

JOHN K. MIRAU\*  
MARK C. EDWARDS  
ROBERT W. CANNON†  
MICHAEL J. LEWIN  
WILLIAM P. TOOKE

LAW OFFICES OF  
**MIRAU, EDWARDS, CANNON, LEWIN & TOOKE**  
A PROFESSIONAL CORPORATION

\* Certified Specialist, Taxation  
Law, The State Bar of California  
Board of Legal Specialization  
† Certified Specialist, Estate  
Planning, Trust and Probate  
Law, The State Bar of California  
Board of Legal Specialization

1806 Orange Tree Lane  
Suite "C"  
Post Office Box 9058  
Redlands, CA 92375  
909-793-0200  
Fax 793-0790

April 17, 2017

Mr. Kevin White, Project Planner  
San Bernardino County Land Use Services Department  
Planning Division  
385 N. Arrowhead Avenue, First Floor  
San Bernardino, CA 92415-0182

**RE: Project No. P201000215/CF - Radio Tower Application  
Lazer Parcel - APN 0325-011-19-0000  
Final FEIR (SCH No. 2008041082**

Dear Mr. White:

This firm represents the Citizens for the Preservation of Rural Living ("CPRL"). CPRL is a public interest association that seeks to ensure that the open space and natural wilderness values of Wildwood Canyon State Park ("Park") and the Pisgah Peak areas are preserved. We have previously submitted comments to the project application submitted by Lazer Broadcasting, Inc., which proposes the construction of a 43-foot tall radio tower on an undeveloped 40-acre parcel of land in the San Bernardino Mountains (the "Project").

As you know, we submitted a comment letter on the Project's Draft Environmental Impact Report ("DEIR") on July 21, 2016, noting several aspects of the DEIR that were inadequate. We now have reviewed the Final Environmental Impact Report and Response to Comments ("FEIR" or "Response to Comments") for the Project prepared for the County of San Bernardino Land Use Services Department ("County") by the Lilburn Corporation. As detailed below, the FEIR fails to cure the deficiencies in the DEIR and, as such, the FEIR is inadequate and does not comply with the requirements of the California Environmental Quality Act ("CEQA").

Please enter these comments in the official administrative record for this Project, and keep us notified of any proceedings related to the Project's and the FEIR's consideration by the County. Please note that we reserve the right to supplement these comments, particularly should any additional information be submitted by the applicant related to the Project or additional analysis prepared by the County.

**1. Significant and Unavoidable Aesthetic Impacts of Tower Project.**

Since 2008, Lazer and its consultants have consistently claimed that construction of the proposed radio tower would not have a significant adverse impact on aesthetics, or pristine vistas from the Park. CPRL has consistently provided evidence to the contrary; namely, that the Project will have significant and unavoidable impacts on the view shed from the Park. In the FEIR, the consultants for the County and Lazer continue to take the position that the tower will not have a significant impact on the environment, yet the FEIR still concludes in the end that the aesthetic impact will be significant and unavoidable. Therefore, in order to approve the Project, the Board of Supervisors ("BOS") would be required to adopt a Statement of Overriding Considerations under CEQA.

The finding of significant and unavoidable aesthetic impacts not only impacts the CEQA analysis, but also provides the context in which the BOS makes the discretionary determination as to whether it should grant a Conditional Use Permit (CUP), and also in making the determination as to whether the Project is consistent with the goals and objectives of the Oak Glen Community Plan ("OGCP").

A more comprehensive discussion of inconsistency with the Community Plan Goals and Objectives is set forth in our July 21, 2016 letter. But it is worth revisiting the goals and objectives of the Community Plan in light of the County's conclusion that the Project will have unavoidable adverse impacts on aesthetics.

The introduction to the OGCP, OG I .3, Community Character (Page 12) provides a discussion of the importance of the rural character of the Oak Glen area. The introduction includes the following discussions, which must inform the BOS' decision as to the appropriateness of this Project for the community:

"A primary concern is the preservation of the rural agricultural character of Oak Glen. The....abundant open-space and wildlife are valued highly by residence as well as by visitors who frequent the area".

