resources Code section 21002.1 and section 15128 of the State CEQA Guidelines, the EIR focused its analysis on potentially significant impacts, and limited discussion of other impacts for which it can be seen with certainty there is no potential for significant adverse environmental impacts. State CEQA Guidelines section 15091 does not require specific findings to address environmental effects that an EIR identifies as "no impact" or a "less than significant" impact. Nevertheless, the County's decisionmaking body hereby finds that the Project would have either no impact or a less than significant impact to the following resource areas, without the incorporation or implementation of mitigation:

### **1. Aesthetics**

- a) Would the project have a substantial adverse effect on a scenic vista?

Finding: Less than significant impact. (DEIR, p. 4.1-13.)

Facts: There are no clearly defined areas or maps that outline scenic vistas within the County General Plan. However, vast, open space areas including both mountainous areas and desert landscapes are considered scenic vistas within the County General Plan, and there are a number of goals and policies that seek to protect these scenic resources. The Project site is one of several private parcels that occur within the foothills of the San Bernardino Mountains. Although the Project site itself may not be considered a scenic vista, the area that is it a part of, namely the San Bernardino National Forest, is a scenic vista. Both looking toward the Project site at the rolling hills and distant mountains, and looking west from the Project site out toward the valley and distant mountains would be considered a scenic vista. As stated in Goal OS 7.5, natural landforms and ridgelines should be preserved by either: a) Keeping cuts and fills to an absolute minimum during the development of the area; b) Requiring the grading contours that do occur to blend with the natural contours on site or to look like contours that would naturally occur; c) Encourage the use of custom foundations in order to minimize disruption of the natural landform; or d) Require that units located in the hillsides be so situated that roof lines will blend with and not detract from the natural ridge outline. (DEIR, p. 4.1-13.)



The design of the proposed Project has included each of these goals to minimize potential impacts to the surrounding scenic vista. Therefore a less than significant impact would result. (DEIR, p. 4.1-13.)

- b) Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

Finding: Less than significant impact. (DEIR, p. 4.1-13.)

Facts: The proposed Project would not substantially damage scenic resources including any trees or rock outcroppings as none occur on-site. In addition, the proposed Project would not substantially damage scenic resources or historic buildings within a state-designated scenic highway, as none exist within on or adjacent to the Project site. The Project site is located approximately one-mile northwest of Oak Glen Road, a County of San Bernardino designated Scenic Route. During the November 2014 and May 2015 field visits, the Project site was also not visible along Wildwood Canyon Road or Oak Glen Road. Therefore, no significant impacts would result. (DEIR, p. 4.1-13.)

- c) Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Finding: No impact. (DEIR, p. 4.1-14.)

Facts: The proposed Project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area. The proposed monopole would not be required by the FAA to be illuminated for air navigation safety. In addition, the proposed 100 square-foot equipment shed would have exterior lighting directed and shielded on-site and for safety purposes only. No impacts are anticipated. (DEIR, p. 4.1-14.)

## **2. Agriculture and Forest Resources**

- a) Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

Finding: No impact. (Initial Study, p. 14.)

Facts: The proposed Project will not convert prime farmland, unique farmland, or farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use, since the proposed Project is not designated as such. There are no agricultural uses on the site currently. No significant adverse impacts are identified or anticipated and no mitigation measures are required. (Initial Study, p. 14.)

- b) Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?

Finding: No impact. (Initial Study, p. 15.)

Facts: The proposed Project will not conflict with existing zoning for agricultural use, or a Williamson Act contract. The current County General Plan land use designation for the proposed Project area is OG/RL-20 (Rural Living), which allows the development of radio broadcast facility with a Conditional Use Permit (CUP). The proposed Project area is not under a Williamson Act contract. (Initial Study, p. 15.)

- c) Would the project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

Finding: No impact. (Initial Study, p. 15.)

Facts: The proposed Project will not conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g)). The proposed Project area is currently vacant land, which has never been designated as forest land or timberland. No rezoning of the project site will be required as the proposed energy facility is compatible with the current zoning designation: OG/RL-20 (Rural Living). (Initial Study, p. 15.)

- d) Would the project result in the loss of forest land or conversion of forest land to non-forest use?

Finding: No impact. (Initial Study, p. 15.)

Facts: The proposed Project will not result in the loss of forest land or conversion of forest land to non-forest use. The proposed Project area is not forest land or timberland. (Initial Study, p. 15.)

- e) Would the project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

Finding: No impact. (Initial Study, p. 15.)

Facts: The proposed Project will not involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to nonagricultural use. (Initial Study, p. 15.)

### 3. Air Quality

- a) Would the project conflict with or obstruct implementation of the applicable air quality plan?

Finding: Less than significant impact. (Initial Study, p. 16.)

Facts: The project will not conflict with or obstruct implementation of the South Coast Air Quality Management Plan, nor will the project violate any air quality standard or contribute substantially to an existing or projected air quality violation, because the proposed uses do not exceed the thresholds established for air quality concerns within the CEQA Air Quality Handbook developed by the South Coast Air Quality Management District. (SCAQMD).

*Construction impacts:* The project will not exceed the thresholds of significance with respect to exhaust emissions established by the SCAQMD, due to the small size of the project, the minimal amount of grading, and crew size. The entire construction time is expected to be approximately 25 days over an 8 week period. The tower is expected to be constructed by utilizing a helicopter to deliver the proposed tower in sections and to set the pier foundations and pour cement. Therefore a single helicopter is expected to be utilized on three construction days, which would not cause a substantial increase of any specific pollutant. (Initial Study, p. 17.)

*Operational impacts:* The operation of the proposed radio tower would generate emissions considered to be negligible because the primary source of emissions would be from maintenance vehicles used by workers to visit the site, and electricity usage. Therefore, operational emissions are expected to be less than significant. (Initial Study, pp. 16, 18.)

- b) Would the project violate any air quality standard or contribute substantially to an existing or projected air quality violation?

Finding: No impact. (Initial Study, p. 18.)

Facts: The proposed Project will not violate any air quality standard or contribute substantially to an existing or projected air quality violation. Air quality impacts will include construction exhaust emissions generated from construction equipment, vegetation clearing and earth movement activities (if necessary), construction workers' commute, and construction material hauling for the entire construction period. These activities will involve the use of diesel- and gasoline-powered equipment that will generate emissions of criteria pollutants such as Carbon Monoxide (CO), Nitrogen Oxides (NOx), Reactive Organic Gases (ROG) or Volatile Organic Compounds (VOC), Sulfur Oxides (SOX), Particulate Matter less than 10 microns (PM<sub>10</sub>), and Particulate Matter less than 2.5 microns (PM<sub>2.5</sub>). The construction component for this project is considered very minor, and will not exceed the thresholds of concern.

Construction-related increases in emissions of fugitive dust, exhaust from construction equipment, and employee commute vehicles will be temporary and localized during the construction phase. The proposed Project will also include dust abatement measures that will limit the generation of pollutants, including particulate matter 10 microns or less in diameter (PM10), consistent with Rule 403.2 Fugitive Dust Control.

The proposed radio broadcast tower will result in the emission of very few pollutants. Implementation of the proposed project would generate less than one vehicle trip per week which is well below the thresholds of significance. (Initial Study, p. 18.)

- c) Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

Finding: Less than significant impact. (Initial Study, p. 18.)

Facts: The proposed Project will not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors). The project will contribute criteria pollutants in the area during the short-term project construction period. None of the activities associated with the proposed Project will create a substantial permanent increase in the emissions of criteria pollutants that will be cumulatively considerable. Occasional routine maintenance and repairs of the facility will have no impact on the emissions of criteria pollutants that will be cumulatively considerable. There are no sources of potential long-term air impacts associated with the implementation of the proposed project. Therefore, impacts will be less than significant. (Initial Study, p. 18.)

- d) Would the project expose sensitive receptors to substantial pollutant concentrations?

Finding: Less than significant impact. (Initial Study, p. 18.)

Facts: The proposed Project will not expose sensitive receptors to substantial pollutant concentrations. Sensitive receptors include residences, schools, daycare centers, playgrounds and medical facilities, none of which are in close proximity to the project site. Furthermore the County's general conditions and standards as well as project-specific design and construction features incorporated into the proposed Project such as dust suppression techniques per Rule 403 will reduce any potential impacts from the project. Dust Suppression techniques may include nontoxic chemical stabilizers and covering any temporary storage piles. No significant adverse impacts are identified or anticipated. (Initial Study, p. 18.)

- e) Would the project create objectionable odors affecting a substantial number of people?

Finding: No impact. (Initial Study, p. 19.)

Facts: The proposed Project will not create objectionable odors that will affect any substantial number of people. Potential odor generation associated with the proposed Project will be limited to construction sources such as diesel exhaust and dust that will be temporary and not be substantial. No significant odor impacts related to project implementation are anticipated due to the nature and short-term extent of potential sources, as well as the intervening distance to sensitive receptors. Therefore, the operation of the Project will have a less than significant impact associated with the creation of objectionable odors affecting a substantial number of people. (Initial Study, p. 19.)

#### **4. Biological Resources**

- f) Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?

Finding: Less than significant impact. (DEIR, pp. 4.2-6, -7.)

Facts: Biological assessments and surveys were prepared for the Project site in 2006, 2007, and August 2015. Per the findings of these biological investigations, no native riparian vegetation or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish & Wildlife, or the United States Fish & Wildlife Service were determined to occur on the Project site. Impacts would be less than significant. (DEIR, pp. 4.2-6, -7.)

- g) Would the Project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

Finding: Less than significant impact. (DEIR, p. 4.2-8.)

Facts: No drainages, streams, or other waterways, and no wetland habitat were identified at the Project site during the biological investigations. The biological assessment completed by NRAI in May 2015 included an evaluation for any jurisdictional waters that would be subject to the regulation of the U.S. Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), and/or CDFW. (DEIR, pp. 4.2-7, -8.)

- h) Would the Project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Finding: No impact. (DEIR, p. 4.2-9.)

Facts: The County General Plan and the Oak Glen Community Plan include policies for the preservation of unique environmental features of the mountain region, (specifically Oak Glen) including native wildlife and vegetation. County policies as outlined above require revegetation of impacted areas related to development within the plan areas. Additionally, Chapter 88.01 of

the County Development Code outlines provisions for plant protection and management in the unincorporated areas of the County. Based on the results of the biological investigations completed to date, no impacts to protected plant species as described in SBDC §88.01.070(b) are identified to occur at the Project site and no mitigation measures are required. Additionally, per County Development Code §88.01.030(h) removal of vegetation as part of a fire hazard reduction program approved by the County Fire Chief is exempt from the provisions of chapter 88.01: Plant Protection of the SBDC. Implementation of the proposed Project would therefore be consistent with County policies and ordinances for the protection of plant resources. No conflicts are identified and no impacts are anticipated to occur; therefore, no mitigation measures are necessary. (DEIR, pp. 4.2-8, -9.)

- i) Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

Finding: No impact. (DEIR, p. 4.2-10.)

Facts: The Project site is not located within the plan area of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. Additionally, the site is not located within critical habitat as designated by the U.S. Fish and Wildlife Service. No land use conflict with existing management plans would occur and therefore no mitigation measures would be required. (DEIR, p. 4.2-9.)

- j) Would the Project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

Finding: Less than significant impact. (DEIR, p. 4.2-10.)

Facts: As described in the NRAI General Biological Assessment report habitat fragmentation is the division or breaking up of larger habitat areas into smaller areas that may or may not be capable of independently sustaining wildlife and plant populations. Wildlife movement is the temporal movement of species along various types of corridors. Wildlife corridors are especially important for connecting fragmented wildlife habitat areas. Per NRAI's findings, the proposed Project has been designed and sited in a manner that would not result in substantial habitat fragmentation, and would have no impact to wildlife movement on the ground. The proposed Project would not significantly add to habitat fragmentation and would not impact wildlife corridors. Impacts would be less than significant. (DEIR, p. 4.2-9.)

## **5. Cultural Resources**

- a) Would the Project cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?

Finding: No impact. (Initial Study, p. 24.)

Facts: This Project will not cause a substantial adverse change in the significance of a historical resources, because no such resources are identified in the Project vicinity. (Initial Study, p. 24.)

- b) Would the Project cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines § 15064.5?

Finding: No impact. (Initial Study, p. 24.)

Facts: The Project will not cause a substantial adverse change in the significance of an archaeological resources because there are no such resources identified in the Project vicinity. (Initial Study, p. 24.)

- c) Would the Project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

Finding: No impact. (Initial Study, p. 24.)

Facts: The Project will not directly or indirectly destroy a unique paleontological resources or site, or a unique geologic feature, because no such resources have been identified on the site. (Initial Study, p. 24.)

- d) Would the Project disturb any human remains, including those interred outside of dedicated cemeteries?

Finding: No impact. (Initial Study, p. 24.)

Facts: The Project is not located in or near a known cemetery, and no human remains are anticipated to be disturbed during the construction phase. However, in accordance with applicable regulations, construction activities will halt in the event of discovery of human remains, and consultation and treatment will occur as prescribed by law. (Initial Study, p. 24.)

## **6. Geology and Soils**

- a) Would the Project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code, creating substantial risks to life or property?

Finding: Less than significant impact. (DEIR, p. 4.3-9.)

Facts: A geotechnical investigation prepared for the Project site concluded that onsite soils are considered non-expansive. Therefore, impacts would be less than significant. (DEIR, p. 4.3-9.)

- b) Would the Project have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

Finding: No impact. (DEIR, p. 4.3-9.)



Facts: The Project does not include the use of septic tanks or alternative wastewater disposal systems, therefore no impact would occur. (DEIR, p. 4.3-9.)

## **7. Greenhouse Gas Emissions**

- a) Would the Project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

Finding: Less than significant impact. (Initial Study, pp. 27-28.)

Facts: The proposed Project's primary contribution to air emissions is attributable to construction activities. Project construction will result in greenhouse gas (GHG) emissions from construction equipment and construction workers personal vehicles traveling to and from the site. The primary emissions that will result from the proposed Project occur as carbon dioxide (CO<sub>2</sub>) from gasoline and diesel combustion, with more limited vehicle tailpipe emissions of nitrous oxide (N<sub>2</sub>O) and methane (CH<sub>4</sub>), as well as other GHG emissions related to vehicle cooling systems. Although construction emissions are a one-time event, GHG emissions such as CO<sub>2</sub> can persist in the atmosphere for decades.

Currently, neither the AQMD nor the County has established a quantitative threshold or standard for determining whether a project's GHG emissions are significant. In December 2008, SCAQMD adopted interim CEQA GHG significance thresholds of 10,000 metric tons of CO<sub>2</sub>e (MTCO<sub>2</sub>e) per year for stationary/industrial projects that include a tiered approach for assessing the significance of GHG emissions from a project (SCAQMD 2008). For the purposes of determining whether or not GHG emissions from a project are significant, SCAQMD recommends summing emissions from amortized construction emissions over the life of the proposed project, generally defined as 30 years, and operational emissions, and comparing the result with the established interim GHG significance threshold. While the individual project emissions will be less than 10,000 MTCO<sub>2</sub>e/yr, it is recognized that small increases in GHG emissions associated with construction and operation of the proposed Project will contribute to regional increases in GHG emissions.

The Project size is considered very small, requiring less than 25 cubic yards of grading, very limited traffic trips, and minimal construction impacts. For these reasons, it is unlikely that this Project will impede the State's ability to meet the reduction targets of AB32. (Initial Study, pp. 27-28.)

- b) Would the Project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emission of greenhouse gases?

Finding: Less than significant impact. (Initial Study, p. 28.)

Facts: The proposed Project will not significantly conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases. Currently, neither the AQMD nor the County has adopted any Plan, policy or regulation intended to reduce greenhouse gas emissions. (Initial Study, p. 28.)

## 8. Hazards and Hazardous Materials

- a) Would the Project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Finding: Less than significant impact. (Initial Study, p. 29.)

Facts: Implementation of the proposed Project will not entail the routine transport, use or disposal of hazardous materials, with the potential exception of short-term construction-related substances such as fuels, lubricants, adhesives, and solvents. The potential risk associated with the accidental discharge during use and storage of such construction-related hazardous materials during Project construction is considered low because the handling of any such materials will be addressed through the implementation of Best Management Practices (BMPs) pursuant to the intent of the National Pollutant Discharge Elimination System (NPDES) General Construction Permit. (Initial Study, p. 30.)

- b) Would the Project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Finding: Less than significant impact. (Initial Study, p. 30.)

Facts: The proposed Project will not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. With the exception of construction-related hazards such as fuels, lubricants, adhesives, solvents and asphalt wastes, the proposed Project will not generate or require the use or storage of significant quantities of hazardous substances. There is not a battery backup component, thus minimizing the need for transporting, using, or disposing of the hazardous materials that may be associated with the Project. Furthermore, standard operating procedures will prevent the use of these materials from causing a significant hazard to the public or environment. (Initial Study, p. 30.)

- c) Would the Project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

Finding: No impact. (Initial Study, p. 30.)

Facts: There are no existing or proposed schools within one-quarter mile of the proposed Project site. Additionally, operation and maintenance of the Project will not produce hazardous emissions. No significant adverse impacts are anticipated and therefore, no mitigation measures are required. (Initial Study, p. 30.)

- d) Would the Project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section

65962.5 and, as a result, would it create a significant hazard to the public or the environment?

Finding: No impact. (Initial Study, p. 30.)

Facts: The Project site is not located on a known site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. The proposed Project shall not create a significant hazard to the public or the environment. No impacts to this topic shall occur as a result of implementing the proposed Project and, therefore, no mitigation measures are required. (Initial Study, p. 30.)

- e) Is the Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project result in a safety hazard for people residing or working in the project area?

Finding: No impact. (Initial Study, p. 30.)

Facts: The proposed Project area is not located within an Airport Land Use Compatibility Plan Area and it is not within two miles of a public airport. (Initial Study, p. 30.)

- f) Is the Project within the vicinity of a private airstrip, and if so, would the Project result in a safety hazard for people residing or working in the Project area?

Finding: No impact. (Initial Study, p. 30.)

Facts: The proposed Project area is not located within the vicinity of a private airstrip; therefore, it will not result in a safety hazard for people residing or working in the Project area. (Initial Study, p. 30.)

- g) Would the Project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Finding: Less than significant impact. (DEIR, pp. 4.4-11, -12.)

Facts: The California Emergency Services Act requires the County to manage and coordinate the overall emergency and recovery activities within its jurisdictional boundaries. Policies within the County's General Plan including updates to the County's Emergency Plan as required by State law, would ensure the proposed Project would not interfere with adopted policies and procedures. The proposed Project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan because the proposed Project is in a relatively unpopulated area that would not require evacuation. Impacts, if any, would be less than significant. (DEIR, pp. 4.4-11, -12.)

- h) Would the Project conflict with County Development Code Section 82.13.060(e)(1) as it pertains to fire access within a Fire Safety Overlay?

Finding: Less than significant. (DEIR, p. 4.4-16.)

Facts: The Project conflicts with the County Development Code 82.13.060 (e)(1), as it pertains to fire access within the Fire Safety Overlay (FS1). Requirements include a 20-foot wide and less than 14 percent in grade access road to facilitate the transportation of fire department vehicles. Access to the Project site is from Pisgah Peak Road; a narrow road that contains steep grades that are greater than 14 percent. (DEIR, p. 4.4-15.)

There is some potential for a fire that starts at the Project site to travel up Pisgah Peak and into the community of Oak Glen. Although a fuel modification zone is a part of the proposed Project, weather conditions (e.g. high winds) could result in a fire spreading from the site.

According to County Fire, the steep access road to the Project site would be considered adequate because the proposed Project would be an unmanned tower and fire crews would not travel to the Project site to suppress a fire at the facility. County Fire determined that the requirements for access roads and water supply are not applicable requirements for unmanned structures that would not require evacuation or fire defense. Conditions of Approval will require that the equipment building have a multi-hour fire rating and a built-in fire suppression system that utilizes an inert gas. (DEIR, p. 4.4-15.)

The proposed Project is within the FS Overlay and is subject to review, comment and recommendations from the Fire Authority and the appropriate Natural Resource Conservation Service Office. Recommendations provided would be incorporated into the Project's Conditions of Approval. The County Development Code § 82.13.060 FS1, FS2 and FS3 Development Standards outlines requirements for development proposed in the FS1, FS2 and FS3 Overlays. The proposed Project would be unmanned and would be subject to the following standard as outlined in County Development Code § 82.13.060 (h) Unoccupied Structures which states:

*At the discretion of the responsible Fire Authority, the fire safety development standards for projects located within a Fire Safety Overlay that only propose to construct unoccupied structures may be altered at the discretion of the responsible Fire Authority on a case-by-case basis without an approved variance.*

Fire Staff concluded that access as required in the Fire Safety Overlay is not necessary at the Project site. Generally improved access (roads that are widened, paved and less than 14 percent grade) is required in the Fire Safety Overlay for several reasons including allowing fire response vehicles access to the necessary locations and providing appropriate egress to evacuate residents. As previously stated this is not applicable for a site with unmanned structures. The proposed Project's provision of a fuel modification zone and the County's responsibility for maintaining adequate evacuation plans, would result in project-related impacts to fire safety being considered less than significant. (DEIR, p. 4.4-16.)

Further, the Project does not propose the use of a back-up generator, and the Project itself would not interfere with the fire suppression capabilities of fire agencies responding to a wildland fire that could threaten inhabited structures, no matter what the cause of the fire. (Final EIR, p. 3-10.)

## 9. Hydrology and Water Quality

- a) Would the Project violate any water quality standards or waste discharge requirements?

Finding: No impact. (Initial Study, p. 33.)

Facts: The Project will not violate any water quality standards of waste discharge requirements, because the Project does not require or include water service, nor does it require any wastewater service or result in any discharge. (Initial Study, p. 33.)

- b) Would the Project substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?

Finding: No impact. (Initial Study, p. 33.)

Facts: The proposed Project will not entail the use of groundwater and; thus will not deplete groundwater supplies or interfere substantially with groundwater recharge such that there will be a net deficit in aquifer volume or a lowering of the local groundwater table level. Most of the ground within the proposed Project area will not be covered with impermeable material, so water percolation and groundwater recharge will not be significantly impacted by the implementation of the Project. (Initial Study, p. 33.)

- c) Would the Project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?

Finding: No impact. (Initial Study, p. 33.)

Facts: The Project will not substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site, because the Project consists of less very minor grading and very little conversion of permeable surface to impermeable surface. The Project is located on a steep sloping hillside with no stream or rivers. (Initial Study, p. 33.)

- d) Would the Project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?

Finding: No impact. (Initial Study, p. 33.)

Facts: The Project will not substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site, because the Project consists of less very minor grading and very little conversion of permeable surface to impermeable surface. The Project is located on a steep sloping hillside with no stream or rivers. (Initial Study, p. 33.)

- e) Would the Project create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?

Finding: No impact. (Initial Study, p. 33.)

Facts: The Project will not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff, because County Public Works has reviewed the proposed Project drainage and has determined that the proposed systems are adequate to handle anticipated flows. Impermeable soil will encompass less than 1% of the Project site. (Initial Study, p. 33.)

- f) Would the Project otherwise substantially degrade water quality?

Finding: No impact. (Initial Study, p. 33.)

Facts: The Project will not otherwise substantially degrade water quality, as the Project involves no waste water discharge. (Initial Study, p. 33.)

- g) Would the Project place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

Finding: No impact. (Initial Study, p. 33.)

Facts: The proposed Project will not place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map. The Project proposes no habitable structures. (Initial Study, p. 33.)

- h) Would the Project place within a 100-year flood hazard area structures which would impede or redirect flood flows?

Finding: No impact. (Initial Study, p. 33.)

Facts: The proposed Project will not place within a 100-year flood hazard area structures that will impede or redirect flood flows. (Initial Study, p. 33.)

- i) Would the Project expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?

Finding: No impact. (Initial Study, p. 33.)

Facts: The Project will not expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or darn, because the Project site is not within any identified path of a potential inundation flow that might result in the event of a dam or levee failure or that might occur from a river, stream, lake or sheet flow situation. (Initial Study, p. 33.)

- j) Would the Project expose people or structures to inundation by seiche, tsunami, or mudflow?

Finding: No impact. (Initial Study, p. 33.)

Facts: The Project site will not be subject to inundation by seiche, tsunami, or mudflow. A tsunami is a series of ocean waves generated in the ocean by an impulsive disturbance. Due to the inland location of the proposed Project, tsunamis are not considered a threat. A seiche is an oscillating surface wave in a restricted or enclosed body of water generated by ground motion, usually during an earthquake. Inundation from a seiche can occur if the wave overflows a containment wall or the banks of a water body. No impacts are expected to occur because the Project is not adjacent to any marine or inland water bodies. The soils in the Project area are moderately well-drained, the terrain is relatively flat, and mudflows have not historically been an issue in the proposed Project area. (Initial Study, pp. 33-34.)

## **10. Land Use and Planning**

- a) Would the project physically divide an established community?

Finding: Less than significant impact. (DEIR, pp. 4.5-9, -10.)

Facts: The Project site is situated in the foothills of the San Bernardino Mountains near Wildwood Canyon and Oak Glen roads, east of Pisgah Peak Road in the unincorporated portion of the County and within the Oak Glen Community Plan area. The Project site is located on a west facing slope below the ridgeline and is currently vacant; a demonstration pole was erected on the site in 2010 to identify the location of the proposed Project and was removed in 2015. The Project site is surrounded by the Wildwood Canyon State Park to the west, and unincorporated land to the east, north and south. Surrounding land use designations include Oak Glen Community Plan/Rural Living-20 to the north, south and east, and Wildwood Canyon State Park to the west. The Project is proposed within the boundaries of private undeveloped land that is surrounded by vacant, undeveloped land and therefore, would not divide an established community. The Project would expand its coverage area to include San Bernardino, Riverside, Hemet, Perris, and other Inland Empire communities. (DEIR, pp. 4.5-9, -10.)

- b) Would the Project result in a direct conflict with the County Development Code?

Finding: No impact. (DEIR, p. 4.5-10.)



Facts: Review of the Project site and project plans indicate that proposed development including construction of the equipment building, parking space and monopole would all take place on slopes that range from approximately 20.5 percent to 37.5 percent. Therefore, there are no slopes greater than 40 percent and no conflict with the County Development Code would occur. (DEIR, p. 4.5-10.)

An earlier field survey assessment provided by Goodman and Associates provided an estimation of slopes at the location of the tower and equipment shed as being about 40%. The actual survey data plotted and signed off by a licensed surveyor confirms that the buildings and structures that are proposed to be constructed on-site are in conformance with the County Development Code and are located on less than 40% slopes. The engineering data submitted to the County and provided as exhibits in the DEIR have been verified by a licensed surveyor using flown topographic mapping verified by field survey data to confirm that all of the Project's facilities are to be located on slopes less than 40%. A final site plan and grading plan showing compliance with the County's requirements will be submitted by the Applicant for approval by the County prior to construction. (Final EIR, pp. 3-15, -16.)

- c) Would the Project conflict with any applicable habitat conservation plan or natural community conservation plan?

Finding: No impact. (DEIR, p. 4.5-10.)

Facts: The Project site is not located within the plan area of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. Additionally, the site is not located within critical habitat as designated by the U.S. Fish and Wildlife Service. No land use conflict with existing management plans would occur and therefore no mitigation measures would be required. (DEIR, p. 4.5-10.)

## **11. Mineral Resources**

- a) Would the Project result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?
- b) Would the Project result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

Finding: No impact. (Initial Study, p. 36.)

Facts: The Project will not result in the loss of availability of a known mineral resources of value to the region or the state, and will not result in the loss of a locally important mineral resource recovery site. No identified important mineral resources are located on the Project site and the site is not within a Mineral Resource Zone Overlay. (Initial Study, p. 36.)

## **12. Noise**

- a) Would the Project result in exposure of persons to or generation of noise levels in excess of standards established in the County General Plan or noise ordinance, or applicable standards of other agencies?

Finding: Less than significant impact. (Initial Study, p. 37.)

Facts: The Project will not expose persons to or generate noise levels in excess of standards established in the County General Plan or noise ordinance, or applicable standards of other agencies, because no noise exceeding these standards is anticipated to be generated by the proposed uses. During normal operations, the Project will only generate noise via the air-conditioning units, which will meet County standards. Noise generation from construction equipment/vehicle operation will be localized, temporary, and transitory in nature; therefore, no significant impacts will be anticipated. Operation of the proposed Project will not generate audible levels of noise or perceptible levels of vibration in the surrounding community. (Initial Study, p. 37.)

- b) Would the Project result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

Finding: No impact. (Initial Study, p. 37.)

Facts: The Project will not create exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels, because no vibration exceeding these standards is anticipated to be generated by the proposed uses. (Initial Study, p. 37.)

- c) Would the Project result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the Project?

Finding: No impact. (Initial Study, p. 38.)

Facts: The proposed Project will not create a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project. Specifically, the Project will result in temporary noise increases during construction but will not create any substantial permanent increase in the ambient noise levels due to the operation activities consisting of maintenance vehicles and equipment onsite with hardly discernible noises. (Initial Study, p. 38.)

- d) Would the Project result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the Project?

Finding: Less than significant impact. (Initial Study, p. 38.)

Facts: The proposed Project is adjacent to mostly undeveloped and/or vacant lands; therefore, noise generated from the proposed Project could potentially result in some temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project. Specifically, construction of the proposed Project may potentially create some elevated short-

term construction noise impacts from construction equipment; however, these activities shall be limited to daytime hours. Furthermore, the site is in a remote area with very limited development occurring in the project vicinity, the impact will not be significant. (Initial Study, p. 38.)

- e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project expose people residing or working in the project area to excessive noise levels?
- f) For a project within the vicinity of a private airstrip, would the Project expose people residing or working in the project area to excessive noise levels?

Finding: No impact. (Initial Study, p. 38.)

Facts: The Project is not located within an airport land use plan and it is not within two miles of a public airport or public use airport. The Project is also not located within the vicinity of a private airstrip. Therefore, no impacts would occur. (Initial Study, p. 38.)

### **13. Population and Housing**

- a) Would the Project induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of road or other infrastructure)?

Finding: No impact. (Initial Study, p. 39.)

Facts: The proposed Project will not induce substantial population growth in the area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure). No houses are being proposed as part of the proposed Project for construction workers or those that will be employed during operation of the facility. During operation, the Project site will be unmanned. Accordingly, the proposed Project will not result in any impacts to housing or related infrastructure, nor will it require construction of additional housing. No significant adverse impacts are anticipated and, therefore, no mitigation measures are required. (Initial Study, p. 39.)

- b) Would the Project displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

Finding: No impact. (Initial Study, p. 39.)

Facts: The proposed Project will not displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere because the project site is currently undeveloped. No significant adverse impacts are anticipated and, therefore, no mitigation measures are required. (Initial Study, p. 39.)

- c) Would the Project displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

Finding: No impact. (Initial Study, p. 39.)

Facts: The proposed Project will not displace substantial numbers of people, necessitating the construction of replacement housing elsewhere because the Project site is currently undeveloped. No significant adverse impacts are anticipated and, therefore, no mitigation measures are required. (Initial Study, p. 39.)

#### **14. Public Services and Recreation**

- a) Would the Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: fire protection, police protection, schools, parks, or any other public facilities?

Finding: Less than significant impact. (Initial Study, pp. 40-41.)

Facts:

*Fire:* The proposed Project area is serviced by County Fire. The proposed Project will not substantially impact service ratios, response times, or other performance objectives related to fire protection. Any development, along with the associated human activity, in previously undeveloped areas increases the potential of the occurrence of wildfires. Comprehensive safety measures that comply with federal, state, and local worker safety and fire protection codes and regulations will be implemented for the proposed Project that will minimize the occurrences of fire due to project activities during construction and for the life of the Project. Because of the low probability and short-term nature of potential fire protection needs during construction, the proposed Project will not result in associated significant impacts. The developer met with County Fire prior to submitting the CUP application and incorporated the department suggestions into the Project description. (Initial Study, p. 40.)

*Police Protection:* The proposed Project area and other unincorporated portions of the County are served by the San Bernardino County Sheriff's Department. The proposed Project will not impact service ratios, response times, or other performance objectives related to police protection.. (Initial Study, p. 40.)

*Schools:* Long-term operation of the proposed facilities will place no demand on school services because it will not involve the construction of facilities that require such services (e.g., residences) and will not involve the introduction of a temporary or permanent human population into this area. (Initial Study, p. 41.)

*Parks:* Long-term operation of the proposed facilities will place no demand on parks because it will not involve the construction of facilities that require such services (e.g., residences) and will not involve the introduction of a temporary or permanent human population into this area. (Initial Study, p. 41.)

*Other Public Facilities:* The proposed Project will not result in the introduction and/or an increase in new residential homes and the proposed Project will not involve the introduction of a temporary or permanent human population into this area. Based on these factors, the proposed Project will not result in any long-term impacts to other public facilities. (Initial Study, p. 41.)

- b) Would the Project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?
- c) Does the Project include recreational facilities or require the construction or expansion of recreational facilities which have an adverse physical effect on the environment?

Finding: No impact. (Initial Study, p. 42.)

*Facts:* The proposed Project will not increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated. No new residences or recreational facilities will be constructed as part of the proposed Project and the proposed Project will not induce population growth in adjacent areas. No significant adverse impacts are anticipated and, therefore, no mitigation measures are required. Further, the proposed Project does not include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment. No new residences or recreational facilities will be constructed as part of the proposed Project. The proposed Project will not induce population growth in adjacent areas and will not increase the use of recreational facilities in surrounding neighborhoods. No significant adverse impacts are anticipated and, therefore, no mitigation measures are required. The Developer has offered to deed-restrict the unused portion of the 38.12-acre site for passive Open Space uses in conjunction with the adjacent Wildwood Canyon State Park. (Initial Study, p. 42.)

## **15. Transportation / Traffic**

- a) Would the Project conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation, including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?

Finding: Less than significant impact. (Initial Study, p. 43.)

Facts: The Project will not cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system, because the increase in the number of vehicle trips, the volume-to-capacity ratio on roads, and the congestion level at intersections remains below the planned thresholds for those facilities. Pisgah Peak Road is a private, gated road that does not receive regular traffic. Vehicle trips on Pisgah Peak Road will increase temporarily during construction but will not exceed the capacity of the road. During regular operation, service personnel will visit the site for routine maintenance 2-4 times per month. (Initial Study, p. 43.)

- b) Would the Project conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?

Finding: No impact. (Initial Study, p. 43.)

Facts: The Project will not exceed, either individually or cumulatively, any level of service [LOS] standard established by the county congestion management agency for designated roads or highways, because traffic will only increase by routine maintenance visits once or twice monthly. (Initial Study, p. 43.)

- c) Would the Project result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

Finding: No impact. (Initial Study, p. 44.)

Facts: The Project will not result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks, because there are no airports in the vicinity of the Project and there is no anticipated notable impact on air traffic volumes by passengers or freight generated by the proposed uses and no new air traffic facilities are proposed. (Initial Study, p. 44.)

- d) Would the Project substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Finding: No impact. (Initial Study, p. 44.)

Facts: The proposed Project will not include design features that will affect traffic safety, nor will it cause incompatible uses (such as farm equipment) on local roads. In addition, no new roads are being proposed as part of this project; consequently, there shall be no impacts. (Initial Study, p. 44.)

- e) Would the Project result in inadequate emergency access?

Finding: No impact. (Initial Study, p. 44.)

Facts: The proposed Project will not result in inadequate emergency access to the Project area. During project construction, all vehicles will be parked off public roads and will not block emergency access routes. The proposed Project will not result in any road closures. (Initial Study, p. 44.)

- f) Would the Project conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?

Finding: No impact. (Initial Study, p. 44.)

Facts: The proposed Project will not conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities. No alternative transportation policies, plans, or programs have been designated for the proposed Project area. (Initial Study, p. 44.)

## **16. Utilities and Service Systems**

- a) Would the Project exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

Finding: No impact. (Initial Study, p. 45.)

Facts: The proposed Project will not exceed wastewater treatment requirements of the Regional Water Quality Control Board. The County General Plan defers to applicable regional water control requirements, and the proposed Project's water discharge does not require treatment or permitting according to the regulations of the RWQCB. (Initial Study, p. 45.)

- b) Would the Project require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

Finding: No impact. (Initial Study, p. 45.)

Facts: The proposed Project will not require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which will cause significant environment effects. (Initial Study, p. 45.)

- c) Would the Project require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

Finding: No impact. (Initial Study, p. 45.)

Facts: The proposed Project will not require the construction or expansion of storm water drainage facilities. Most of the ground within the proposed Project area will not be covered with impermeable material. (Initial Study, p. 45.)

- d) Would the Project have sufficient water supplies available to serve the Project from existing entitlements and resources, or are new or expanded entitlements needed? In making this determination, the Lead Agency shall consider whether the project is subject to the water supply assessment requirements of Water Code Section 10910, et. seq. (SB 610), and the requirements of Government Code Section 66473.7 (SB 221).

Finding: No impact. (Initial Study, p. 45.)

Facts: The proposed Project will have no impact on existing water supplies because water is not required for the proposed use. (Initial Study, p. 45.)

- e) Would the Project result in a determination by the wastewater treatment provider which serves or may serve the Project that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments?

Finding: No impact. (Initial Study, p. 46.)

Facts: The proposed Project will not require or result in the construction of new wastewater treatment facilities or the expansion of existing wastewater treatment facilities. Accordingly, no impacts are anticipated from implementation of the proposed Project. (Initial Study, p. 46.)

- f) Would the Project be served by a landfill with sufficient permitted capacity to accommodate the Project's solid waste disposal needs?

Finding: Less than significant impact. (Initial Study, p. 46.)

Facts: Less than significant impacts related to landfill capacity are anticipated from the proposed Project. The proposed Project largely consists of short-term construction activities (with short-term waste generation limited to minor quantities of construction debris) and will not result in long-term solid waste generation. Solid wastes associated with the proposed Project will be disposed as appropriate in local landfill or at a recycling facility. (Initial Study, p. 46.)

- g) Would the Project comply with federal, state, and local statutes and regulations related to solid waste?

Finding: Less than significant impact. (Initial Study, p. 46.)

Facts: The proposed Project will comply with all federal, state, and local statutes and regulation related to solid waste. The Project will consist of short-term construction activities (with short-term waste generation limited to minor quantities of construction debris) and thus will not result in long-term solid waste generation. Solid wastes produced during the construction phase of this



Project, will be disposed of in accordance with all applicable statutes and regulations. Accordingly, no significant impacts related to landfill capacity are anticipated from the proposed Project. (Initial Study, p. 46.)

## **D.2 FINDINGS REGARDING IMPACTS ANALYZED IN THE EIR AND DETERMINED TO BE MITIGATED TO LESS THAN SIGNIFICANT**

This section includes Findings for Project impacts which are potentially significant, but can be mitigated to a less than significant level with the implementation of mitigation measures. The County's decisionmaking body finds that all potentially significant impacts of this Project as listed below can and will be mitigated, reduced or avoided through the implementation of mitigation measures. Specific Findings for each category of such impacts are set forth below in this section.

PRC § 21081 states that no public agency shall approve or carry out a project for which an environmental impact report has been completed which identifies one or more significant effects on the environmental that would occur if the Project is approved or carried out unless both of the following occur:

- (a) The public agency makes one or more of the following findings with respect to each significant effect:*
  - (1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.*
  - (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.*
  - (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.*
- (b) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a) the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.*

The County's decisionmaking body hereby finds, pursuant to PRC § 21081, that the following potential environmental impacts can and will be mitigated to below a level of significance, based upon the implementation of the mitigation measures identified in the EIR.