"Maintain the elements that contribute to the area's rural character and lifestyle; natural resources, **scenic vistas**, open space and agricultural." [Bold Added]

"Consequently, residents of the Oak Glen community suggest that the primary land-use concern in the Oak Glen community is that the rural agricultural character of the community is preserved by creating standards for development and **limiting land uses**,

**particularly the type of commercial land uses, to those compatible with the character they wish to sustain.”[Bold added]**

This last quote from the OGCP specifically references limiting land uses of a commercial nature to those which are compatible with the rural nature of the community that the residents of Oak Glen desire to maintain; therefore, the policy should lead to the decision to prohibit a commercial land-use in an area immediately adjacent to the Park because an industrial-type facility, including a tower and antenna, equipment building and fencing, simply is not compatible with the Park and the adjacent open-space Conservancy areas. Consequently, the BOS cannot make the necessary finding to overcome the significant and unavoidable impacts to aesthetics, because the Project is not consistent with the OGCP’s goals and objectives for the community’s rural character.

The Response to Comments makes the argument that the goals and objectives of the OGCP Plan relating to maintaining the rural and agricultural nature of the area was not intended to prevent construction of a radio tower because it is permitted under the applicable zoning designations with a conditional use permit. We agree that the goals and objectives of the OGCP do not constitute an absolute prohibition against construction of commercial or industrial facilities in areas in which they are a conditional use. Rather, the goals and objectives of the OGCP must be implemented on a case-by-case basis, taking into account the nature of the adjacent properties, as well as the impact of a project on those properties. In this case, a determination has been made by the County itself that the Project will have significant, adverse, unavoidable impacts on aesthetics. Given the fact that the Project is immediately adjacent to a state park, a highly sensitive land-use that is protected under the goals and objectives of the OGCP, the BOS should weigh those significant, adverse, unavoidable impacts and make a determination that this particular location is not appropriate for approval of a conditional use because of the adverse impacts on a sensitive land-use.

Importantly, Goal OG/C 1 of the OGCP is to preserve the unique environmental features of Oak Glen including native wildlife, vegetation **and scenic vistas**. Yet, on page 3 – 23 of the FEIR, the County focuses on the omission of “scenic resources” from Pisgah Peak Open Space Policy Area 47 to support the conclusion that the County does not have an obligation to protect scenic vistas. While it may be possible to take a particular sentence of a single policy and argue that scenic vistas are not mentioned, the overall context and specific references of the OGCP make it abundantly clear that its goals and policies seek to protect Oak Glen’s scenic vistas.

## **2. Failure of FEIR to Adequately Analyze One-mile Utility Extension.**

One of the main defects of the FEIR is its failure to recognize the significance of an almost one-mile utility extension along Pisgah Peak Road that will provide electricity to the Project site. In the DEIR’s Project Description, this one-mile extension is described in a single sentence. But the FEIR defends the lack of analysis by explaining that, because the utility extension will be along Pisgah Peak Road, which is a dirt road, there will be minimal impact on the environment. This response is both conclusory and dismissive—it has no factual basis and is

not supported by substantial evidence.

#### **A. Definition of Project.**

The FEIR appears to take the position that the one-mile utility extension is not part of the Project's 38.12 acre site and, therefore, is somehow an off-site improvement that does not constitute a substantial part of the "project" under CEQA. By ignoring even minimal analysis of the impact of the utility extension, the DEIR and FEIR fail to treat the utility extension as part of the CEQA project being analyzed, which requires a full and separate analysis of aesthetic impacts, biological impacts, soil and geotechnical analysis, etc.