Each mitigation measure discussed in this section of the Findings is assigned a code letter and correlates with the environmental category used in the Mitigation Monitoring and Reporting Program ("MMRP") concurrently adopted by the County.

## 1. Biological Resources

- a) Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

Finding: Less than significant, with the incorporation of mitigation. (DEIR, p. 4.2-11.)

Facts: The proposed Project would result in the construction of a 43-foot high monopole with antenna, a 10-foot by 10-foot equipment building, a 10-foot by 20-foot single parking space/turnaround area, installation of approximately 650 LF of underground conduit for radio transmission line, and approximately 6,700 feet of underground electric service from the existing KRBQ tower, along Pisgah Road to the Project site. Construction of the proposed Project and operation of the antenna may result in adverse effects to CDFW species of special concern including: Blainville's horned lizard, San Diego mountain kingsnake, and the northern red diamond rattle snake, as well as avian species protected under the California Fish and Game Code and the Migratory Bird Treaty Act. (DEIR, p. 4.2-11.)

The primary impact of Project implementation would be ground disturbance associated with the installation of the monopole, construction of the equipment building, installation of the underground electrical supply line, and establishment and maintenance of the fuel modification zone. Additional impacts to vegetation would occur related to establishment of a fuel modification zone on the perimeter of the equipment building. Installation of approximately 650 LF of underground radio transmission lines from the monopole to the equipment building would also result in impacts to vegetation. As identified in the biological investigations, there are no sensitive habitat areas within the Project disturbance area. The proposed 6,700 LF of electric service line would be installed underground in the existing Pisgah Peak Road right-of-way which is a disturbed roadway with no native vegetation. (DEIR, p. 4.2-11.)

### Special Status Species

As reported in the August 2015 General Biological Assessment report, prepared by Natural Resources Assessment, Inc. (NRAI), a literature review of the Project area and vicinity was completed to identify special status species with the potential to occur at the Project site and focus the field survey. The U.S. Fish and Wildlife Service (USFW) identified 28 federal resources of concern in the vicinity of the Project; the California Natural Diversity Database (CNDDDB) identified 78 resources for the Forest Falls 7.5 USGS topographic map (with some species occurring on both lists).

Federal Endangered Species Act resources identified by USFW as known or expected to occur in the general region of the Project included southwestern willow flycatcher (*Empidonax traillii extimus*), San Bernardino Merriam's kangaroo rat (*Dipodomys merriami parvus*), and Santa Ana Sucker (*Catostomus santaanae*). Suitable habitat for these species was not recorded within the Project site during the field surveys as documented in the August 2015 NRAI report. The

species are not expected to occur on the Project site and no impacts to these species are anticipated.

California Endangered Species Act resources identified by the California Department of Fish and Wildlife in the CNDDDB list included bald eagle (*Haliaeetus leucocephalus*), southern mountain yellow legged frog (*Rana mucosa*), southern rubber boa (*Charina umbratica*), Santa Ana River woollystar (*Eriastrum densifolium* spp. *sanctorum*), and slender-horned spineflower (*Dodecahema leptoceras*). Suitable habitat for these species was not recorded within the Project site during the field surveys as documented in the August 2015 NRAI report. None of these species are expected to occur on the Project site and thus, no impacts to these species are anticipated.

Additional resources identified in the CNDDDB list included species of special concern, fully protected species, watch list species (for plants), and species of no special status. The latter category of species is included in the CNDDDB list because they were observed and recorded on the Forest Falls 7.5 USGS topographic quadrangle, not because of a particular legal status. The complete list, including their probability of occurrence at the Project site is identified in Appendix F of the Draft EIR.

The 2015 report identified suitable habitat for three species of special concern as listed in the CNDDDD. The report concluded that Blainville’s horned lizard (*Phrynosoma blainvillii*, coast horned lizard in previous BAS reports), San Diego mountain kingsnake (*Lampropeltis zonata pulchra*), and northern diamond rattlesnake (*Crotalus exsul*) are likely present at the Project site and/or vicinity; and therefore, may be subject to impacts during construction activity. NRAI concurred with previous mitigation included in the Biological Assessment Services April 14, 2009 letter report and expanded the mitigation to include mountain kingsnake and northern diamond rattle snake. Possible adverse impacts to species of special concern have been identified or anticipated and Mitigation Measure BIO-1, as outlined below, is required as a condition of Project approval to reduce this impact to a less than significant level.

Additionally, the report identified suitable habitat with a low probability of occurrence for five plant species listed in the California Native Plant Society (CNPS) Inventory or Rare and Endangered Plants of California. The CNPS listed plants were not observed during the surveys; however, the plants were determined to be “potentially present” due to the presence of some suitable habitat. Potentially present plants included:

<b>Species</b>	<b>CNPS List</b>
Plummer’s Mariposa Lily ( <i>Calochortus plummerae</i> )	1B.2
Intermediate Mariposa Lily ( <i>Calochortus weedii</i> var. <i>intermedius</i> )	1B.2
Johnston’s bedstraw ( <i>Galium johnstonii</i> )	4.3
Robinson’s pepper-grass ( <i>Lepidium vrginicum</i> ssp. <i>menziesii</i> )	4.3
Hall’s monardella ( <i>Monardella macrantha</i> ssp. <i>hallii</i> )	1B.3

None of these species were recorded to occur at the Project site in the 2009 report and they were not recorded during the 2015 survey completed for the Draft EIR. As such, the Draft EIR

concluded that impacts to general biological resources, including vegetation, are anticipated to be less than significant and no mitigation is required. (DEIR, pp. 4.2-12, -13.)

### Migratory Bird Treaty Act

Raptors and all migratory bird species, whether listed or not, receive protection under the Migratory Bird Treaty Act (MBTA) of 1918. The MBTA prohibits individuals to kill, take, possess or sell any migratory bird or bird parts (including nests and eggs) except according to regulations prescribed by the Secretary of the Interior Department (16 U.S. Code 703).

The Draft EIR states that the Project site supports suitable nesting habitat for shrub nesting bird species. Very little habitat occurs for ground or tree nesting bird species and no suitable nesting habitat for raptors occurs on the site. Ground disturbing activities, including permanent vegetation clearing of approximately 350 square-feet, and impacts to vegetation related to the fuel modification zone and installation of 650 LF of underground radio transmission lines have the potential to impact shrub nesting bird species protected under the provisions of the MBTA. This is a possible adverse impact and Mitigation Measure BIO-2 is included in the MMRP to reduce this impact to a less than significant level. (DEIR, p. 4.2-13.)

### Avian Collision Impacts

The proposed MND prepared by the County in October 2011 included analysis of potential impacts to avian species related to the proposed antenna based on Travis Longcore, Ph.D. et al. report titled - *Scientific Basis to Establish Policy Regulation Communications Towers to Protect Migratory Birds*. Evidence presented in the Longcore paper leads to the conclusion that the four factors that increase avian mortality from tower strikes are: (1) tower placement on the topography, (2) tower height, (3) lighting, and (4) guy wires. Tower placement on ridgelines and peaks kill more migratory birds than those not placed on ridgelines or peaks. Tall towers, especially those over 500 feet kill more birds than shorter towers. Lighted towers, especially those with continuous lights, kill more birds than towers with strobe lights or unlighted towers. Towers with guy wires kill more birds than towers without guy wires.

For the 2015 Draft EIR, the potential for avian collision, including bats, by comparing the proposed Project to available literature on the issue including studies conducted at the Altamont Pass and Tehachapi Pass and guidelines and practices published by the Avian Power Line Interaction Committee (APLIC) was reviewed by NRAI. The APLIC is a committee formed by biologists from the utility industry, USFW, and the National Audubon Society. In 1996, APLIC produced guidelines and practices for minimizing bird electrocutions and collisions; the guidelines provide methods for monitoring and assessment, as well as mitigation measures to minimize bird mortality associated with utility structures.

Recommendations made by the APLIC state that "... service providers should be strongly encouraged to construct towers no more than 199 feet above ground level (AGL), using construction techniques which do not require guy wires (e.g., use a lattice structure, monopole, etc.). Such towers should be unlighted if Federal Aviation Administration regulations permit." Based on these recommendations the Draft EIR found that the proposed 43-foot monopole with

attached antenna complies with the design requirements and siting criteria for minimizing impacts related to avian collisions. The Draft EIR states concurrence with Biological Assessment Services, April 14, 2009 recommendation that the USFW's "Service Interim Guidelines for Recommendations on Communication Tower Siting, Construction, Operation, and Decommissioning" should be implemented during Project construction, operation and decommissioning. This recommendation is included as Mitigation Measure BIO-3.

The proposed MND adopted by the County in November 2012 included mitigation for the monitoring of avian mortality; this will remain a Condition of Approval.

The Draft EIR found that changes to the tower design including the change from a lattice tower to a wooden pole, and subsequent shortening of the proposed monopole from 100-foot tall to 43-foot tall, along with implementation of the interim guidelines, reduces avian collision impacts to below a level of significance. (DEIR, p. 4.2-14; see also Final EIR, p. 3-6.)

## **Mitigation Measures**

### **Mitigation Measure BIO-1:**

*Biology Monitoring: In order to reduce or eliminate direct mortality to Blainville's horned lizard, San Diego mountain kingsnake, and the northern red diamond rattlesnake during construction, a biologist will pre-survey the construction site and access road each day prior to the start of work and periodically throughout the day during construction. These or other wildlife incidentally observed, found to be in harm's way, will be relocated to a safe place.*

### **Mitigation Measures BIO-2:**

*Nesting Bird Surveys: If construction is scheduled during bird nesting seasons (February 1 to August 31), a qualified biologist shall survey the area within 200 feet (or up to 300 feet depending on topography or other factors and 500 feet for raptors) of the construction activity to determine if construction would disturbing nesting birds. If observed in the Project impact area, occupied nest shall not be disturbed unless a qualified biologist verifies through non-invasive methods that either: (a) the adult birds have not begun egg-laying and incubation; or (b) the juveniles from the occupied nests are foraging independently and are capable of independent survival. If the biologist is not able to verify one of the above conditions, then no disturbance shall occur within 300 feet of non-raptor nests, and within 500 feet of raptor nests, during the breeding season so as to avoid abandonment of the young (CDFW 2012b). This mitigation measure does not apply if construction occurs during the non-nesting season, September 1 through January 31.*

### **Mitigation Measures BIO-3:**

*The proposed Project meets all four criteria for reducing avian mortality as recommended in the Longcore report. The proposed monopole is not proposed to be located on a peak or ridge line; at 43 feet, it would be below the County Development Code standard and below*

*the APLIC recommendations; it would not be lighted; and there would be no supporting guy wires.*

Based on the whole record, the County's decisionmaking body finds that application of the above mitigations will reduce the potential impacts related to: plant and animal species of special concern, birds protected under the Migratory Bird Treaty Act of 1918, and bird collisions to a less than significant level.

## **2. Geology and Soils**

- a) Would the Project expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving landslides, or be located on a geological unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

Finding: Less than significant, with the incorporation of mitigation. (DEIR, p. 4.3-8.)

Facts: The proposed Project is located within the Geologic Hazard Overlay District designated by the County to include areas suspected to have a potential for slope instability. This could be a potentially significant impact.

The subsurface conditions in the area of the proposed equipment building consist of surficial colluvial soils, underlain by dense to very dense bedrock. The Project site occurs within the Geologic Hazard Overlay District and is mapped as having a low-to-moderate potential for landslides. No landslides have been previously mapped onsite and no evidence of landsliding was observed during the 2007 geotechnical investigation, or subsequent updates. The presence of shallow bedrock suggests the potential for landsliding is low.

The Geotechnical investigation and updates prepared for the Project concluded that based on the results of field exploration, laboratory testing and geotechnical analysis, the proposed Project is considered feasible from a geotechnical standpoint provided that applicable recommendations included in the 2007 Geotechnical Investigation are implemented. The following mitigation measures will also be implemented.

To ensure the levels of the proposed Project's potentially significant impacts are reduced, mitigation measures shall be implemented.

### **Mitigation Measures**

#### **Mitigation Measure GS-1:**

*Prior to issuance of grading and/or building permits for the proposed Project, the Project Proponent shall submit a Geologic Investigation Report and an Updated Geotechnical Report. Recommendations included in all geologic and geotechnical reports prepared for the proposed Project shall be implemented.*

### **Mitigation Measure GS-2:**

*The proposed development shall be completed in accordance with the requirements of the latest edition of the California Building Code as well as the recommendations included within the geologic investigation report and updated geotechnical report required prior to issuance of grading and/or building permits.*

Based on the whole record, the County's decisionmaking body finds that implementation of Mitigation Measures GS-1 and GS-2 would ensure that impacts associated with geological and geotechnical hazards would be less than significant pursuant to the significance criteria set forth by CEQA.

- b) Would the Project expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving rupture of a known earthquake fault, strong seismic shaking, or seismic related ground failure, including liquefaction?

Finding: Less than significant, with the incorporation of mitigation. (DEIR, p. 4.3-9.)

Facts: The proposed Project is located in close proximity (within approximately 5 miles) of the San Andreas Fault system and would be subject to strong ground shaking. This could be a potentially significant impact.

Research of available maps indicates that the Project site is not located within an Alquist-Priolo Earthquake Fault Zone. Therefore, the possibility of significant fault rupture at the site is considered to be low.

However, the Project site is located in an area that is subject to strong ground motions due to earthquakes. Numerous faults capable of producing significant ground motions are located near the Project site. Due to economic considerations, it is not generally considered reasonable to design a structure that is not susceptible to earthquake damage. Thus, significant damage to structures may be unavoidable during large earthquakes. The proposed structures should be designed to resist structural collapse and thereby provide reasonable protection from serious injury. (DEIR, p. 4.3-9.)

### **Mitigation Measures**

#### **Mitigation Measure GS-3:**

*To ensure the structural safety of the proposed Project in the event of an earthquake, the proposed Project shall be designed and constructed in accordance with the seismic design requirements of the latest edition of the California Building Code.*

Based on the whole record, the County's decisionmaking body finds that implementation of Mitigation Measure GS-3 would ensure impacts from a seismic event would be reduced to a less than significant level.

c) Would the Project result in substantial soil erosion or loss of topsoil?

Finding: Less than significant, with the incorporation of mitigation. (DEIR, p. 4.3-11.)

Facts: The proposed Project would involve grading and utility trench excavation, resulting in the potential for increased soil erosion. This is a potentially significant impact.

During construction, development of the Project site would involve grading and filling activities that can leave soils vulnerable to wind and water erosion. The Project site is predominately underlain with granular soils. Based on the granular content, on-site soils would be susceptible to erosion and caving. Soils left bare during construction activities can erode due to high wind speeds or the presence of swiftly moving water. (DEIR, p. 4.3-9.)

The primary impact of Project implementation would be ground disturbance associated with the installation of the monopole, the equipment building, the electrical supply line, and the fuel modification zone (approximately 350 square-feet). The 6,700-foot linear portion of the Project would disturb approximately 1.22 acres; this includes an 8-foot wide area of disturbance along the 6,700 linear foot utility trench, and therefore would be subject to the National Pollutant Discharge Elimination System (NPDES) permit requirements, specifically must obtain coverage under the Construction General Permit Order 2009-0009-DWQ as amended by Order 2012-0006 DWQ and Order 2010-0014 DWQ. The State of California is authorized to administer various aspects of the NPDES. Construction activities covered under the State's General Construction permit include removal of vegetation, grading, excavating, or any other activity that causes the disturbance of one acre or more. The General Construction permit requires recipients to reduce or eliminate non-storm water discharges into stormwater systems, and to develop and implement a Storm Water Pollution Prevention Plan (SWPPP). (DEIR, p. 4.3-10; see also Final EIR, p. 3-7.)

In addition to complying with NPDES requirements, the County also requires the preparation of a Water Quality Management Plan (WQMP) for development projects that fall within one of eight project categories established by the RWQCB. Since the proposed Project would result in a hillside development of 5,000 square feet or more and is in an area with known erosion soil conditions and where natural slopes are 25 percent or more, it is considered a Category Project. Development of the proposed Project, including the electrical service in Pisgah Peak Road, would result in a total disturbed area of approximately 1.64 acres. As part of the WQMP, all Category Projects must identify any hydrologic condition of concern that would be caused by the Project, and implement site design, source control, and/or treatment control BMPs to address identified impacts.



In addition, as part of the NPDES, a storm water management plan would be required delineating the methods used to control the erosion process on-site and the types of containment structures that would be used to control eroding soils such as sand bags or hay bales to prevent migration of soils off-site. The NPDES permit process causes developers or contractors to reduce, to the extent practical, the discharge of pollutants into water bodies by using Best Management Practices (BMPs). Compliance with NPDES permitting process requires storm water quality management to be considered during a project's planning phase and to be implemented during construction.

After construction, erosion potential would be expected to be minimal with the implementation of BMPs and landscaping. However, to ensure the level of the proposed Project's potentially significant impacts is reduced, mitigation measures shall be implemented. (DEIR, p. 4.3-11.)

## **Mitigation Measures**

### **Mitigation Measure GS-4:**

*All on-site excavation activities shall be conducted in accordance with Cal-OSHA regulations. Adequate moisture content shall be maintained within the removed and recompacted fill soils to improve stability.*

### **Mitigation Measure GS-5:**

*A National Pollutant Discharge Elimination System permit shall be obtained before construction is started. In addition, a Water Quality Management Plan and Storm Water Pollution Prevention Program must be submitted to the County and shall show how storm waters will be controlled through Best Management Practices to avoid off-site sedimentation.*

Based on the whole record, the County's decisionmaking body finds that implementation of Mitigation Measures GS-4 and GS-5 would ensure impacts to soil or the loss of topsoil would be less than significant.

## **3. Hazards and Hazardous Materials (Fire Safety Hazards)**

- a) Would the Project expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

Finding: Less than significant, with incorporation of mitigation. (DEIR, p. 4.4-15.)

Facts: The Project could increase the risk of wildfires by creating a new source of electricity and a 43-foot tall wooden monopole that could attract lightning during a storm event. This is a potentially significant impact.

Lightning may cause damage to property, structures, and may even cause death. Lightning tends to strike taller objects including towers. Buildings or tall structures hit by lightning may be damaged as the lightning seeks unintended paths to ground. By safely conducting a lightning strike to ground, a lightning protection system can greatly reduce the probability of severe property damage. (DEIR, pp. 4.4-13; see also Final EIR, p. 3-30.)

In electricity supply systems, including radio towers, an earthing system or grounding system is circuitry that connects parts of the electric circuit with the ground, thus defining the electric potential of the conductors relative to the Earth's conductive surface. There are two types of earthing systems: the protective earth or equipment grounding conductor; and the functional earth connection. The equipment grounding conductor keeps the exposed conductive surfaces of a device at earth potential. To avoid possible voltage drop and to provide shock protection, no current is allowed to flow in the conductor under normal circumstances. In the event of a fault, current will flow that should trip or blow the fuse or circuit breaker protecting the circuit. A functional earth connection serves a purpose other than shock protection, and may normally carry current. The most important example of a functional earth connection is the neutral in an electrical supply system. It is a current-carrying conductor generally connected to earth, but not always, at only one point to avoid flow of currents through the earth. (DEIR, p. 4.4-13.)

An earthing system is mainly used for these applications:

- To protect a structure from lightning strike, directing the lightning through the earthing system and into the ground rod rather than passing through the structure.
- Part of the safety system of mains electricity (*general-purpose alternating-current (AC) electric power supply*), preventing problems associated with floating ground and sky voltage.
- The most common ground plane for large monopole antenna and some other kinds of radio antenna.

In addition to appropriately grounding antennas, there are many products that protect wood poles from fire and collapsing and ultimately spreading wildfires. These products can generally be classified into one of three categories including: coatings, wraps or barriers. All three are designed to protect poles from fire, but they vary in application method, cost and function. Products that prevent future inspection and remedial treatment of the pole can be counter-productive. A fire retardant should possess the following characteristics to be considered effective:

- Breathable: An effective product should allow the wood pole to breath. Products that do not will may cause the pole to encapsulate moisture, promoting decay and subsequently decreasing the service life and safety of the pole.
- Long-lasting: The potential of the product to withstand multiple burns or to be easily repaired in the field makes it more cost-effective. Products that are only effective for one burn can be a cost-effective strategy when fire is imminent, but they will need to be replaced following an event or the pole will be vulnerable to the next fire.

Latex coating fire protection is breathable, repairable, and can withstand multiple burns.<sup>1</sup>

## **Mitigation Measures**

### **Mitigation Measure HAZ-1:**

*The Project Proponent shall install an earthing system during the installation of the monopole. An appropriate system shall be selected based on the standards set forth by the United States National Electrical Code (NEC) or National Fire Project Association (NFPA) 702. The County Building and Safety Officer shall inspect the system for compliance with these standards.*

### **Mitigation Measure HAZ-2:**

*The Project Proponent shall apply a latex-based, fire protective coating to the monopole. The selected coating shall have high adhesion quality and provide long-term protection.*

### **Mitigation Measure HAZ-3:**

*The existing monopole at the site shall be replaced with a new monopole that is free of the initial treatment of creosote or pentachlorophenol that is typically applied to wooden poles. These initial treatments may contain a preservative that could prevent the long-term adhesion of a latex base fire retardant.*

*(Note that the “existing monopole” was the demonstration pole that has since been removed).*

### **Mitigation Measure HAZ-4:**

*The fuel modification area shall be inspected on a quarterly basis throughout the life of the Project to ensure the initial clearing area is maintained. Upon inspection, appropriate trimming and clearing shall be initiated. In addition, any fuel sources at the base of the monopole shall be removed.*

Based on the whole record, the County’s decisionmaking body finds that the installation of an earthing system, application of fire protective coating, and maintenance within the fuel modification area would reduce the potential for wildland fires in association with lightning strikes, and that fire hazard impacts associated with the use of a wooden monopole would be less than significant.

## **4. Land Use**

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<sup>1</sup> <http://www.osmose.com/newsletter-2015-q3-fire-protection>.

<sup>2</sup> The National Electrical Code (NEC) or National Fire Project Association (NFPA 70), is a regionally adoptable standard for the safe installation of electrical wiring and equipment in the United States.

- (a) **Would the Project conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?**

Finding: Less than significant, with the incorporation of mitigation. (DEIR, p. 4.5-12.)

Facts: The proposed Project is in direct conflict with the goals and policies of the County General Plan and the Oak Glen Community Plan. This could be a potentially significant impact.

The Project is within the jurisdiction of the County and occurs within the Oak Glen Community Plan. Within the County's Open Space Element, Goal OS 7 states, "The County will minimize land use conflict between open spaces and surrounding land uses." The Project site is located adjacent to the State Park which is within the City of Yucaipa and is currently designated Institutional. The State Park is a permitted use within the Institutional zone.

The proposed Project has been designed to reduce to the extent possible, an intrusive, manmade facility. The Project evaluated in the Draft EIR includes a reduced fuel modification area from 100 feet to 30 feet. Over the course of several years the Project has been redesigned, and includes a reduction in the scale and design of the antenna; it has been reduced from a 140-foot tall steel lattice tower to the currently proposed 43-foot tall monopole. The Project would also be restricted to a 425 square-foot portion of a larger 38.12-acre site, and utilities, including the installation of 6,700 linear feet of electric, would be placed within an existing unpaved road (Pisgah Peak Road).

Applicable policies of Goal OS 7, including OS 7.2 states that,

*"For natural open space areas that require separation from human activities to preserve their function and value, limit construction of roads into or across natural open space areas.*

Policy OS 7.5 states,

*"Require that natural landform and ridgelines be preserved by using the following measures: a) Keep cuts and fills to an absolute minimum during the development of the area; b) Require the grading contours that do occur to blend with the natural contours on site or to look like contours that would naturally occur; c) Encourage the use of custom foundations in order to minimize disruption of the natural landform; and d) Require that units located in the hillsides be so situated that roof lines will blend with and not detract from the natural ridge outline.*

The proposed Project includes constructing the equipment building so that a portion of the structure is concealed within the hillside; working with the natural features of the site to preserve the terrain and character. The monopole is proposed below the ridgeline and at a scale that

would minimize to the extent possible, impacts to adjacent open space areas. The Project is in compliance with Policy OS 7.6 which states,

*“Require that hillside development be compatible with natural features and the ability to develop the site in a manner that preserves the integrity and character of the hillside environment, including but not limited to, consideration of terrain, landform, access needs, fire and erosion hazards, watershed and flood factors, tree preservation, and scenic amenities and quality.”*

Access to the site would be from Pisgah Peak Road, no additional roadways are proposed from the parking space to the monopole. Access to the monopole would be limited to a foot path only. Design features of the proposed Project also conform with Oak Glen Community Plan Goal OG/CO 1 which states,

*“Preserve the unique environmental features of Oak Glen including native wildlife, vegetation and scenic vistas, and policy OG/CO 1.1 which states;*

*The following areas are recognized as important open space areas that provide for wildlife movement and other important linkage values. Projects shall be designed to minimize impacts to these corridors.*

- a. Little San Gorgonio*
- b. Pisgah Peak*
- c. Wildwood Canyon State Park*

Upon approval of a CUP, the proposed Project would be consistent with the County’s General Plan and Oak Glen Community Plan Land Use and Zoning designations and the Policies and Guidelines within the County General Plan and Oak Glen Community Plan, and therefore would not represent a conflict. However to ensure the Project would not conflict with the future expansion of the State Park, the following mitigation measure shall be implemented:

## **Mitigation Measures**

### **Mitigation Measure LU-1:**

*Since the Project site is located directly adjacent to Wildwood Canyon State Park and to ensure development of the site does not prevent the expansion of the Park to include Pisgah Peak, the Project Proponent shall be required to deed restrict the unused portion of the 38.12-acre Project site for passive use by visitors to the Wildwood Canyon State Park (AR 5:188:3243).*

Based on the whole record, the County’s decisionmaking body finds that with implementation of Mitigation Measure LU-1, the Project is consistent with Conservation Goal (OG/CO 1) of the Oak Glen Community Plan, and would ensure the preservation of the environmental features of

Oak Glen, including native wildlife, vegetation and scenic vistas. Therefore, impacts would be reduced to a less than significant level. (DEIR, pp. 4.5-10 through -12.)

### **D.3 FINDINGS REGARDING IMPACTS ANALYZED IN THE EIR DETERMINED TO BE SIGNIFICANT AND UNAVOIDABLE, DESPITE ALL FEASIBLE AND REASONABLE MITIGATION MEASURES**

#### **1. Aesthetics**

- (a) Would the Project substantially degrade the existing visual character or quality of the site and its surroundings?

Finding: Significant and unavoidable impacts. (DEIR, p. 4.1-25.)

Facts: The proposed Project would result in the development of a 43-foot monopole and related equipment including a 100 square-foot equipment shed, security fencing and vehicle parking space. The proposed Project also includes fuel modification around the equipment shed and monopole. Development of the proposed Project could substantially degrade the existing visual character or quality of the site and its surroundings. This is a potentially significant impact. (DEIR, p. 4.1-14.)

Notably, the proposed Project will not require the widening of Pisgah Peak Road. The trenching for utility installation will be a temporary impact with no native vegetation removal; and therefore, no lasting visual impacts. Backfilling the trench will result in the return of the road to its pre-construction condition, which is currently a dirt road. No permanent impacts to the visual environment of the roadway would result. (Final EIR, p. 3-9.)

Portions of the proposed Project would be visible along sections of trails within the State Park, located west and adjacent to the Project site. In addition, trails west and outside of the State Park would also have a view of the monopole. The primary viewshed for hikers and equestrian users is northeast toward Pisgah Peak, as a majority of the marked trails trend in this direction. Rolling hills, valleys and steep slopes occur throughout the State Park with marked and unmarked trails trending generally southwest to northeast. (DEIR, p. 4.1-15; see also Final EIR, pp. 3-8, -9.)

To assess potential impacts on visual character, a visual analysis was performed using the San Bernardino National Forest Land Management Plan (LMP) Aesthetic Management Standards. (DEIR, pp. 4.1-16 through -22.) Several different viewpoints were analyzed. (DEIR, pp. 4.1-22 through -24.) The analysis determined that the project is most prominent within Viewpoint 4 (trail outside of the State Park), however this would have the least number of view given it is along an unmarked hiking trail that occurs outside the State Park and near the Project site. (DEIR, pp. 4.1-24, -25.) Since the Project would not have a significant number of views, it would not create a significant change in the landscape and is considered less intense of a land use than what could potentially be developed onsite (i.e. single family residential unit and related uses). However, due to sensitive receptors in the area, mitigation measures were nonetheless identified to further reduce

the potential impacts to visual character. (DEIR, pp. 4.1-24, -25; see also Final EIR, p. 3-9.)

## **Mitigation Measures**

### **Mitigation Measure AES-1:**

*The monopole, antenna and shed shall be painted olive green to blend with the surrounding vegetation. In addition to this first layer of treatment, a second layer of paint shall be worked in a random pattern in colors of deep olive, light sage and light brown to further mimic a vegetative pattern or camouflage effect. The random pattern shall be applied in a stippling or sponging in manner to avoid sharp lines.*

### **Mitigation Measure AES-2:**

*The Project Proponent shall revegetate the portion of the ridge where the demonstration pole was placed. During placement of the demonstration pole and conducting geotechnical field testing, vegetation was removed. The scraped area, which appears in the form of a line down the slope, and any other areas that may be disturbed during site development shall be revegetated at the direction of a County-approved biologist prior to issuance of occupancy permits.*

## **Level of Significance After Mitigation**

The Lead Agency determines that implementation of Mitigation Measures AES-1 and AES-2 would reduce potential visual impacts at the Wildwood Canyon State Park and nearby sensitive receptors including residences and trail users to a less than significant level. The revegetation plan will be subject to the approval of a County-approved biologist. This is supported by the analysis that relied on the USFS model and other federal agency models for determining and ranking visual changes in the environment. However, this area of CEQA is highly subjective and public comments previously received by the Planning Commission and Board indicate a high level of viewer sensitivity to the monopole's visual impact. In consideration of this and the alternatives analysis showing that no other feasible Project sites could avoid such impacts, although the Project is considered highly beneficial, the County determines that the visual impact, at least to some portion of the population, is significant and unavoidable. (DEIR, p. 4.1-25.)

Further, based on the Site Plan provided for the biological survey and assessment, the Project would result in temporary disturbance of already disturbed areas. However under baseline conditions, the pathway for installation of the utility line between the monopole and the equipment shed, which would also be used for foot-access maintenance, would result in new disturbance. In addition to the existing scraped area, the amount of vegetation to be removed for implementation of the required fuel modification zone around the equipment shelter and the monopole would partially be a new disturbance. The Project design seeks to minimize impacts to existing vegetation while providing for facility installation and the required fuel modification area. The fuel modification area will require regular maintenance to deter vegetation growth. Portions of the Project site that are currently disturbed and that may be disturbed during site

construction shall be revegetated at the direction of a County-approved biologist in accordance with DEIR Mitigation Measure AES-2. (DEIR, p. 3-6.)

#### **D.4 OTHER CEQA REQUIRED ANALYSIS IN THE EIR**

##### **1. CUMULATIVE IMPACT ANALYSIS**

CEQA Guidelines § 15355 defines a cumulative impact as one that is created as a result of a combination of the proposed project together with other projects causing related impacts. The CEQA Guidelines provide guidance concerning the format and content of a cumulative impact analysis by stating that an EIR shall discuss cumulative impacts of a project when its incremental effect is cumulatively considerable. The incremental effect is defined as a significant irreversible environmental change that would be involved if the proposed project should be implemented (CEQA Guidelines §§ 15130(a) and 15165(c)).

An adequate discussion of cumulative impacts should be based on either: 1) a list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency; or 2) a summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified which described or evaluated regional or area-wide conditions contributing to the cumulative impact. Any such planning document shall be referenced and made available to the public at a location specified by the lead agency.

The County's 2007 Development Code defines Broadcasting Antennae and Towers as any structure or device (e.g., antennas, towers, etc.) used for radio and television broadcasting and receiving. Codes applicable to such facilities are not the same as those applicable to wireless or other telecommunication facilities. A review of County Planning Department records conducted by County staff in October 2015, revealed there are no similar (broadcast towers) pending, approved, or under construction projects located in the vicinity of the Project site. The potential cumulative project area utilized in the EIR analysis is an approximate area defined to identify other projects that could share direct and indirect aesthetic impacts both individually and cumulatively. Other potential cumulative impacts such as biology and air quality are assessed and analyzed on a broader regional level. Potential Cumulative Impacts for Air Quality, Biological Resources, Cultural Resources, and Greenhouse gas emissions are analyzed on both a project and cumulative basis. Potential cumulative impacts analyzed within this EIR for Aesthetics and Hazards are limited to the south and west facing slopes of the San Bernardino Mountains surrounding the Oak Glen Community. Lands north and east of Pisgah Peak Road are not considered within this Cumulative Impact Analysis as they lie outside the aesthetic impact area (on the other side of the ridge and outside the view shed area of the State Park and nearby residential areas) associated with Wildwood Canyon State Park or the area of the Oak Glen community.

As viewed from the State Park and nearby residential areas, Pisgah Peak Road marks a ridgeline, and any proposed towers adjacent to Pisgah Peak would need to be developed so that the tower would remain below the ridgeline. With the application of the cumulative impact assumptions, a broadcasting tower could be developed on any of these identified developable areas (highlighted



in the EIR in orange), assuming they met the spacing requirements of the FCC and the County's minimum lot size. Based upon the County Development Code height restriction within a Rural Living land use district, and the stated cumulative projects assumptions in the Draft EIR, cumulative projects would be limited, to an estimated seven general development areas within the cumulative project area as shown on Draft EIR Figure 5-1. Development of any one of these sites (including the proposed Project site) would likely be restricted to electrical service availability, access from Pisgah Peak Road, 20-acre minimum lot size, and FCC spacing requirements. However, for the purposes of the Draft EIR Cumulative Impact Analysis it is assumed that up to seven (7) additional broadcast towers could be developed within the cumulative project area identified.

### **Cumulative Impacts Considered to be Less than Significant**

Aesthetics. Potential impacts related to Aesthetics are analyzed on a Project level basis in Section 4.1 of the Draft EIR. The analysis evaluated potential impacts from multiple locations around the Project site including views from the State Park, nearby residential areas, Oak Glen and Wildwood Canyon Roads, and multiple hiking trails in the Project's vicinity. This analysis concluded no, or less than significant impacts would result related to damaging scenic resources, trees, rock outcroppings, or historic buildings within a state scenic highway, scenic vista as identified in the County's General Plan, or creation of a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

The analysis concluded a potentially significant impact could occur from the proposed Project substantially degrading the existing visual character or quality of the site and its surroundings, as the proposed Project would result in the development of a 43-foot monopole and related equipment including a 100 square-foot equipment building, security fencing and vehicle parking space. The proposed Project also includes a fuel modification zone around the equipment building and monopole. This could result in potentially significant degradation of the existing visual character or quality of the site and its surroundings.

Implementation of Mitigation Measures AES-1 and AES-2 would require painting the proposed monopole to naturally blend into the surrounding visual environment, and revegetation of the areas surrounding the Project that would be disturbed during construction activities.

Of the cumulative project areas identified on Draft EIR Figure 5-1, their individual visual impacts, although not subject to a complete Visual Resources Assessment, would not be expected to be greater than those of the proposed Project. In addition, project-specific mitigation measures for any other future tower development within the cumulative project impact area would ensure that any potentially significant aesthetic related impacts would be mitigated individually and therefore cumulatively. Applying the criteria listed in Section 5.2.4, no more than seven (7) towers would be constructed in the vicinity and all would be subject to potentially limiting access issues due to Pisgah Peak Road being private, due to power source availability, and due to technical constraints inherent to radio broadcasting or imposed by federal regulation. Therefore, cumulative impacts to aesthetic resources would not be considered significant.

Biological Resources. As discussed in EIR Section 4.2, the area surrounding the site is typical of the region, with steep hills dominated by mixed chaparral. The chaparral is dense, with few openings that allow herbaceous species to recruit. Among the dominant chaparral shrub species present are chamise (*Adenostoma fasciculatum*), scrub oak (*Quercus berberidifolia*), laurel sumac (*Malosma laurina*), mountain mahogany (*Cercocarpus betuloides*), heart leaved keckiella (*Keckiella cordifolia*), silk-tassel bush (*Garrya veatchii*), and flowering ash (*Fraxinus dipetela*). Less woody clambering and shrubby species found among the chaparral include California buckwheat (*Eriogonum fasciculatum*), wild heliotrope (*Phacelia distans*), deerweed (*Lotus scoparius*), golden yarrow (*Eriophyllum confertiflorum*), southern honeysuckle (*Lonicera subspicata*), dodder (*Cuscuta californica*), and butterweed (*Scencio douglasii*). *Yucca* (*Yucca whipplei*) is also prominent in this habitat.

Pisgah Peak Road provides a continuous opening where some herbaceous plant species have become established. Dominant among the herbaceous and annual species present on the Project site and access road are nonnative grasses such as red brome (*Bromus madritensis rubens*) and slender wild oats (*Avena barbata*). Other nonnative weedy species present in this habitat include short-podded mustard (*Hirschfeldia incana*), chickory (*Chicorium intybus*), and red-stemmed filaree (*Erodium cicutarium*). Native species present in the chaparral interstices (spaces) are diverse and include: California fescue (*Festuca californica*), chia (*Salvia columbariae*), common cryptantha (*Cryptantha intermedia*), twiggy wreathplant (*Stephanomeria vigata*), purple false-gilly flower (*Allophyllum divaracatum*), showy penstemon (*Penstemon speciosus*), Coulter's snapdragon (*Antirrhinum coulterianum*), splendid mariposa lily (*Calochortus splendens*), and golden bowl mariposa lily (*Calochortus concolor*).

Other potential cumulative projects in the vicinity would incrementally increase the use of currently undeveloped land that could potentially be used by various wildlife species, including rare, threatened or endangered species. However, the Project site area is largely undeveloped and rural in nature with adjacent parcels to the north, south and east currently designated within the Oak Glen Community Plan as Rural Living-20 or located within National Forest lands. The State Park occurs to the west of the Project site and is designated in an Institutional zoning district by the City of Yucaipa General Plan. The cumulative project sites shown on Draft EIR Figure 5-1 are not in close proximity to either the proposed Project or other development considered urban and are not anticipated to inhibit biological movement. In addition, project specific mitigation measures for other proposed development within the region would ensure that potentially significant impacts to biological resources would be mitigated. Therefore, cumulative impacts to biological resources would not be considered significant.

Geology and Soils. According to the geotechnical studies conducted for the proposed Project, numerous faults and shear zones have been identified in the vicinity of it. The San Bernardino area is a region of large-scale neo-tectonism, a result of the intersection of the east-west-trending Transverse Ranges Province represented by the San Bernardino Mountains and the northwest-trending Peninsular Ranges Province. The San Bernardino Valley is a structural depression between the San Jacinto Fault on the west and the San Bernardino Mountains on the north and northeast. The San Andreas Fault is located at the base of the San Bernardino Mountains. Other active faults in the proposed Project vicinity include the San Jacinto Fault, and the San Andres Fault Zone. However as discussed in Draft EIR Section 4.4, no large earthquakes have occurred

on the San Bernardino Mountains segment of the San Andreas fault within the regional historical time frame. Using dendrochronological (tree ring) evidence, Jacoby and others (1987) inferred that a great earthquake on December 8, 1812, ruptured the northern reaches of this segment. Recent trenching studies have revealed evidence of rupture on the San Andreas fault at Wrightwood occurred within this time frame (Fumal and others, 1993). Comparison of rupture events at the Wrightwood site and Pallett Creek and analysis of reported intensities at the coastal missions led Fumal and others (1993) to conclude that the December 8, 1812, event ruptured the San Bernardino Mountains segment of the San Andreas fault largely to the southeast of Wrightwood, possibly extending into the San Bernardino Valley. The average recurrence interval for large earthquakes along the southern San Andreas fault at six paleoseismic sites is 182 years.