Under CEQA, a project is the whole of an action which has the potential to result in significant environmental change in the environment, directly or ultimately (CEQA Guidelines Section 15378). In San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus, 27 Cal App 4<sup>th</sup> 713, 1994, the court held that off-site sewer expansions were a required element of the development project under review. The court held that the "total project" included both the housing and the sewer project necessary to serve it. Because the EIR failed to contain an adequate discussion or analysis of the environmental consequences of the sewer expansion, the EIR failed to comply with CEQA and was defective. A similar court holding is set forth in Santiago County Water District v. County of Orange, 118 Cal App 4<sup>th</sup> 818. In that case, the EIR failed to adequately analyze the environmental impact of off-site water facilities necessary for the project to operate.

In addition to the Project definition including off-site utility extensions, the County Development Code itself requires a biological survey of properties adjacent to a project. Development Code §82.19.030 (Special Requirements for Natural Resources) provides as follows: "If a biotic resources report is required, it shall identify all biotic resources located on the site and those on adjacent parcels that could be impacted by the proposed development and the impacts on the area as a wildlife corridor." [Bold Added]. Thus, the County Code itself requires a much more extensive biological survey than any of the surveys conducted by Lazer or the BAS Report (defined below) which was obtained by County as part of the FEIR process.

#### **B. Biological Impact of Utility Extension.**

With respect to biological impacts, the FEIR includes no analysis or meaningful data with respect to the impact on biological resources of the one-mile of trenching along Pisgah Peak Road. None of the biological surveys, including the most recent one prepared by Biological Assessment Services, dated August 17, 2015, ("BAS Report") surveys the biological impacts of the one-mile trench along Pisgah Peak Road.

In reviewing the BAS report, it is clear that the scope of work assigned to BAS did not include surveying fauna or flora along Pisgah Peak Road or adjacent parcels. Under the title "field surveys," the report states that "Ms. Kirtland surveyed 100% of the proposed tower area, access road, equipment shed and parking/turnaround area, documenting the biological resources

and habitat conditions.” Section 4.3 of the BAS report describes the areas which were subject to the biological survey, including the radio tower area, the equipment shed, the parking/turnaround site. It is clear that the almost one-mile length of Pisgah Peak Road, on which the trench for electrical service will be dug, was not included within the survey. In addition, the pictures included in the BAS Study only depict the areas subject to the biological survey, which fail to include the almost one-mile length of Pisgah Peak Road on which the trench will be constructed.

Rather than conduct a biological survey of Pisgah Peak Road, the Response to Comments explains the source of information utilized to determine that there would be no biological impacts resulting from the one-mile trench, as follows (FEIR Page 3-3 and 3-9):

“Response to Comment 1-4: No protected species or their habitat were found during any surveys of the Project area (conducted in 2006, 2007, 2009, 2010, 2012, and 2015). Recent photographs (**including aeri**als) of Pisgah The Road were obtained in addition to field review of the Project Area. No permanent impacts to specific flora or fauna, or their habitat would occur.” **[Bold Added]**

“Response to Comment 4 – 9; as discussed in Comment 4 – 7, the proposed Project will not require the widening of Pisgah Peak Road. **The entire length of Pisgah Peak Road is already disturbed and denuded of vegetation.** A review of recent photographs (**including aeri**als) of that road was conducted in addition to a field review of the Project area. The trenching for utility installation will be a **temporary impact with no native vegetation removal.** Backfilling of the trench will result in the return of the road to its pre—construction condition. No permanent impacts to flora or fauna, or their habitat would occur. The commentator does not provide any evidence to support his assertion that biological resources would be impacted.” Page 3-9, FEIR, Response to Comment 4-9.” **[Bold Added]**

This response admits that the biological survey only included the Project area, **which did not include Pisgah Peak Road.** The County’s attempt to survey Pisgah Peak Road with aerial photographs (that are not provided as evidence in the FEIR) falls woefully short of the detail necessary to inform an adequate biological survey as to the potential impacts to fauna and flora on Pisgah Peak Road.

Nevertheless, the undersigned personally conducted a survey of Pisgah Peak Road on Friday, April 14, 2017. The undersigned hereby certifies that he personally took the attached photographs on Friday morning, April 14, 2017. All of the photographs were taken on areas of Pisgah Peak Road from the existing power source on Pisgah Peak Road toward the Project site approximately one-mile to the west. The attached photographs are not doctored or modified in any way.

The attached pictures of Pisgah Peak Road show that many sections of Pisgah Peak Road, along the approximate one-mile segment on which trenching will occur, contain native plants. Along many areas of the road, there are significant plants in the middle of the road in the exact

location where trenching will occur. All of those native plants would need to be removed in order to conduct the trenching.

As quoted above, the FEIR dismisses any impacts by declaring that Pisgah Peak Road is “denuded of vegetation” and that there will be “no removal of native vegetation.” The enclosed pictures constitute substantial evidence that the conclusions set forth in the FEIR are factually incorrect, not supported by any evidence, and require actual biological analysis under CEQA.

### **C. Erosion and Impact Integrity of Pisgah Peak Road.**

Another significant issue that arises in connection with digging a one-mile trench along Pisgah Peak Road is that of erosion. The FEIR fails to include soil testing or any other geotechnical analysis of the impact of a 3 foot trench along Pisgah Peak Road, which already is as narrow as 6 feet in some areas. As the attached pictures show, some portions of Pisgah Peak Road are so impacted by erosion from recent rains that more than half of the road has been washed away in some places. The pictures of Pisgah Peak Road attached hereto document the following:

- A. Significant portions of Pisgah Peak Road, including approximately one quarter mile of the westerly section of the trenching area, are so deteriorated by erosion, rockslides and the growth of plants, that it is a barely passable dirt road;
- B. For at least the last half mile of the westerly section of the trenching area, the road has not been maintained in many years and appears to be more of a trail than a road. The condition of Pisgah Peak Road near the Project site is worse than most of the other segments of Pisgah Peak Road.

These photographs constitute substantial evidence of erosion requiring analysis to determine appropriate and specific conditions of approval for erosion control and other measures to stabilize Pisgah Peak Road prior to approval of the FEIR.

The Response to Comments rejects comments relating to concerns about erosion as follows:

“With regard to erosion control, the current project has been previously approved by the Board of Supervisors, and Conditions of Approval in that regard were issued in 2012 to address potential air quality impacts. This objection was considered and rejected by the Court and therefore, is not to be brought up again as a new issue. The DEIR is intended only to cover those items which the Court found to be in need of further review. Per Condition of Approval numbers 12 and 14, grading permits (if necessary) and continuous maintenance of the site are required which will include erosion control measures.” CITE?

This response shows a complete lack of understanding of the judgment entered by the Superior Court in connection with the CEQA lawsuit filed against the County. The final order of the court provides as follows:

**“The County is required to prepare a legally adequate EIR in compliance with CEQA prior to any further approvals of the proposed Project.”**

The final judgment completely voided the 2012 approvals and, therefore, these such approvals cannot in any way be relied upon in connection with an environmental review of the current Project. The final judgment in no way exempts or provides a waiver for any significant, adverse impact on the environment in connection with preparation of an EIR for the Project.

In its Ruling on Petition for Writ of Mandate, entered by the Superior Court on October 1, 2013, the court analyzed whether or not there was substantial evidence of any net significant environmental impact of the project. In the course of that analysis, the court considered evidence relating to visual and recreational impacts, land use impacts, fire impacts, and other impacts. The court granted the writ of mandate, ordering that a EIR be prepared, based upon a fair argument of impact on aesthetic and recreational values, growth inducing impacts, and a conflict with applicable land-use policies.

The analysis of the Superior Court related to the adequacy of a negative declaration, based upon the administrative record and evidence before the court. The fact that the court may have found inadequate evidence to find a fair argument for other environmental impacts in no way constitutes a “waiver” or a determination that, upon a subsequent preparation of an EIR, the County was exempt from analyzing issues that did not form the basis of granting the writ of mandate. Accordingly, all responses in the FEIR that rely upon the false conclusion that the Superior Court action created a waiver of certain environmental issues are facially defective. The order of the court was very clear: prepare a legally adequate EIR in compliance with CEQA. Therefore, the County’s failure to adequately analyze a potential environmental impact (e.g. erosion) falls short of the Project’s required CEQA compliance, causing the FEIR to be defective and subject to legal challenge.