The proposed Project lies outside of any Alquist-Priolo Special Studies Zone and the potential for damage due to direct fault rupture is considered remote. As discussed in Draft EIR Section 4.3 impacts associated with geology and soils would be site-specific and are considered less than significant. Regionally, the cumulative projects identified on Draft EIR Figure 5-1 would also be required to comply with the Uniform Building Code (UBC). Adherence to the UBC will reduce the potential cumulative impact to less than significant. Therefore, cumulative impacts are considered to be less than significant.

Fire Safety and Hazards. Draft EIR Section 4.4 analyzes the potential impacts of Fire Safety and Hazards on an individual basis and identified that the Project site is located within a Fire Safety Overlay Area (FS1). As discussed in the Draft EIR, the proposed Project could potentially increase the risk of wildfires by creating a new source of electricity and a 43-foot tall wooden monopole that could attract lightning strikes during a storm event. Mitigation measures prepared to address this potentially significant impact would reduce the proposed Project's potentially significant Fire and Safety Hazards impacts to a less than significant level. Similarly the cumulative projects identified on Draft EIR Figure 5-1 would be analyzed on an individual basis for their impact on fire and safety hazards. The cumulative project sites identified are not in close proximity to either the proposed Project or other developments within the fire safety overlay zone and would not cumulatively increase fire and safety hazards. In addition, project specific mitigation measures for other proposed development within the region would ensure that impacts to fire and safety hazards are mitigated. Therefore, cumulative impact to fire and safety hazards would not be considered significant.

Land Use. Draft EIR Section 4.5 analyzes the potential impacts of Land Use on an individual basis and identified that the Project site is located on lands currently designated Oak Glen Community Plan/Rural Living-20. The State Park occurs to the west and is designated in an Institutional zoning district by the City of Yucaipa General Plan. The proposed Project has been designed to reduce potential impacts to the extent possible, including a reduction in height and a reduction in fuel modification area. As proposed, the Project would also be restricted to a 425 square-foot portion of a larger 38.12-acre site; and utilities, including the installation of 6,700 linear feet of electrical line from an existing power source, would be placed within an existing disturbed, unpaved road (Pisgah Peak Road).

In addition, Mitigation Measure LU-1 requires the Applicant to record deed restrictions that will ensure the unused portion of the 38.12-acre Project site can only be used for passive use by

visitors to the State Park. Other cumulative projects identified on Draft EIR Figure 5-1 are not in close proximity to the proposed Project and are unlikely to create a cumulative land use impact. Additionally, any other cumulative projects would require issuance of a CUP that would be subject to CEQA analysis which would be intended to reduce their individual potentially significant land use impacts to a less than significant level thereby reducing any potentially significant cumulative impacts to land use.

### **Findings:**

*The County's decisionmaking body finds that the Project in conjunction with potential future development of adjacent areas would not have a cumulative effect on any of the following issues: Aesthetics, Biological Resources, Geology and Soils, Fire Safety Hazards, and Land Use, and Project impacts can be mitigated to a less than significant level with implementation of Project design features, Conditions of Approval, and mitigation measures.*

## **2. GROWTH INDUCING IMPACTS**

CEQA Guidelines § 15126.2(d) requires an evaluation of growth inducing impacts that may result from a proposed project. Growth inducing impacts can occur when a proposed project places additional stress on a community by directly inducing economic or population growth that would lead to construction of new development projects in the same area as the project. A project would also be considered growth inducing if it removed obstacles to growth such as building a road to an undeveloped area, constructing a wastewater treatment plant or extending a sewer line that would provide additional capacity and thus allow new development in the area.

As reported in the Ruling On Petition for Writ of Mandate (pg 24) public comments were received with regards to approval of the tower leading to applications for additional radio towers in the area surrounding the State Park and would make it difficult to deny future similar applications, citing AR 5:204:3527, 204:3551, 204:2582-2583, 202:3451. The proposed Project was considered to have potentially growth-inducing impacts as pertained to CEQA Guidelines § 15126(d). In addition, public testimony during consideration of the MND also expressed that bringing electrical power to an area, which would require an extension of current service by over 1.25 linear miles, along Pisgah Peak Road may be growth-inducing, and that new electrical lines provided by the Project would encourage parcels along the road to be developed (AR 4:138:2683:2684).

The proposed Southern California Edison (SCE) utility extension from the existing power source nearest Wildwood Canyon Road extending to the equipment building is considered a “private service extension.” As such there will be no future tie-ins or connections to this utility permitted, and therefore electrical service would not be extended from this line to any other adjacent parcels. The extension of electrical service is therefore not considered growth-inducing as it does not increase the capacity or availability of service to the general area, only to the proposed Project.

Adjacent parcels to the north, south and east are currently designated Oak Glen Community Plan/Rural Living-20, and Wildwood Canyon State Park occurs to the west and is designated as

Institutional zoning by the City of Yucaipa General Plan. The parcel to the immediate east of the Project site is of similar size and has access granted by the owner to Pisgah Peak Road as does the parcel to the south and the parcel just below that. Parcels to the immediate north and south do not have any granted access to the road. Parcels of smaller size occur north of the Project site, however appropriate access would need to be granted from Pisgah Peak Road, a private road before any of these parcels could be considered for development. Thus, the proposed Project would not be considered growth inducing itself as other infrastructure improvements, as well as land owner (Pisgah Peak Road access) approvals would be required before any additional development could occur.

As shown in Draft EIR Figure 5-2 – Spacing Restrictions and Possible Transmitter Location, which was prepared for the Applicant, demonstrates where a transmitter site could be placed to meet FCC requirements and serve an expanded market area. The “funnel-shaped” area is bounded on the north by a 72 kilometer FCC limit on how far the KXRS transmitter site can be relocated from its licensed site in Hemet, on the east by a 69 kilometer spacing restriction to KPLM 106.1 MHz in Palm Springs and by a 72 kilometer spacing restriction to KRSX 105.3 MHz in Twentynine Palms, on the south by a 113 kilometer spacing restriction to KIOZ 105.3 MHz in San Diego, and on the west by a 115 kilometer spacing restriction to KBUE 105.5 MHz in Long Beach. The surrounding parcels occur within an area that could provide necessary coverage within both San Bernardino and Riverside counties. However, any future tower projects would be required to be approved by the FCC, obtain necessary permits, comply with CEQA, and be approved.

The County has received a total of two applications for radio broadcast towers in the past 30 years. There is no precedence for determining whether approval of the proposed Project would induce other proponents to submit similar applications. A determination of growth-inducing impacts associated with the proposed Project is highly speculative; therefore, a less than significant impact is expected.

Further, the underground electrical line extending to the proposed site from the existing KRBQ tower was determined in the DEIR to not be cumulative or growth inducing. The service extension, which the commenter alludes to as having the potential for being growth inducing, will be private. The DEIR determined that the provision of service to the Project site to not be growth-inducing because the service extension will be just that – a service lateral sized only to provide the necessary utility demand of the proposed Project. There would not be sufficient capacity available for any other users.

### **3. SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES WHICH WOULD BE CAUSED BY THE PROPOSED PROJECT SHOULD IT BE IMPLEMENTED**

An EIR must disclose the significant unavoidable impacts that will result from implementation of a proposed project. Section 15126(b) of the CEQA Guidelines states that an EIR should explain the implications of such impacts and the reasons why the project is being proposed, notwithstanding such impacts.

Implementation of the Project would result in the alteration of the physical environment. The proposed Project includes design features that along with implementation of mitigation measures either reduce or eliminate potentially significant impacts to a level below significant.

Development of the proposed Project would cause an irretrievable commitment to a small portion of the area's open space lands. Lands surrounding the proposed Project are development restricted due to steep slopes and lack of available infrastructure (roads, water, sewer, power, etc.). Much of the area near the proposed Project site can be considered unavailable for any alternative development or use and therefore the commitment of open space is not anticipated to be significant.

Small incremental quantities of energy resources would be used for construction of the tower, and non-renewable resources would be committed primarily in the form of fossil fuels including gasoline or diesel fuels used by vehicles operating on and traveling to the site. Development of the proposed Project would involve the development of an equipment building that would require aggregate resources (concrete). However the building is considered an insignificant use of resources as it measures 100 square-feet.

Development of the proposed Project would not require significant increases in the consumption of natural resources to be used during operations.

There are no anticipated secondary resource impacts expected to result from growth and development associated with the proposed Project. The proposed development would not result in the extension of infrastructure (sewer, water or roads) into areas not previously developed.

Implementation of the Project would result in significant and unavoidable impacts to aesthetics. The Lead Agency determined that implementation of Mitigation Measures AES-1 and AES-2 would reduce potential visual impacts at the State Park and nearby sensitive receptors including residences and trail users to a less than significant level. This is supported by the analysis that relied on the USFS model and other federal agency models for determining and ranking visual changes in the environment. However, this area of CEQA is highly subjective and public comments previously received by the County indicate a high level of viewer sensitivity to the monopole's visual impact. In consideration of this and the alternatives analysis showing that no other feasible project sites could avoid such impacts, although the Project is considered highly beneficial, the County determines that the visual impact, at least to some portion of the population, is significant and unavoidable.

## **E. ALTERNATIVES TO THE PROJECT**

CEQA Guidelines § 15126.6 describes the consideration and discussion of alternatives to a proposed project as follows:

“An EIR shall describe a range of reasonable alternatives to the Project, or to the location of the Project, which would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the Project, and evaluate the comparative merits of the alternatives. An EIR need

not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible.”

It further states that the lead agency is responsible for selecting a range of alternatives examined and must publically disclose its reasoning for selecting those alternatives. “There is no iron clad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.” (See *Citizens of Goleta Valley vs. Board of Supervisors* (1990) 52 Cal. 3d 553 and *Laurel Heights Improvement Association vs. Regents of the University of California* (1998) 41 Cal. 3d 376). Thus, the EIR needs to evaluate those alternatives necessary to permit a reasoned choice and should not consider alternatives with effects that cannot be reasonably ascertained and whose implementation is remote and speculative.

CEQA Guidelines also requires that an alternatives evaluation include sufficient information about each alternative to allow meaningful evaluation, analysis and comparison with the proposed project. (CEQA Guidelines § 15126.6(d)). The analysis should identify aspects of the alternative “which are capable of avoiding or substantially lessening any significant effects of the project[.]” (CEQA Guidelines § 15126.6(b)). The following section presents a series of project alternatives considered, evaluated and/or rejected for the proposed Project. The alternatives were developed based on recommendation of Lead Agency staff. However, it is noted that all of the potentially significant impacts associated with the proposed Project that may be subject to being reduced by an alternative, have been determined reduced to less than significant levels with mitigation.

The following alternatives to the proposed Project are evaluated in Draft EIR Section 6.3:

- No-Project/Development Under the RL Land Use Designation Alternative
- Other Location Alternative

The Environmentally Superior Alternative was selected from among these alternatives and the proposed Project. An alternative that is environmentally superior would result in the fewest or least significant environmental impacts and still be able to achieve the objectives of the planning effort.

The analysis of alternatives includes the assumption that all applicable mitigation measures associated with the proposed Project would be implemented as appropriate for each of the alternatives. However, applicable mitigation measures may be scaled to reduce or avoid the potential impacts of the alternative under consideration and may not precisely match those identified for the proposed Project.

## **E.1 ALTERNATIVES CONSIDERED AND REJECTED AS INFEASIBLE**

In determining whether an alternative scenario could meet the Project goals and reduce impacts, the following alternatives were considered and rejected:

Reduced Scale Alternative: This alternative would be a reduced scale design of the proposed Project, which is itself a reduced scale of the original design proposed in June 2007 that included the construction of a 140-foot tall steel lattice tower with a radio broadcast antenna and a 250 square-foot equipment building to include a 500-gallon propane tank. In October 2008 upon the review of the concerns and comments received from the County's noticing, the applicant revised the Application to construct an 80-foot tall steel lattice tower with a radio broadcast antenna and a 250 square-foot equipment building, and a 500-gallon propane tank on the Project site. In November 2008 the Project was reviewed at a Planning Commission public hearing, at which time staff recommended approval of the Project and the Planning Commission subsequently approved the Project. On January 27, 2009, and continued to March 3, 2009, the Board held a public hearing on the appeal to the prior Planning Commission action at which time the Board granted the appeal, and denied the application with prejudice, and adopted findings supporting the denial. Additional revisions to the Project were made by the Applicant in May 2011 resulting in a wooden monopole design height of 43-feet. That alternative was eventually approved by the County with approval of the CUP and adoption of the MND; that decision was subsequently litigated by CPRL. The 2011 design is the proposed Project evaluated in the Draft EIR.

This alternative was rejected for further evaluation since the proposed Project's footprint or height could not be further reduced without jeopardizing the Project's intent of providing services to an expanded audience or potentially being compliant with FCC rules. Additionally, since reducing the height of the monopole would have a decrease in the total population reached, or reduce the applicant's ability to reach the target audience in Hemet, this alternative was rejected for further evaluation.

*Finding: The County's decisionmaking body rejects this alternative on the following grounds, each of which provides a full and independent justification for rejection of the alternative: (1) the alternative is infeasible, given that the reduced scale would potentially not be compliant with FCC rules; and (2) the alternative fails to meet the basic purpose and objective of the project, which is to provide services to an expanded audience.*

## **E.2 SELECTION OF ALTERNATIVES TO BE CONSIDERED IN THE EIR**

The intent of a Project Alternatives evaluation is to identify ways to mitigate or avoid the significant effects that a project may have on the environment (CEQA Guidelines § 15126.6(b) and PRC § 21002.1). The discussion shall focus on alternatives to the project or its location that avoid or substantially lessen significant effects even if these alternatives would impede to some degree the attainment of the project objectives or would be more costly. The alternatives need to be reasonable and feasible. They should be potentially feasible, accomplish most of the basic objectives of the project, and lessen one or more of the significant effects (CEQA Guidelines § 15126.6(c)).

The County has incorporated this rationale, as well as the results of a third-party peer review of previously prepared reports regarding Project site selection in its evaluation for selecting the alternatives presented in the Draft EIR. Information was obtained from the third-party report "Engineering Statement for the FM Station Proposed Move to Pisgah Peak" prepared by Cavell



Mertz & Associates, Inc. The report is included in the Draft EIR as Appendix I and summarized in Section 6.3.1 of the Draft EIR. Based on CEQA requirements and Findings of the report, the following alternatives were considered and included in the Draft EIR analysis:

- **No Project/Development Under RL Land Use Designation Alternative:** The Project site would be developed under the current County Land Use designation of Rural Living within a single-family residence located near a ridgeline, and the monopole would be removed.
- **Other Location Alternative:** There are a number of sites in the general vicinity that may be developed with a radio broadcast facility. However, a limited number of locations that are in the County and the Yucaipa area could possibly lessen aesthetic impacts and still meet most of the objectives of the Project. Therefore, using the FCC criteria, and a technical report prepared for the Draft EIR, the one site that could be selected for evaluation is in Riverside County. This alternative evaluates an approximate 30-acre property located near the community of Cherry Valley, California in the unincorporated area of Riverside County.

Specifically the Alternative Site is located south, east and west of View Avenue Lane and north of Rancho Drive at 9030 Rancho Drive, Beaumont, California (APN: 401-050-007, Township 2 South, Range 1 West within Section 15). The Alternative Site is located approximately two (2) miles southwest of the Project site and is currently developed with a single-family residence. The Alternative Site occurs within the County of Riverside Foundation Component of Rural, and has an area land use designation of Rural Mountainous (RM). The Alternative Site is zoned Open Space Water (W2). The proposed Project would be consistent with the land use designation and zoning at the Alternative Location and would require the approval of a Major Plot Plan.

The County hired a third-party independent expert in Federal communications Commission (“FCC”) regulations to review the previously prepared reports submitted by both the Project applicant and those opposed to the Project. The DEIR conclusions related to the alternative sites were based on the peer review conducted by the County’s independent consultant. Even if the Commenter’s suggested alternative sites were considered, there is nothing to suggest that they would be superior. The suggested alternative sites would both require towers significantly higher than the 43-foot tower proposed for this Project. As a result, it might well be concluded by the other jurisdictions where those possible sites exist that the height of the towers would make them objectionable. (Final EIR, p. 3-4.)

### **E.3 FINDINGS OF ENGINEERING STATEMENT FOR ALTERNATIVE SELECTION**

Cavell Mertz & Associates, Inc. was retained by the County to evaluate the merits of the proposed Project and comments from parties opposed to the Project. Evaluation of the Project included the review of four documents including: 1) *Engineering Analysis & Statement* dated January 2009, Klein Broadcast Engineering, LLC [Klein Report]; 2) *Letter to the San Bernardino Planning Commission* of October 14, 2010 from Fletcher, Heald & Hildreth, PLC

counsel for Laser Broadcasting [FHH Letter]; 3) *Engineering Statement* dated March 2011 prepared by De La Hunt Communications Service, consultant to Citizens for Preservation of Rural Living [De La Hunt Report]; and 4) *Engineering Statement* dated November 2012 prepared by Hatfield & Dawson, consultants for the Applicant [H&D Report]. A third party review of all documents was conducted with respect to rules and policies of the FCC as they relate to the location of FM radio stations. The report is included in the Draft EIR as Appendix I.

KXRS (FM) is licensed by the Applicant to Hemet, California to operate on 105.7 MHz. The Applicant was granted a Construction Permit by the FCC to change its operating frequency to 105.5 MHz and relocate the transmitter for KXRS to a site which would significantly increase the population currently served by KXRS. KXRS is licensed as a “Class A” FM station and is currently limited to a maximum of 3 kilowatt (kW) effective radiated power (ERP) due to its proximity to neighboring stations on the same and immediately adjacent frequencies. The FCC Rules for Class A stations were revised in 1989 to allow an increase in the maximum operating power of a Class A station to 6 kW ERP in certain circumstances. In particular, the change in the rules also increased the minimum distance stations must be separated from one another based on their frequency (channel) relationship. As shown in Draft EIR Figure 6-1, the current location of KXRS does not meet the current FCC minimum distance spacing rules.

In order for Applicant to operate at 6 kW ERP, the station must be relocated to another site which meets the current FCC Rules. Choosing any site that meets all transmitter location constraints and parameters is not a simple matter, particularly in the mountainous regions of southern California. All minimum distance separation requirements must be met or a station’s signal strength must be reduced to maintain protection toward neighboring stations on neighboring frequencies. Coverage of the principal community must also be maintained. For any potential station location, other factors including the protection of the public from radio frequency energy, availability of equipment space, existing tower loading considerations, availability of resources, environmental and local jurisdiction considerations, and market/economic viability are other critical factors.

An area in which KXRS may locate to comply with FCC rules and policies is created by the distance spacing from other stations. The area as identified by the Cavell, Mertz Associates is shown on Draft EIR Figure 6-2. The area available to KXRS is referred to as the “funnel” and includes two potential sites in San Bernardino County, one being the Project site; and two potential sites in Riverside County, one being the Alternative Site Location evaluated in the Draft EIR. The requirement to have line-of-sight to the Community of License (i.e., Hemet) dramatically reduces the size of this area. It is also true that the *Klein Report* discusses allocations constraints and possible coverage contours with no textual consideration of intervening terrain effects that might discount the suitability of the alternative sites.

As stated in the *H&D Report*, the Project site would allow the Applicant to both expand its service and satisfy FCC Standards, since sufficient coverage would be provided to Hemet. The FCC has granted the Applicant a Construction Permit, thereby asserting that this location meets the rules and requirements for coverage to Hemet.