As noted above, the undersigned surveyed Pisgah Peak Road on April 14, 2017. Pictures of the road were taken showing significant erosion. Those pictures are attached as part of the administrative record for the Project. Portions of the road are barely passable due to erosion. No soils testing or other geotechnical investigations were conducted on Pisgah Peak Road in connection with preparing the DEIR or the FEIR. The FEIR does not include any evidence relating to the current condition or the existing erosion of Pisgah Peak Road. There was no attempt whatsoever to survey the condition of the road, other than through presumably dated aerial photographs. There are portions of Pisgah Peak Road which are so eroded that it now will be necessary to rebuild the road before any underground utility service can be effectively trenched. In connection with areas of Pisgah Peak Road that were subject to prior erosion, the FEIR in no way analyzes (and imposes no current, specific conditions of approval) which would prevent future erosion, which would cause the underground utility lines to become exposed again. In addition, some portions of Pisgah Peak Road are so narrow and unpassable that the digging of a 3-foot wide trench and any subsequent backfill with dirt could further undermine the structural integrity of the existing road. Yet, the FEIR contains no engineering details as to how

Pisgah Peak Road will be protected from future erosion where the trench occurred, nor a description of the erosion control facilities that will be necessary to prevent future erosion which could expose underground electrical facilities.

As stated above, the FEIR simply dismisses the substantial implications of trenching a one-mile stretch of an eroded and structurally compromised dirt road that provides the only means of access to dozens of landowners who own property along Pisgah Peak Road. Consequently, the County's analysis of the environmental impacts to Pisgah Peak Road are conclusory in nature and utterly fails to provide the substantial evidence required to justify the conclusion that the one-mile trench will have no significant adverse impact on the environment, including erosion, biological impacts, as well as impacts to access to adjacent properties.

### **3. Land Use/ General Plan Inconsistency.**

CPRL has consistently pointed out for years that the proposed tower is inconsistent with the County General Plan and the OGCP. The specific General Plan goals and policies, and the OGCP goals and policies relating to open space and scenic vistas are set forth in our July 21, 2016 letter (contained in the FEIR). Those discussions will not be repeated, but are incorporated herein by reference. In summary, those policies and goals are designed to minimize impacts on open space corridors, support and actively pursue the expansion of the Park in cooperation with other community conservation groups, protect linkage values, and preserve unique environmental features of Oak Glen, including native wildlife, vegetation and scenic vistas.

#### **A. Judgment in CEQA Case Requiring EIR.**

In the case of Citizens for the Preservation of Rural Living v. County of San Bernardino (Lazer Broadcasting Real Party in Interest), Case No. CIV DS213273 (herein CEQA Case") court made a direct finding that the Mitigated Negative Declaration ("MND") was inadequate in its discussion and analysis of whether the tower project was consistent with County land use policies and goals. This conclusion by the court raises the question as to whether or not the FEIR cures this deficiency and adequately analyzes the Project's compliance with the General Plan and OGCP. As discussed below, CPRL believes the answer is "no". Rather, the FEIR offers conclusory (and incorrect) representations that the construction of an industrial-type facility, including a monopole, building, fencing and parking, would enhance and expand the adjacent Park. This statement directly conflicts with the court's finding. As a result, the FEIR is inadequate and fails to appropriately discuss, analyze and substantiate the conclusion that the Project would have a less than significant impact on land use.

On this issue, the FEIR takes two approaches. The response is twofold. First, the County bluntly states that it disagrees. This discussion is repeated in several places, but can be viewed in the FEIR, page 3 – 14, as follows:

"The County disagrees that this is inconsistent with the goals and objectives of the Oak Glen Community Plan related to open spaces, parklands, and other recreational



opportunity. A Radio Broadcast Facility is, in fact, an allowed use within both the applicable General Plan and Community Plan land-use designations.”