There is an additional limitation to KXRS on its current channel. It is believed to be part of a specially negotiated short-spacing agreement the FCC has made with Mexico with regard to co-channel Mexican FM station XHBCE (Ch. 289C1 100 kW with an antenna height above average terrain [HAAT] of 299 meters or the equivalent of 8.2 kW at 782 meters HAAT.) KXRS is likely to be prohibited from doing anything to increase its signal strength (given its close proximity to XHBCE, a neighboring station) on its current licensed frequency. This limitation does not exist if the KXRS operating frequency changes to 105.5 MHz as proposed in the FCC Construction Permit. While essentially landlocked, the station could choose to remain licensed at the present location and operating power for the foreseeable future.

### FCC Rules Requiring Coverage of Hemet

In accordance with 47 CFR §73.315(a), the transmitter location shall be chosen so that, on the basis of the effective radiated power and antenna height above average terrain employed, a minimum field strength of 70 dBu shall be provided over the entire principal community to be served. In addition, 47 CFR §73.315(b) states that the transmitter location shall be chosen to maximize coverage to the city of license while minimizing interference. This is normally accomplished by locating in the least populated area available while maintaining the provisions of paragraph (a) of the Code. In general, the transmitting antenna of a station should be located in the most sparsely populated area available at the highest elevation available. The location of the antenna should be so chosen so that the line-of-sight can be obtained from the antenna over the principle city or cities to be served; in no event should there be a major obstruction in this path. Similarly, 47 CFR § 73.315(a) states that coverage shall be provided over the entire principal community. However, it is a long-standing FCC policy that the coverage needs only to be provided to 80 percent of the either area or the population of the principal community, in this case, Hemet, California.

### Alternative Sites

Alternative site #1 (ASR# 1263499) and site #2 (ASR# 1202850) shown in Draft EIR Figure 6-2 were identified in both the *Klein Report* and the *De La Hunt Report*. These locations are described as potential alternative transmitter sites. The towers have been registered in the FCC's ASR database but have not been constructed.

### Alternative Site #1

Alternative site #1 (ASR# 1263499) was approved by the FCC to construct a 328-foot tall tower. This site has a ground elevation of 2,606 feet above mean sea level (amsl), typical of the surrounding Beaumont area. The predicted 60 dBμ contour of a hypothetical 6 kW Class A FM station with an antenna mounted at the top of this tower would encompass a population of 1,153,758 people. The 70 dBμ "city grade" coverage contour covers 73.1 percent of the land area of Hemet and 86 percent of the people. Therefore this alternative site complies with the FCC's policy of 80 percent coverage of the land or population.

Line of sight drawings of Alternative Site #1 show that almost all of Hemet is blocked by intervening terrain. The area with line-of-sight is 11.7 percent of the area and covers 11.5 percent of the population. Based on terrain profiles, it is the opinion of Cavell, Mertz &

Associates, Inc. that Alternative Site #1 would not comply with 47 CFR §73.315(b) of the FCC Rules.

### Alternative Site #2

Alternative site #2 (ASR# 1202850) was approved by the FCC to construct a 400-foot tall tower. The elevation at this site is 3,381 feet amsl. This site is approximately 775 feet higher than Alternative Site #1. The predicted 60 dB $\mu$  contour of a hypothetical 6 kW Class A FM station with an antenna mounted at the top of this tower would encompass a population of 1,760,371 people. The 70 dB $\mu$  “city grade” coverage contour covers 79.3 percent of the land area of Hemet and 98.2 percent of the people. Therefore this site also complies with the FCC’s policy of 80 percent coverage of the land or population.

Alternative Site #2 was also evaluated for line-of-sight to the City of Hemet. As expected with a higher ground elevation and a slightly taller tower, the line-of-sight for Hemet is greater at Alternative Site #2 than that of Alternative Site #1. However, after reviewing the terrain path profiles, it cannot be definitively determined whether the FCC would accept the line-of-sight to Hemet from this alternate site as being compliant with its Rules.

### Line of Sight from KXRS Proposed Site

The predicted 60 dB $\mu$  contour of the KXRS Construction Permit facility is predicted to encompass a population of 2,122,976 people. The 70 dB $\mu$  city of license contour covers 76.9 percent of the land area of Hemet and 96.7 percent of the people. Therefore, the Project site complies with the FCC’s policy of 80 percent coverage of the land or population. Draft EIR Figure 6-3 shows the 60 dB $\mu$  and 70 dB $\mu$  contours of the proposed facility at the Project site. For comparison purposes, the proposed KXRS site was also studied using the same line of sight study as the alternate sites. Terrain models for the Project site indicated that 50.5 percent of the land area is covered and approximately 41.9 percent of the population of Hemet would be covered. As mentioned above, the FCC Rules address both the 70 dB $\mu$  signal coverage and the prohibition of “major obstructions.” Since the FCC has granted a construction permit for this location, it must be concluded that this site satisfies the FCC Rules and policies at the time of the grant in 2009.

### Conclusion

From an FCC allocations perspective of the alternative sites evaluated, Alternative Site #2 (ASR# 1202850) is the only alternative that could potentially be acceptable. However, more than half of the City of Hemet remains shadowed (based on terrain models) from the proposed 400-foot tower that would need to be built at this location. It is clear that the proposed KXRS site location on Pisgah Peak, which has been accepted by the FCC, would provide greater coverage in both area and population over that predicted from Alternative Site #2.

### **No Project/Development Under the RL Land Use Designation Alternative**

Under this alternative, the proposed Project would not be developed. The Project site would be developed under the current County Land Use designation of Rural Living within a single-family

residence located near the ridgeline. The Draft EIR Figure 6-4 is a visual simulation of this Alternative.

The “No Project/Development Under the RL Land Use Designation Alternative” independently and in comparison to the proposed Project is addressed briefly for each of the environmental impact topics consistent with the impact analysis conducted in Chapter 4.0 of the Draft EIR. The discussion of impacts with potential significance is expanded to examine the potential for mitigation and comparison to the proposed Project impacts.

Of note, the subject property is privately-owned and may not be required by the County to remain undeveloped or limited to recreational uses without possibly requiring the exercise of eminent domain. The deed restriction has been a condition of the Project since 2012 and it will ensure that additional development on the site does not occur. (See Final EIR, p. 3-14.)

### Aesthetics

Based upon the potential visual impacts of the proposed Project’s development at the Project site, all potentially significant impacts can be reduced to a less than significant level. The 38.12-acre Project site is currently undisturbed vacant land with the exception of a wooden pole that was placed on-site in May 2010 (and associated vegetation/soil disturbance) to demonstrate the scale of the proposed Project. The “No Project/Development under the RL Land Use Designation Alternative” would develop the site under the current County General Plan designation which allows for a single-family residence without further discretionary review. This Project alternative would include the residence and potential related uses (i.e., driveway, front and backyard landscaping in accordance with fuel modification requirements, pool, detached garage, and fencing). The wooden pole would be removed to allow for the development under this Alternative. The “No Project/Development Under RL Land Use Designation Alternative” would result in similar or potentially greater impacts to aesthetics and visual quality as the Project site would include development that would be visible from the Park and nearby residential development. The land use intensity would be greater under this alternative and would likely result in similar if not greater visual impacts than the proposed Project. However, this Alternative could result in a more acceptable land use by patrons of the Park and nearby residential development as a residential home would blend with surrounding development more so than a tower. Nevertheless, strictly based on land use intensity and overall heights and mass, development under this Alternative could result in a greater visual impact due to the building mass and height. A three-story, 60-foot high residence would be allowed and square-footage could exceed 7,000 square-feet.

### Biological Resources

Based upon the Biological Resources Assessment prepared to address the potential impacts related to the proposed Project's development at the Project site, all potentially significant impacts can be reduced to a less than significant level. Under this Alternative, it is likely that more intense soil disturbing activities would be required for the construction of a single-family residence and related uses, as the footprint of the structure, pool, garage and driveway would be greater than that of the proposed Project. The "No Project/ Development under the RL Land Use Designation Alternative" would have similar impacts on biological resources as the proposed Project, and potentially greater depending on the area of disturbance as it relates to biological resources.

### Geology and Soils

Based upon the Geotechnical reports prepared to address the potential impacts related to the proposed Project's development at the Project site, all potentially significant impacts can be reduced to a less than significant level. Under the "No Project/Development under the RL Land Use Designation Alternative," the Project site would be graded to allow for the development of a single-family residence and related structures. The extension of electrical power to the site would still be required under this Alternative; however the length of the extension may be reduced. Impacts to geology and soils would still occur under this Alternative and would be similar if not potentially greater than the proposed Project. However, like the Project, potential impacts would be reduced to a less than significant level with mitigation incorporated.

### Fire Safety & Hazards

Based upon the review of fire safety and hazards as related to the proposed Project's development at the Project site, all potentially significant impacts can be reduced to a less than significant level. Under this alternative, no 43-foot tall monopole with attached antenna and related facilities would be constructed at the Project site. Instead the site would be developed under the existing County land use designation of RL, which would allow for the construction of a single-family residence and related structures. The Project site could be developed with a three-story residence, up to 60 feet in height and landscaping that could include trees that, over time, could also reach up to 60 feet tall or higher. Therefore, impacts from potential lightning strikes would likely be similar to the proposed Project, although project-related potentially significant impacts can be reduced to less than significant levels with mitigation. Fire access as it pertains to the Fire Safety Overlay (FS1) District, would likely require modifications under the "No Project/Development Under the RL Land Use Designation Alternative," as development on-site would no longer be considered unmanned and, according to County Fire, may need to be revised under this Alternative as fire crews would need an adequate path to travel to the Project site to suppress a fire. The potential for a fire to start at the Project site and travel up Pisgah Peak and into the community of Oak Glen would be the same as compared to the proposed Project under this Alternative. However, potential impacts, like the proposed Project, would be reduced to a less than significant level with mitigation incorporated.

Land Use. Based upon the review of land use conducted as part of this EIR and as it relates to development of the proposed Project, all potentially significant impacts can be reduced to a less than significant level. Under this Alternative, the proposed monopole and related facilities

would not be constructed; instead a single-family residence would be constructed on-site in accordance with the County land use designation of RL. The potential for growth-inducing impacts as pertained to CEQA Guidelines § 15126(d) would result and be similar as compacted to the proposed Project. However, as concluded in Draft EIR Section 4.5 Land Use and Planning, the proposed SCE utility extension from an existing power source extending to the equipment building is considered a “private service extension.” As such, development of a single-family residence would either need to tie-in or have its own means of electricity (i.e., solar). There are a total of seven parcels in addition to the Project site determined to be feasibly developable with a single-family residence, as the parcels would have access from Pisgah Peak Road, meet the necessary 20-acre minimum lot size, and would be visible from the Park and nearly be residential development. However, each proposed residential development would require independent review by the County. The provision of infrastructure to one residence located where nearby properties may be developed could be considered growth-inducing. However, potential impacts related to growth inducement under this Alternative are determined to be less than significant, which is the same as the proposed Project.

### Conclusions

Although the “No Project/Development under the RL Land Use Designation Alternative” would result in similar impacts as compared to the proposed Project, this alternative could result in only minor visual impacts since viewpoints may be different for a residential structure as compared to a radio tower. However, as discussed above, the intensity of the land use developed with a single-family residence would be greater as the structures on-site would be larger, and related structures (i.e., pool, garage, driveway, etc.) would be greater as well. The Project site would be subject to a larger area of disturbance that would be visible from a distance including existing neighborhoods. Geology and soils impacts related to soil erosion would be similar as compared to the proposed Project and would be short-term construction-related. However, this alternative would not meet any of the Project objectives.

### **Findings:**

*Based on the whole record, the County’s decisionmaking body concurs that impacts associated with the No Project/Development Under the RL Land Use Designation Alternative would be similar and potentially greater than the proposed Project. In addition, this alternative would not meet any of the Project objectives, and potentially significant impacts associated with aesthetics would likely be greater.*

*Therefore, the County’s decisionmaking body rejects this alternative on the following grounds, each of which provides a full and independent justification of rejection of the alternative: (1) the alternative would not substantially reduce the significant impacts of the Project; (2) the alternative could potentially increase the less than significant impacts of the Project; and (3) the alternative fails to meet any of the Project objectives.*

### **Other Location Alternative**

The “Other Location Alternative” involves construction and operation of a 400-foot tall tower on a 30-acre property located near the communities of Beaumont and Cherry Valley, California in

the unincorporated area of Riverside County. Specifically the Alternative Site is located south, east and west of View Avenue Lane and north of Rancho Drive at 9030 Rancho Drive, Beaumont, California (APN: 401-050-007). The “Other Location Alternative” is located approximately two (2) miles southwest of the Project site and is currently developed with a single-family residence. The Alternative Site occurs within the County of Riverside Foundation Component of Rural, and has an area land use designation of Rural Mountainous (RM), which is land designated for single-family residential uses with a minimum lot size of 10 acres, including areas of at least ten (10) acres where a minimum of 70 percent of the area has slopes of 25 percent or greater. The “Other Location Alternative” site is zoned Open Space Water (W2). The proposed Project would be consistent with the land use designation and zoning at the Alternative Location and would require the approval of a Major Plot Plan by the County of Riverside.

This site was chosen as it occurs within a “funnel shaped” area in which KXRS may locate as created by the distance spacing from other stations. The requirement to have line-of-sight to the Community of License dramatically reduces the size of this area. This site was determined to be the nearest site that would meet the Project objectives and comply with FCC Rules and Policies as described in Draft EIR Section 6.3.1. However, this Alternative could not be selected by the Lead Agency and the Applicant would be required to initiate the Application process with the County of Riverside.

### Aesthetics

Based upon the potential visual impacts of the proposed Project’s development at the Project site, potentially significant impacts will remain significant even with implementation of mitigation measures. The “Other Location Alternative” would result in a substantial increase to the proposed height of the radio broadcasting facility and would result in the construction of a traditional lattice style radio tower verses a monopole (due to the 400-foot required height). The “Other Location Alternative” would also require the construction of an equipment building, parking space, fencing and extension of electrical lines to the site. Due to the height of the tower necessary to reach the required population in Hemet, this alternative would have a greater impact to visual quality for the area related to lighting as it would likely also require lighting on the tower for aircraft safety.

### Biological Resources

Based upon the Biological Resources Assessment prepared to address the potential impacts related to the proposed Project’s development at the Project site, all potentially significant impacts can be reduced to a less than significant level. The “Other Location Alternative” occurs within the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), which is a criteria-based plan, focused on preserving individual species through habitat conservation. The “Other Location Alternative” occurs within the *Pass Area Plan* within sub unit *SU2 – Badlands/San Bernardino National Forest*. Development of a radio broadcast tower and related facilities would require a habitat assessment to address at a minimum potential habitat for the Narrow Endemic Plant Species that are classified by the California Native Plant Society (CNPS). The two identified in the MSHCP include Marvin’s Onion (CNPS 1B.1 List) and Many-stemmed dudleya (CNPS 1B.2 List). If potential habitat for these species is



determined to be located on the property, focused surveys may be required during the appropriate season. Under this alternative, the impact to biological resources would likely be greater than the proposed Project because no species of concern were found on the Project site. However, impacts to any species of concern could likely be mitigated to a level of less than significant. As with the proposed Project, mitigation would also be required for potential impacts to avian species.

### Geology and Soils

Based upon the Geotechnical reports prepared to address the potential impacts related to the proposed Project's development at the Project site, all potentially significant impacts can be reduced to a less than significant level. Given the substantial increase in facility height (400 feet versus 43 feet), additional ground disturbance would be necessary to support the base of a traditional radio tower. However impacts would, like for the proposed Project, be less than significant with mitigation incorporated.

### Fire Safety & Hazards

Based upon the review of fire safety and hazards as related to the proposed Project's development at the Project site, all potentially significant impacts can be reduced to a less than significant level. Under this alternative, a 400-foot lattice tower would be constructed along with related facilities on a 30-acre site near the communities of Beaumont and Cherry Valley. It is likely that the potential for lightning strikes would be somewhat greater given the height and material of the tower at the "Other Location Alternative". The proposed Project's potentially significant impacts can be reduced to less than significant levels with mitigation. Fire access requirements as it pertains to the County of Riverside is unknown, but given that a single-family residence is currently located on the 30-acre site, fire crews would likely respond; whereas in the case of the Project site, County Fire would not respond to an unmanned structure. Therefore, the potential of lightning strikes at the "Other Location Alternative," are determined to likely create more of a safety hazard than at the Project site. The potential for a fire to start at the "Other Location Alternative" and travel into surrounding communities would remain the same as compared to the Project site.

### Land Use

Based upon the review of land use conducted as part of the Draft EIR and as it relates to development of the proposed Project, all potentially significant impacts can be reduced to a less than significant level. The "Other Location Alternative" involves construction and operation of a 400-foot tall traditional radio tower on a 30-acre property located near the communities of Beaumont and Cherry Valley, California in the unincorporated area of Riverside County. The "Other Location Alternative" occurs within the County of Riverside Foundation Component of Rural, and has an area land use designation of Rural Mountainous (RM), which is land designated for single-family residential uses with a minimum lot size of 10 acres, including areas of at least ten (10) acres where a minimum of 70 percent of the area has slopes of 25 percent or greater. The Alternative Site is zoned Open Space Water (W2). The proposed Project would be

consistent with the land use designation and zoning at the Location Alternative and would require the approval of a Major Plot Plan by the County of Riverside.

Since development is restricted to a minimum 10-acre parcel size versus 20-acre parcel size as required in the County Oak Glen/Rural Living designation, this alternative could potentially result in additional towers being constructed near the “Other Location Alternative” site. However, without knowledge of site specific terrain and access issues, electrical service availability, and review of parcel maps for the area, it is unknown how many towers could be constructed near the “Other Location Alternative”. Therefore, growth-inducing impacts as pertained to CEQA Guidelines § 15126(d) could potentially result and could be similar to or greater than the Project site. As concluded in Draft EIR Section 4.8 Land Use and Planning, the proposed SCE utility extension from an existing tower to the proposed Project’s equipment building is considered a “private service extension.” Therefore, it is understood that no future tie-ins or connections to this utility would be permitted, and therefore electrical service would not be extended from this line to any other adjacent parcels.

### Conclusions

The “Other Location Alternative” would result in potentially greater impacts to Aesthetics, Fire Safety and Hazards, and Land Use. In addition this alternative would not meet the Project’s objectives to the same extent as the proposed Project for contributing to the expansion of the State Park through the implementation of a passive, not active, land use. This alternative also could not be selected under this CEQA review for permitting by the current Lead Agency.

In addition this alternative would not meet the Project’s objectives to the same extent as the proposed Project for: 1) rectifying the Applicant’s FCC short-spacing deficiency by relocating its broadcasting antenna to a location that complies with FCC location criteria, minimum field strength requirements over its community of license, and allows for operation at maximum effective radiated power; 2) enhancing coverage of public service and commercial programming for San Bernardino residents; 3) contributing to the expansion of the State Park through the implementation of a passive, not active, land use (as a passive land use broadcast towers have been implemented in many California State Parks); and 4) creating long term buffering of passive land uses within and adjacent to the eastern State Park boundary through dedication of development rights and/or transfer of ownership in fee of land equal to approximately four percent of the current State Park land area.

### **Findings:**

*Based on the whole record, the County’s decisionmaking body rejects this alternative on the following grounds, each of which provide a full and independent justification for rejection of the alternative: (1) the alternative is technically infeasible; (2) the alternative does not reduce, and likely increases, the Project’s significant impacts; and (3) the alternative fails to meet most of the Project objectives to the same extent as the proposed project.*

## **F. STATEMENT OF OVERRIDING CONSIDERATIONS**

Pursuant to PRC § 21081(b) and CEQA Guidelines §§ 15093 and 15043, the County has balanced the economic, legal, social, technological, and other benefits of the Project, including enhancing coverage of public service and commercial programming for County residents, and further has adopted all feasible mitigation measures with respect to Aesthetic impacts that would result. The County also has examined alternatives to the proposed Project. The “Other Location Alternative” was determined to be environmentally superior to the proposed Project. However, the “Other Location Alternative” does not fulfill all of the objectives as compared to the proposed Project. Therefore, though the “Other Location Alternative” is an environmentally superior alternative, it is not being further considered for development.