This statement includes no facts and no meaningful analysis. The FEIR just says the County disagrees and cites, as evidence of consistency, the fact that radio towers are an allowed use (even though a CUP is required) under the existing land use designations. Conclusory responses are insufficient; they must be supported by factual information and good faith, reasoned analysis. *People v. County of Kern*, 39 Cal.App.3d at pp. 840–842, 115 Cal.Rptr. 67.; *Laurel Heights Improvement Assn. v. Regents of Univ. of California*, 47 Cal. 3d 376, 404, 764 P.2d 278, 290 (1988).

The FEIR also cites the fact that Lazer will grant an open space easement over the large portion of their approximate 40-acre parcel, excluding only the area in which the tower, fencing and equipment building will be located. This analysis is exactly the same as the land use consistency analysis included in the MND. In analyzing this issue, the court found that Lazer’s intent to permit open space use of the remainder of its parcel was inadequate evidence to show consistency with General Plan and Community Plan goals and objectives. In addition, the court cited the 2009 findings of the BOS when the Lazer project was denied. In those findings, the BOS expressly found that “construction of the radio tower project will be contradictory and detrimental to a primary goal of the State Park, which is to provide a pristine wilderness experience to park visitors.”

By this reference, the undersigned hereby incorporates into the administrative record for the current project the following: (i) the BOS findings of 2009 which supported denial of the project, (ii) all of the citizen testimony in all prior hearings relating to the Lazer tower project, including all hearings from 2008 through 2017. In addition, the full administrative record relating to the CEQA lawsuit is hereby incorporated in its entirety as if attached hereto and set forth in this comment letter.

In summary, the Response to Comments relating to inconsistency with General Plan and Community Plan goals and objectives is conclusory and lacking in any evidentiary basis. Such discussion fails to cure the defects in the consistency analysis as described in the Ruling on Judgment of the court in the CEQA Case.

#### **4. Alternative sites.**

CPRL has previously submitted the following analyses prepared by qualified FCC engineers: (1) Engineering Analysis & Statement dated January 2009 prepared by Klein Broadcast Engineering (“Klein Report”), and (2) Engineering Statement dated March 2011 prepared by De La Hunt Communication Services (De La Hunt Report”). Such reports are incorporated herein by this reference. Both of these engineers are highly qualified. De La Hunt worked for the FCC for many years in the department which made determinations as to whether or not proposed tower locations were compliant with FCC rules and regulations, including spacing and line of sight requirements. Both of these engineers concluded that a site in

Beaumont, California (ASR #1263499) (Site 1) and a site located in Cherry Valley, California (ASR #1202850) (Site 2) qualified under all FCC rules and requirements.

In prior applications and hearings, Lazer, its engineers and attorneys have consistently taken the position that the proposed Oak Glen site, located adjacent to the Park, was the only site in the entire region that would satisfy both FCC requirements and Lazer's business objectives. Now, an engineering firm (Cavell Mertz and Associates, Inc.) has been hired to provide another engineering statement ("CMA Report").

The CMA Report includes a discussion of alternate sites, but makes a major error in its analysis. Rather than reviewing all possible sites that meet the FCC requirements for locating an FM radio tower, the CMA Report only analyzes sites for which there currently exist Antennae Structure Registrations ("ASR"). The ASR System is an online system that stores the location, height, marking and lighting, and other information on all antenna structures that are registered with the FCC.

The myopic focus on sites with only with ASR ignores a large portion of the area which could be analyzed as alternate sites. The approach also is inconsistent with the fact that the Project site, adjacent to the Park, was not an ASR at the time the property was identified and purchased by Laser. Rather, Lazer did a complete analysis of sites within the "area to locate" and found a site that worked for them. Had they limited their search to sites with ASR as the CMA Report does, they would never have identified the Project site.