The County, after balancing the specific economic, legal, social, technological, and other benefits of the Project, has determined that the unavoidable adverse environmental impact identified for aesthetics may be considered “acceptable” due to the following specific considerations which outweigh the unavoidable, adverse environmental impacts of the Project. Each of the separate benefits of the proposed Project, as stated herein, is determined to be, unto itself and independent of the other Project benefits, a basis for overriding all unavoidable adverse environmental impacts identified in these Findings. Each benefit set forth below constitutes an overriding consideration warranting approval of the Project, independent of other benefits, despite the unavoidable impacts from project-related aesthetics. These benefits include the proposed Project’s ability to:

- Increase, by approximately 38 acres, the area available for compatible park uses (i.e., open space/recreational uses) immediately adjacent to WCSP.
- Further Oak Glen Community Plan Goals OG/OS 1 and OG/OS 2, which, in essence, provide for recreational needs and the expansion of recreational opportunities and open space.
- Create permanent buffer of passive land uses within and adjacent to the eastern WCSP boundary.
- Enhance coverage (by approximately one million Spanish-speaking people) for San Bernardino and Riverside counties, including: emergency broadcasts, public service announcements, and commercial programming.
- Increase the potential audience of the Spanish-speaking population in San Bernardino and Riverside counties by one million (roughly equivalent to one-half the total population of San Bernardino County), thus greatly increasing the broadcast coverage of emergency notifications and public service announcements.
- Increase the Spanish-speaking audience of the San Bernardino City Unified School District’s educational show (“Buenas Escuelas, Buenas Noticias”) by up to one million additional listeners.
- Increase the potential audience by one million Spanish-speaking listeners for Casa de San Bernardino’s other social programs and for social educational information.

- Provide Spanish speaking listeners with an expanded choice of programming.

**Findings:**

*Based on the whole record, the County's decisionmaking body finds that the EIR has identified and discussed significant effects that may occur as a result of the Project. With the implementation of the mitigation measures discussed in the EIR, these effects can be mitigated to a level of less than significant except for unavoidable significant impacts to Aesthetics. The County hereby declares that it has made a reasonable and good faith effort to eliminate or substantially mitigate the potential impacts resulting from the proposed Project. The County further finds that except for the proposed Project, all other alternatives set forth in the EIR are infeasible because they would prohibit the realization of most of the proposed Project's objectives. The County also finds that specific economic, social and other benefits of the proposed Project outweigh the environmental benefits of the alternatives and the environmental impacts of the proposed Project.*

*For the foregoing reasons, the County's decisionmaking body hereby declares that any one of the benefits provided to the public through approval and implementation of the Project outweighs any significant adverse environmental impacts of the Project. The County further finds that each of the Project benefits outweighs the adverse environmental effects identified in the EIR, and therefore finds those impacts to be acceptable. The substantial evidence demonstrating the benefits of the Project are found in these Findings.*

# EXHIBIT C

## Project Findings

**FINDINGS: CONDITIONAL USE PERMIT P201000215**

- 1) **The site for the proposed use is adequate in terms of shape and size to accommodate the proposed use and all open spaces, parking areas, setbacks, yards, and other required features pertaining to the application** because the Project site is located on a 38.12 acre parcel and the portion that will be developed by the Project portion will be less than 1% of the total parcel size.
- 2) **The site for the proposed use has adequate access** to the tower and the equipment shelter, because a portion of Pisgah Peak Road, a graded access road, traverses the Project site. This access road is adequate for the proposed Project because the Project is an unmanned facility and will require very limited trips per year for maintenance. Improved access, as typically required by the Fire Safety Overlay, is not necessary because the proposed facility contains no habitable structures. The Fire Department has concluded that in the event of a fire in the area, fire crews would not be sent to the location to protect the uninhabited structures since the primary objective would be to protect lives and nearby homes. Furthermore, the facility does not create a need for evacuation for which a fully improved road would be required.
- 3) **The proposed use will not have a substantial adverse effect on abutting property or the allowed use of the abutting property, since the use will not generate excessive noise, traffic, vibration, or other disturbance**, because the radio broadcast tower is an unmanned facility and will not cause or have activities or equipment that will generate noise, traffic or vibration. The tower and equipment shelter may be viewed by a very limited number of properties west of the Project site. To minimize visual impacts, the Project incorporates the following design elements: a) underground power lines, b) no lights on the tower, c) facilities painted to blend with surroundings, d) placement below ridgeline, e) revegetation, and f) incorporation of open space easements. The County prepared an Environmental Impact Report and determined that the Project will have a significant and unavoidable effect on the environment in relation to visual resources/aesthetics. The County adopted findings to certify the EIR and a Statement of Overriding Considerations for the visual effect. The findings and overrides are incorporated herein, which include significantly enhancing coverage of emergency broadcast, public service announcements and commercial programming for San Bernardino and Riverside County residents.
- 4) **The proposed use and manner of development are consistent with the goals, maps, policies, and standards of the County General Plan and Oak Glen Community Plan.** The Project is consistent with the following County General Plan and Oak Glen Community Plan goals and policies:

GENERAL PLAN – Open Space Element OS 7.6 Require that hillside development be compatible with natural features and the ability to develop the site in a manner that preserves the integrity and character of the hillside environment, including but not limited to, consideration of terrain,

landform, access needs, fire and erosion hazards, watershed and flood factors, tree preservation, and scenic amenities and quality.

Project Policy Implementation: The Project is required to deed restrict the remaining undeveloped approximately 38 acres for passive use by visitors to the Wildwood Canyon State Park. The Project utilizes design elements to reduce visual impacts, namely underground utilities, structures painted to blend with the hillside, and location below ridgeline.

GENERAL PLAN – Open Space Element OS 7.5 Require that natural landform and ridgelines be preserved by using the following measures:

- a. Keep cuts and fills to an absolute minimum during the development of the area.
- b. Require the grading contours that do occur to blend with the natural contours on site or to look like contours that would naturally occur.
- c. Encourage the use of custom foundations in order to minimize disruption of the natural landform.
- d. Require that units located in the hillsides be so situated that roof lines will blend with and not detract from the natural ridge outline.

Project Policy Implementation: The Project will require minimal grading of less than 50 cubic yards. The Project is located below the ridgeline, and the remaining undeveloped portion of the 38.12 acre site will be preserved for passive use by visitors to the Wildwood Canyon State Park.

OAK GLEN COMMUNITY PLAN: OG/OS 1.2 Support and actively pursue the expansion of Wildwood Canyon State Park, including cooperation with open space community groups such as the Wildlands Conservancy and the Yucaipa Valley Conservancy which already own land dedicated for open space adjacent to Wildwood Canyon State Park and have expressed interest in purchasing additional properties for open space purposes.

Project Policy Implementation: The proposed Project is required to deed restrict the unused portion of the 38.12 acre site for passive use by visitors to Wildwood Canyon State Park in accordance with Mitigation Measure L.U.1.

OAK GLEN COMMUNITY PLAN: OG/OS 2.1 Where possible, require that open space areas set aside within individual developments be contiguous to natural areas adjacent to the site. Isolated open space areas within development shall be specifically discouraged, but may be accepted if no adjacent open space areas are available.

Project Policy Implementation: The Project has been required to deed restrict the used portion of the property as an open space easement to benefit the expansion and preservation of the area surrounding Wildwood Canyon State Park

OAK GLEN COMMUNITY PLAN OG/CO 2.3 Require the re-vegetation of any graded surface with suitable native drought and fire resistant planting to minimize erosion unless other landscaping or suitable agricultural crop is approved.

Project Policy Implementation: The Project has been required to re-vegetate all previous and future disturbed areas.

- 5) **There is supporting infrastructure, existing or available, consistent with the intensity of development, to accommodate the proposed development without significantly lowering service levels,** because the Project only requires the extension of electrical lines which will be placed underground along Pisgah Peak Road.
- 6) **The lawful conditions stated in the approval are deemed reasonable and necessary to protect the public health, safety, and general welfare;** because the conditions of approval include mitigation measures to reduce impacts on the environment, with respect to aesthetics, open space, and fire safety. Specifically, the Project will be required to re-vegetate the disturbed areas, paint the proposed equipment to blend with the predominate background, allow passive use of the majority of the site for passive use by visitors to the Wildwood Canyon State Park, and complete fuel modification to the satisfaction of County Fire.
- 7) **The design of the site has considered the potential for the use of solar energy systems and passive or natural heating and cooling opportunities.** Because of the nature of the unmanned facility, the use of natural heating and cooling is unnecessary and inapplicable. In addition, the use of solar energy systems could increase the footprint and visibility associated with the Project contrary to project objectives to minimize visual impacts.



# EXHIBIT D

## Conditions of Approval

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## CONDITIONS OF APPROVAL

### GENERAL REQUIREMENTS

Conditions of Operation and Procedure

[Not subject to Condition Compliance Release Form (CCRF) signatures]

#### **LAND USE SERVICES DEPARTMENT– Planning Division (909) 387-8311**

1. Project Description. The County conditionally approves the proposed Conditional Use Permit to establish an unmanned radio broadcast facility consisting of a free standing 43' tall monopole, and 100 sq. ft. equipment building on a 38.12 acre parcel. In accordance with the San Bernardino County Code (SBCC), California Building Codes (CBC), the California Fire Code (CFC), the following Conditions of Approval, the approved site plan, and all other required and approved reports and displays (e.g. elevations). APN: 0325-011-19 Project Number P201000215.

The developer shall provide a copy of the approved conditions of approval and the approved site plan to every current and future tenant, lessee, and property owner to facilitate compliance with these Conditions of Approval and continuous use requirements for the Project Site with APN: 0325-011-19 Project No. P 201000215.

2. Project Location. The project is located in the general proximity of the intersection of Oak Glen and Wildwood Canyon Roads, east of Pisgah Peak Road in the Oak Glen Planning Area.
3. Revisions. Any proposed change to the approved use/activity on the site; or any increase in the developed area of the site or any expansion or modification to the approved facilities, including changes to structures, building locations, elevations, signs, parking allocation, landscaping, lighting, allowable number of occupants (clients and/or employees); or a proposed change in the Conditions of Approval, including operational restrictions from those shown either on the approved site plan and/or in the Conditions of Approval shall require that an additional land use application (e.g. Revision to an Approved Action) be approved by the County. The developer shall prepare, submit with fees, and obtain approval of the application prior to implementing any such revision or modification. (SBCC §86.06.070)
4. Continuous Effect/Revocation. All Conditions of Approval applied to this Project shall be effective continuously throughout the operative life of the Project for the approved use. Failure of the property owner, tenant, applicant, developer, or any operator to comply with any or all of the conditions at any time may result in a public hearing and revocation of the approved land use, provided adequate notice, time and opportunity is provided to the property owner or other party to correct the non-complying situation.
5. Indemnification. In compliance with SBCC §81.01.070, the developer shall agree to defend, indemnify and hold harmless the County or its "indemnities" (herein collectively the County's elected officials, appointed officials [including Planning Commissioners], Zoning Administrator, agents, officers, employees, volunteers, advisory agencies or committees, appeal boards or legislative body) from any claim, action or proceeding against the County or its indemnitees to attack, set aside,

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void or annul an approval of the County by an indemnitee concerning the map or permit or any other action relating to or arising out of County approval, including the acts, errors or omissions of any person and for any costs or expenses incurred by the indemnitees on account of any claim, except where such indemnification is prohibited by law. In the alternative, the developer may agree to relinquish such approval.

Any Condition of Approval imposed in compliance with the County Development Code or County General Plan shall include a requirement that the County acts reasonably to promptly notify the developer of any claim, action, or proceeding and that the County cooperates fully in the defense. The developer shall reimburse the County and its indemnitees for all expenses resulting from such actions, including any court costs and attorney's fees, which the County or its indemnitees may be required by a court to pay as a result of such action.

The County may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the developer of their obligations under this condition to reimburse the County or its indemnitees for all such expenses.

This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The developer's indemnification obligation applies to the indemnitee's "passive" negligence but does not apply to the indemnitee's "sole" or "active" negligence" or "willful misconduct" within the meaning of Civil Code §2782.

6. Expiration. This Project permit approval shall expire and become void if it is not "exercised" within three years of the effective date of this approval, unless an extension of time is granted. The permit is deemed exercised when either:
- the permittee has commenced actual construction or alteration under a validly issued Building Permit, or the permittee has substantially commenced the approved land use or activity on the Project site, for those portions of the Project not requiring a Building Permit. [SBCC §86.06.060]

Occupancy of completed structures and operation of the approved exercised land use remains valid continuously for the life of the Project and the approval runs with the land, unless one of the following occurs:

- Building and Safety does not issue construction permits for all or part of the Project or the construction permits expire before the completion of the structure and the final inspection approval.
- The County determines the land use to be abandoned or non-conforming.
- The County determines that the land use is not operating in compliance with these Conditions of Approval, the County Code, or other applicable laws, ordinances or regulations. In these cases, the land use may be subject to a revocation hearing and possible termination.

**PLEASE NOTE:** This will be the ONLY notice given of the expiration date. The developer is responsible for initiation of any Extension of Time application.

7. Extension of Time. County staff may grant extensions of time to the expiration date (listed above or as otherwise extended) in increments each not to exceed an additional three years beyond the
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- current expiration date. The developer may file an application to request consideration of an extension of time with appropriate fees no less than 30 days before the expiration date. County staff may grant extensions of time based on a review of the Extension application, which must include a justification of the delay in construction and a plan of action for completion. The granting of such an extension request is a discretionary action that may be subject to additional or revised Conditions of Approval or site plan modifications. (SBCC §86.06.060)
8. Development Impact Fees. Additional fees may be required prior to issuance of development permits. Fees shall be paid as specified in adopted fee ordinances.
  9. Project Account. The Job Costing System (JCS) account number is P201000215. This is an actual cost project with a deposit account to which hourly charges is assessed. The developer shall maintain a positive account balance at all times. A minimum balance of \$1000 must be in the Project account at the time the Condition Compliance Review is initiated. Sufficient funds must remain in the account to cover the charges during each compliance review. All fees required for processing shall be paid in full prior to final inspection, occupancy and operation of the approved use. There shall be sufficient funds remaining in the account to properly fund file closure and any other required post-occupancy review and inspection (e.g. landscape performance).
  10. Condition Compliance. In order to obtain construction permits for grading, building, final inspection and/or tenant occupancy for each approved building, the developer shall process a Condition Compliance Release Form (CCRF) for each respective building and/or phase of the development through the Planning Division in accordance with the directions stated in the Approval letter. The Planning Division shall release their holds on each phase of development by providing to County Building and Safety the following:
    - Grading Permits: a copy of the signed CCRF for grading/land disturbance and two “red” stamped and signed approved copies of the grading plans.
    - Building Permits: a copy of the signed CCRF for building permits and three “red” stamped and signed approved copies of the final approved site plan.
    - Final Occupancy: a copy of the signed CCRF for final inspection of each respective building or use of the land, after an on-site compliance inspection by the Planning Division.
  11. Additional Permits. The property owner, developer, and land use operator are all responsible to ascertain and comply with all laws, ordinances, regulations and any other requirements of Federal, State, County and Local agencies as are applicable to the development and operation of the approved land use and Project site. These may include:
    - a) FEDERAL: Fish & Wildlife Service.
    - b) STATE: California Fish & Wildlife (CDFW), Santa Ana RWQCB, South Coast AQMD
    - c) COUNTY: Public Health - Environmental Health Services; Public Works; County Fire; and Hazardous Materials, Building and Safety; Land Development; Planning; Code Enforcement.
  12. Performance Standards. The approved land uses shall operate in compliance with the general performance standards listed in the County Development Code Chapter 83.01, regarding air quality, electrical disturbance, fire hazards (storage of flammable or other hazardous materials), heat, noise, vibration, and the disposal of liquid waste.
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13. Continuous Maintenance. The Project property owner shall continually maintain the property so that it is visually attractive and not dangerous to the health, safety and general welfare of both on-site users (e.g. employees) and surrounding properties. The property owner shall ensure that all facets of the development are regularly inspected, maintained and that any defects are timely repaired. Among the elements to be maintained, include but are not limited to:
- Annual maintenance and repair: The developer shall conduct inspections for any structures, fencing/walls, driveways, and signs to assure proper structural, electrical, and mechanical safety.
  - Graffiti and debris: The developer shall remove graffiti and debris immediately through weekly maintenance.
  - Landscaping: The developer shall maintain landscaping in a continual healthy thriving manner at proper height for required screening. Drought-resistant, fire retardant vegetation shall be used where practicable. Where landscaped areas are irrigated it shall be done in a manner designed to conserve water, minimizing aerial spraying.
  - Dust control: The developer shall maintain dust control measures on any undeveloped areas where landscaping has not been provided.
  - Erosion control: The developer shall maintain erosion control measures to reduce water runoff, siltation, and promote slope stability.
  - External Storage: The developer shall maintain external storage, loading, recycling and trash storage areas in a neat and orderly manner, and fully screened from public view. Outside storage shall not exceed the height of the screening walls.
  - Metal Storage Containers: The developer shall NOT place metal storage containers in loading areas or other areas unless specifically approved by this or subsequent land use approvals.
  - Screening: The developer shall maintain screening that is visually attractive. All trash areas, loading areas, mechanical equipment (including roof top) shall be screened from public view.
  - Signage: The developer shall maintain all on-site signs, including posted area signs (e.g. "No Trespassing") in a clean readable condition at all times. The developer shall remove all graffiti and repair vandalism on a regular basis. Signs on the site shall be of the size and general location as shown on the approved site plan or subsequently a County-approved sign plan.
  - Lighting: The developer shall maintain any lighting so that they operate properly for safety purposes and do not project onto adjoining properties or roadways. Lighting shall adhere to applicable glare and night light rules.
  - Parking and on-site circulation: The developer shall maintain all parking and on-site circulation requirements, including surfaces, all markings and traffic/directional signs in an un-faded condition as identified on the approved site plan. Any modification to parking and access layout requires the Planning Division review and approval. The markings and signs shall be clearly defined, un-faded and legible; these include parking spaces, disabled space and access path of travel, directional designations and signs, stop signs, pedestrian crossing, speed humps and "No Parking", "Carpool", and "Fire Lane" designations.
  - Fire Lanes: The developer shall clearly define and maintain in good condition at all times all markings required by the Fire Department, including "No Parking" designations and "Fire Lane" designations.
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14. Construction Hours. Construction will be limited to the hours between 7:00 AM and 7:00 PM, Monday through Saturday in accordance with the SBCC standards. No construction activities are permitted outside of these hours or on Sundays and Federal holidays.
  15. Underground Utilities. All new on-site utility lines (66KV or less) located on or around the perimeter of the site, shall be placed underground. The developer will work cooperatively with the County and appropriate utility agencies to underground these facilities.
  16. Lighting. The glare from any luminous source, including on-site lighting shall not exceed one-half (0.5) foot-candle at property line. All lighting shall be limited to that necessary for maintenance activities and security purposes. This is to allow minimum obstruction of night sky remote area views. No light shall project onto adjacent roadways in a manner that interferes with on-coming traffic. All signs proposed by this project shall only be lit by steady, stationary, shielded light directed at the sign, by light inside the sign, by direct stationary neon lighting or in the case of an approved electronic message center sign alternating no more than once every five seconds.
  17. Clear Sight Triangle. Adequate visibility for vehicular and pedestrian traffic shall be provided at clear sight triangles at all 90 degree angle intersections of public rights-of-way and private driveways. All signs, structures and landscaping located within any clear sight triangle shall comply with the height and location requirements specified by County Development Code (SBCC§ 83.02.030) or as otherwise required by County Traffic.
  18. Utilities Design. No new above ground power or communication lines shall be extended to the site. All required utilities shall be placed underground in a manner, which avoids disturbing any existing/natural vegetation or the site appearance.
  19. FCC-RF Regulation Reevaluation. The applicant/operator of the radio station facility shall operate the proposed radio equipment in strict conformance with Federal Communications Commission (FCC) regulations at all times so as not to cause a Public Health and Safety Hazard or nuisance to nearby properties and their radio and television reception. If, in the future, the FCC adopts more stringent Radio Frequency (RF) emission regulations, the applicant shall submit an application to the County of San Bernardino to modify the Conditional Use Permit (CUP) in order to demonstrate compliance with the revised FCC regulations. Failure by the applicant to apply for such a review of the subject CUP to conform to the FCC approval of revised RF emission regulations, shall subject this approval to possible revocation of the approval.

**LAND USE SERVICES DEPARTMENT – Code Enforcement Division (909) 387-8311**

20. Enforcement. If any County enforcement activities are required to enforce compliance with the Conditions of Approval, the County will charge the property owner for such enforcement activities in accordance with the SBCC Schedule of Fees.
  21. Weed Abatement. The applicant shall comply with San Bernardino County weed abatement regulations [SBCC §23.031-23.043] and periodically clear the site of all non-complying vegetation. This includes removal of all Russian thistle (tumbleweeds).
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**LAND USE SERVICES DEPARTMENT – Land Development Division – Drainage (909) 387-8311**

22. Tributary Drainage. Adequate provisions should be made to intercept and conduct the tributary off site - on site drainage flows around and through the site in a manner, which will not adversely affect adjacent or downstream properties at the time the site is developed.
23. Natural Drainage. The natural drainage courses traversing the site shall not be occupied or obstructed.

**PUBLIC HEALTH – Environmental Health Services [DEHS] (800) 442-2283**

24. Noise Standards. Noise level shall be maintained at or below County Development Code Standards, §83.01.080. For information, contact DEHS at (800) 442-2283.
25. Refuse Removal. All refuse shall be removed from the premises after each visit in conformance with San Bernardino County Code Chapter 8, Section 33.081 et seq. For information, please call DEHS/LEA at: 1-800-442-2283.

**COUNTY FIRE DEPARTMENT – Community Safety Division (909) 386-8465**

26. Expiration. Construction permits, including Fire Condition Letters, shall automatically expire and become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Suspension or abandonment shall mean that no inspection by the Department has occurred within 180 days of any previous inspection. After a construction permit or Fire Condition Letter becomes invalid and before such previously approved work recommences, a new permit shall be first obtained and the fee to recommence work shall be one half the fee for the new permit for such work, provided no changes have been made or will be made in the original construction documents for such work, and provided further that such suspension or abandonment has not exceeded one year. A request to extend the Fire Condition Letter or Permit may be made in writing PRIOR TO the expiration date justifying the reason that the Fire Condition Letter should be extended.
27. Fire Jurisdiction. The above referenced Project is under the jurisdiction of the San Bernardino County Fire Department, herein "Fire Department". Prior to any construction occurring on any parcel, the developer shall contact the Fire Department for verification of current fire protection requirements. All new construction shall comply with the current California Fire Code requirements and all applicable statutes, codes, ordinances, and standards of the Fire Department.
28. Additional Requirements. In addition to the Fire requirements stated herein, other on-site and off-site improvements may be required which cannot be determined from tentative plans at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to this office.

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29. Fire Fee. The required fire fees shall be paid to the San Bernardino County Fire Department/Community Safety Division (909) 386-8400.
  30. FS-1. The County General Plan designates this property as being within the Fire Safety Review Area 1 (One) and all future construction shall adhere to all applicable standards and requirements of this overlay district.
  31. PSTS Interference. Broadcasting site installation and operation of the proposed system shall not cause harmful interference to the County's Public Safety Telecommunications System (PSTS). If it is determined that the system causes harmful interference with PSTS operations the operations shall cease immediately upon order of the Fire Chief or other County official.



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**PRIOR TO ISSUANCE OF GRADING PERMITS OR LAND DISTURBING ACTIVITY**

The Following Shall Be Completed

**LAND USE SERVICES DEPARTMENT – Planning Division (909) 387-8311**

32. Noise Mitigation. The developer will submit for review and obtain approval of an agreement letter that stipulates that all construction contracts/subcontracts contain as a requirement that the following noise attenuation measures be implemented:
- Noise levels of any project use or activity will be maintained at or below adopted County noise standards (SBCC 83.01.080). The use of noise-producing signals, including horns, whistles, alarms, and bells, will be for safety warning purposes only.
  - Exterior construction activities will be limited between 7 a.m. and 7 p.m. There will be no exterior construction activities on Sundays or National Holidays.
  - Construction equipment will be muffled per manufacturer's specifications. Electrically powered equipment will be used instead of pneumatic or internal combustion powered equipment, where feasible.
  - All stationary construction equipment will be placed in a manner so that emitted noise is directed away from sensitive receptors nearest the project site.
32. Biology Monitoring. In order to reduce or eliminate direct mortality to Blainville's horned lizard, San Diego mountain kingsnake, and the northern red diamond rattlesnake during construction, a biologist will pre-survey the construction site and access road each day prior to the start of work and periodically throughout the day during construction. These or other wildlife incidentally observed, found to be in harm's way, will be relocated to a safe place. Mitigation Measure BIO-1.
33. Nesting Bird Surveys. If construction is scheduled during bird nesting seasons (February 1 to August 31), a qualified biologist shall survey the area within 200 feet (or up to 300 feet depending on topography or other factors and 500 feet for raptors) of the construction activity to determine if construction would disturbing nesting birds. If observed in the Project impact area, occupied nest shall not be disturbed unless a qualified biologist verifies through non-invasive methods that either: (a) the adult birds have not begun egg-laying and incubation; or (b) the juveniles from the occupied nests are foraging independently and are capable of independent survival. If the biologist is not able to verify one of the above conditions, then no disturbance shall occur within 300 feet of non-raptor nests, and within 500 feet of raptor nests, during the breeding season so as to avoid abandonment of the young (CDFW 2012b). This mitigation measure does not apply if construction occurs during the non-nesting season, September 1 through January 31. Mitigation Measure BIO-2.

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34. Cultural Resources. If archaeological, paleontological and/or historical resources are uncovered during ground disturbing activities, all work in that area shall cease. A qualified expert (e.g. archaeologist or paleontologist), as determined by County Planning in consultation with the County Museum shall be hired to record the find and recommend any further mitigation. If human remains are uncovered during ground disturbing activities, the San Bernardino County Coroner shall be contacted within 24 hours of the find and all work shall halt until clearance is received. If the remains or cultural artifacts are determined to be of Native American origin, the local Native American representative shall be notified.
35. GHG – Construction Standards. The developer shall submit for review and obtain approval from County Planning of a signed letter agreeing to include as a condition of all construction contracts/subcontracts requirements to reduce impacts to GHG and submitting documentation of compliance. The developer/construction contractors shall do the following:
- d) Implement the approved Coating Restriction Plans.
  - e) Select construction equipment based on low-emissions factors and high-energy efficiency. All diesel/gasoline-powered construction equipment shall be replaced, where possible, with equivalent electric or CNG equipment.
  - f) Grading plans shall include the following statements:
    - “All construction equipment engines shall be properly tuned and maintained in accordance with the manufacturers specifications prior to arriving on site and throughout construction duration.”
    - “All construction equipment (including electric generators) shall be shut off by work crews when not in use and shall not idle for more than 5 minutes.”
  - d) Schedule construction traffic ingress/egress to not interfere with peak-hour traffic and to minimize traffic obstructions. Queuing of trucks on and off site shall be firmly discouraged and not scheduled. A flag person shall be retained to maintain efficient traffic flow and safety adjacent to existing roadways.
  - e) Recycle and reuse construction and demolition waste (e.g. soil, vegetation, concrete, lumber, metal, and cardboard) per County Solid Waste procedures.
  - f) The construction contractor shall support and encourage ridesharing and transit incentives for the construction crew and educate all construction workers about the required waste reduction and the availability of recycling services.
36. AQ-Dust Control Plan. The “developer” shall prepare, submit for review and obtain approval from County Planning of both a Dust Control Plan (DCP) consistent with SCAQMD guidelines and a signed letter agreeing to include in any construction contracts/ subcontracts a requirement that project contractors adhere to the requirements of the DCP. The DCP shall include the following requirements:
- a) Exposed soil shall be kept continually moist to reduce fugitive dust during all grading and construction activities, through application of water sprayed a minimum of two times each day or as otherwise necessary.
  - b) During high wind conditions (i.e., wind speeds exceeding 25 mph), areas with disturbed soil shall be watered hourly and activities on unpaved surfaces shall cease until wind speeds no longer exceed 25 mph.
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- c) Storage piles that are to be left in place for more than three working days shall be sprayed with a non-toxic soil binder, covered with plastic or revegetated.
  - d) Storm water control systems shall be installed to prevent off-site mud deposition.
  - e) All trucks hauling dirt away to the site shall be covered.
  - f) Construction vehicle tires shall be washed, prior to leaving the project site.
  - g) Rumble plates shall be installed at construction exits from dirt driveways.
  - h) Paved access driveways and streets shall be washed and swept daily when there are visible signs of dirt track-out.
  - i) Street sweeping shall be conducted daily when visible soil accumulations occur along site access roadways to remove dirt dropped or tracked-out by construction vehicles. Site access driveways and adjacent streets shall be washed daily, if there are visible signs of any dirt track-out at the conclusion of any workday and after street sweeping.

**LAND USE SERVICES DEPARTMENT– Building and Safety Division (909) 387-8311**

- 37. Retaining Wall Plans. Submit plans and obtain separate building permits for any required walls or retaining walls.
- 38. Grading Plans. Grading plans shall be submitted to Building and Safety for review and approval prior to grading/land disturbance.
- 39. Geotechnical. Prior to issuance of grading and/or building permits for the Proposed Project, the Project Proponent shall submit a Geologic Investigation Report and an Updated Geotechnical Report. Recommendations included in all geologic and geotechnical reports prepared for the Proposed Project shall be implemented. Mitigation Measure GS-1
- 40. Building Codes. The proposed development shall be completed in accordance with the requirements of the latest edition of the California Building Code as well as the recommendations included within the geologic investigation report and updated geotechnical report required prior to issuance of grading and/or building permits. Mitigation Measure GS-2
- 41. Seismic Design. To ensure the structural safety of the Proposed Project in the event of an earthquake, the Proposed Project shall be designed and constructed in accordance with the seismic design requirements of the latest edition of the California Building Code. Mitigation Measure GS-3
- 42. Excavation. All on-site excavation activities shall be conducted in accordance with Cal-OSHA regulations. Adequate moisture content shall be maintained within the removed and recompacted fill soils to improve stability. Mitigation Measure GS-4:
- 43. Erosion & Sediment Control Plan: An erosion and sediment control plan shall be submitted to and approved by the Building Official to show how storm waters will be controlled through Best Management Practices to avoid off-site sedimentation.

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44. Erosion Control Installation: An erosion control permit shall be obtained and devices installed prior to any land disturbance. No sediment is to leave the job site.

**COUNTY FIRE DEPARTMENT – Community Safety Division (909) 386-8465**

45. Fuel Modification Plan. A Final Fuel Modification Plan shall be submitted for review and approval by the Fire Department that complies with the approved Project to allow 30 feet of fuel modified area in lieu of the normally required 100' and that is otherwise in compliance with the Fire Safety Overlay.

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**PRIOR TO ISSUANCE OF BUILDING PERMITS**  
The Following Shall Be Completed

**LAND USE SERVICES DEPARTMENT– Building and Safety Division (909) 387-8311**

46. Construction Plans. Any building, sign, or structure to be constructed or located on site, will require professionally prepared plans based on the most current County and California Building Codes, submitted for review and approval by the Building and Safety Division.
47. Foundation and Footings. The developer shall submit foundation plans to the County Geotechnical Engineer for review and approval. Alternatively, the project Geotechnical Engineer may submit a written review of the plan, but must indicate whether the plans appear to incorporate the geotechnical recommendation for site development as outlined in the preliminary geotechnical report. The project Geotechnical Engineer shall also inspect and approve footing excavations prior to the pouring of concrete.

**PUBLIC WORKS – Solid Waste Management (909) 386-8701**

48. Construction and Demolition Waste Management Plan (CDWMP) Part 1 – The developer shall prepare, submit, and obtain approval from SWMD of a CDWMP Part 1 for each phase of the project. The CWMP shall list the types and weights or volumes of solid waste materials expected to be generated from construction. The CDWMP shall include options to divert from landfill disposal, materials for reuse or recycling by a minimum of 50% of total weight or volume. Forms can be found on our website at [www.sbcounty.gov/dpw/solidwaste](http://www.sbcounty.gov/dpw/solidwaste). An approved CDWMP Part 1 is required before a demolition permit can be issued.

**LAND USE SERVICES DEPARTMENT – Planning Division (909) 387-8311**

49. Avian Mortality. The proposed project shall meet all four criteria for reducing avian mortality as recommended in the Longcore report. The proposed monopole is not proposed to be located on a peak or ridgeline; at 43 feet, it would be below the County Development Code standard and below the Avian Power Line Interaction Committee recommendations; it would not be lighted; and there would be no supporting guy wires. Mitigation Measure BIO-3
50. Underground Utilities: The developer shall place any required utilities underground along Pisgah Peak Road.

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51. Fire-Resistant Landscaping. The developer shall submit for review and approval of both County Planning and the County Fire Department (4) four copies of a landscape plan for drought tolerant, fire resistive plants in the 10 foot, cleared, fuel modification area. The plan shall be approved by the Planning Division and The County Fire Department. The Landscape Plans shall be prepared by a landscape professional. The plan shall indicate the location of all existing and proposed landscape materials. The proposed landscaping shall be fire-resistant, and require minimal irrigation. The proposed landscaping shall be designed to blend with the existing vegetation and minimize visual impacts to the area of the project affected by the fuel modification plan.
  52. Deed Restriction. Since the Project Site is located directly adjacent to Wildwood Canyon State Park and to ensure development of the site does not prevent the expansion of the Park to include Pisgah Peak, the Project Proponent shall be required to deed restrict the unused portion of the 38.12-acre Project Site for passive use by visitors to the Wildwood Canyon State Park. Mitigation Measure LU-1

#### **PUBLIC HEALTH – Environmental Health Services [DEHS] (800) 442-2283**

53. Acoustical Checklist. Preliminary acoustical information must be submitted demonstrating that the proposed project maintains noise levels at/or below County Noise Standard(s), San Bernardino Development Code (§ 83.01.080, 87.0905). The purpose is to evaluate potential future on-site and/or adjacent off-site noise sources. If the preliminary information cannot demonstrate compliance to noise standards, a project specific acoustical analysis shall be required. Submit information/analysis to DEHS for review and approval. For more information and to request an acoustical checklist contact DEHS.

#### **COUNTY FIRE DEPARTMENT – Community Safety Division (909) 386-8465**

54. Broadcasting Towers. Broadcasting facilities that are proposed in the FS1, FS2 or FS3 Overlay Districts with a camouflaged covering [e.g. tree] shall submit two (2) sets of plans to the Fire Department for approval. These plans shall indicate that all such exterior camouflaged coverings shall be of an approved fire resistive material.
  55. Broadcasting Site Buildings. The applicant shall submit for review and approval three sets of building plans to the Fire Department. The equipment storage buildings shall include a fire suppression system. This site is within the FS1 Overlay District and all such buildings shall have a fire suppression system.
  56. Fire Suppression. The shelter shall be a block structure, with fire suppression mechanisms built-in. The walls are required to have a multi-hour fire rating, and there will be a fire suppression system that utilizes an inert gas.
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57. Fire Protective Coating. The Project Proponent shall apply a latex-based, fire protective coating to the monopole. The selected coating shall have high adhesion quality and provide long-term protection. Mitigation Measure HAZ-2

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**PRIOR TO FINAL INSPECTION OR OCCUPANCY**  
The Following Shall Be Completed

**PUBLIC WORKS – Solid Waste Management (909) 386-8701**

58. Construction and Demolition Waste Management Plan (CDWMP) Part 2 – The developer shall complete SWMD's CDWMP Part 2 for construction and demolition. This summary shall provide documentation of actual diversion of materials including but not limited to receipts, invoices or letters from diversion facilities or certification of reuse of materials on site. The CDWMP Part 2 shall provide evidence to the satisfaction of SWMD that demonstrates that the project has diverted from landfill disposal, material for reuse or recycling by a minimum of 50% of total weight or volume of all construction waste.

**LAND USE SERVICES DEPARTMENT – Building and Safety Division (909) 387-8311**

59. Condition Compliance Release Sign-off. Prior to occupancy all Department/Division requirements and sign-offs shall be completed.
60. Grounding. The Project Proponent shall install an earthing system during the installation of the monopole. An appropriate system shall be selected based on the standards set forth by the United States National Electrical Code (NEC) or National Fire Project Association (NFPA) 70 . The County Building and Safety Officer shall inspect the system for compliance with these standards. Mitigation Measure HAZ-1
61. Monopole Replacement. The existing monopole at the site shall be replaced with a new monopole that is free of the initial treatment of creosote or pentachlorophenol that is typically applied to wooden poles. These initial treatments may contain a preservative that could prevent the long-term adhesion of a latex based fire retardant. Mitigation Measure HAZ-3

**COUNTY FIRE DEPARTMENT – Community Safety Division (909) 386-8465**

62. Fire Extinguishers. Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department.

**LAND USE SERVICES DEPARTMENT – Code Enforcement Division (909) 387-8311**

63. Inspections. The fuel modification area shall be inspected on a quarterly basis throughout the life of the project to ensure the initial clearing area is maintained. Upon inspection, appropriate trimming and clearing shall be initiated. In addition, any fuel sources at the base of the monopole shall be removed. Mitigation Measure HAZ-4



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64. Special Use Permit. The applicant shall submit for review and gain approval for a Special Use Permit (SUP). Thereafter, the SUP shall be renewed annually subject to inspections. The inspections shall review & confirm continuing compliance with the listed conditions of approval, including all mitigation measures. This comprehensive compliance review shall include evaluation of the maintenance of all CDFW reporting of avian mortality, fuel modification, camouflaging, landscaping, screening and buffering. Failure to comply shall cause enforcement actions against the property owners and/or project proponents. Such actions may cause a hearing or action that could result in revocation of this approval and imposition of additional sanctions and/or penalties in accordance with established land use enforcement procedures. Any additional inspections that are deemed necessary by the Code Enforcement Supervisor shall constitute a special inspection and shall be charged at a rate in accordance with the County Fee Schedule, including travel time, not to exceed three (3) hours per inspection.

**LAND USE SERVICES DEPARTMENT – Planning Division (909) 387-8311**

65. CCRF/Occupancy. Prior to occupancy/use, all Condition Compliance Release Forms (CCRF) shall be completed to the satisfaction of County Planning with appropriate authorizing signatures from each affected agency.

66. Equipment Paint. The monopole, antenna and shed shall be painted olive green to blend with the surrounding vegetation. In addition to this first layer of treatment, a second layer of paint shall be worked in a random pattern in colors of deep olive, light sage and light brown to further mimic a vegetative pattern or camouflage effect. The random pattern shall be applied in a stippling or sponging manner to avoid sharp lines. Mitigation Measure AES-1.

67. Revegetation. The Project Proponent shall revegetate the portion of the ridge where the demonstration pole was placed. During placement of the demonstration pole and conducting geotechnical field testing, vegetation was removed. The scraped area, which appears in the form of a line down the slope, and any other areas that may be disturbed during site development shall be revegetated at the direction of a County-approved biologist prior to issuance of permits. Mitigation Measure AES-2.

68. Fees Paid. Prior to final inspection by Building and Safety Division and/or issuance of a Certificate of Conditional Use by the Planning Division, the applicant shall pay in full all fees required under actual cost job number P201000215.

**END OF CONDITIONS**

# EXHIBIT E

Correspondence Posted at:

<http://www.sbcounty.gov/uploads/lus/pc/LazerCorr.pdf>

# EXHIBIT F

EIR Posted at:

<http://www.sbcounty.gov/Uploads/lus/Environmental/FinalEIRLazer.pdf>

<http://www.sbcounty.gov/Uploads/lus/Environmental/LazerBroadcasting/LazerEIR.pdf>