The Engineering Statement (Goldman Report) prepared by Goldman Engineering Management, LLC, dated July 20, 2016 (Goldman Report), has previously been submitted as a CPRL comment in connection with the July 21, 2016 letter. FCC engineer Bert Goldman has also analyzed the "area to locate" in which the FCC spacing and interference requirements are satisfied for the location of a radio tower. That area constitutes 36.3 mi.<sup>2</sup>. Attached to this letter is a copy of Bert Goldman's power point presentation, including a reverse shadow map which shows the areas in which FCC spacing rules would be satisfied that provide large areas within both Riverside County, as well as San Bernardino County, where the FM radio tower could be located.

Lazer has failed to analyze any of these areas, except the Project location and locations with an ASR. Failure to analyze alternate sites within the "area to locate" does not constitute a good faith attempt to find an alternative location in which FCC spacing rules, as well as Laser's business goals, would be satisfied. Rather, Lazer has adopted the strategy of claiming that there is only one site "in the world" that works, namely the Project site immediately adjacent to the Park.

In connection with review of the FEIR, CPRL asked Goldman to conduct an additional review of potential alternative sites. Although there are many potential sites within the 36.3 sq

km “area to locate”, the following seven sites have been specifically identified by Goldman as sites that will comply with FCC spacing and interference rules:

<u>Alternate Site</u>	<u>Population Covered</u>
Yucaipa A	3,116,383
Yucaipa B	2,948,364
Yucaipa C	2,834,814
Calimesa A	2,763,052
Calimesa B	3,150,286
Beaumont	2,555,945
Gilman Hot Springs	1,727,699

In response to suggested alternatives that comply with FCC spacing and interference rules, the Response to Comments ( page 3-12), responds as follows:

“Under Guidelines Section 15126.6 (f) (1), it is beyond the scope/jurisdiction of the County to weigh the merits and demerits of an alternate site/project that involves another jurisdiction’s goals and policies.”

This response is repeated several times to justify the County’s refusal to consider alternative sites located within the County of Riverside. This is a fatal defect in the alternatives analysis because it fails to comply with California law. The County’s position that CEQA Guidelines section 15126.6 (f) (1) categorically excludes alternatives in another jurisdiction in all circumstances does not accurately reflect the law.

CEQA Guidelines Section 15126.6 (f) (1) provides as follows:

“(f) Rule of reason. The range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project. The range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decision making.

(1) Feasibility. Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or

otherwise have access to the alternative site (or the site is already owned by the proponent). No one of these factors establishes a fixed limit on the scope of reasonable alternatives. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; see *Save Our Residential Environment v. City of West Hollywood* (1992) 9 Cal.App.4th 1745, 1753, fn. 1).”

By its own terms, the cited rule states a “rule of reason”. The rule states that among the factors that may be taken into account are jurisdictional boundaries; however, the guideline also state that “projects with a regionally significant impact should consider the regional context”.

In California Environmental Quality Act, Stephen L Kostka and Michael H Zischke, §1532, jurisdictional boundaries, the authors provide as follows:

“The location of an alternative site beyond the territorial jurisdiction of the lead agency is a factor the lead agency may consider in determining whether the site is a feasible alternative. 14 Cal Code Regs §15126.6(f)(1). In *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal 3d 553, 575, 276 CR 410, the court noted that an EIR need not undertake a review of alternatives “which cannot be reasonably realistically considered and successfully accomplished,” and held that a lead agency could properly find that a site was a feasible alternative when it was beyond its jurisdiction. 52 Cal 3d at 575. **The court also explained, however, that jurisdictional boundaries do not establish an ironclad limit on feasible off-site alternates, and are instead a factor to consider among others in assessing whether another site might be a feasible alternative.**”  
[Bold Added]

The purported rule cited by the County in the FEIR, that alternatives in another jurisdiction need not be considered, is incorrect. Under the above-cited guideline, CEQA establishes a rule of reason as to alternatives (including those in another jurisdiction) that should be considered. In this case, the County has completely ignored the fact that, pursuant to federal law, Lazer is required to provide service to the City of Hemet, which happens to be located in the County of Riverside. So, because of these FCC spacing and interference limitations (and contrary to the County’s position), most alternative sites would need to be located within the County of Riverside because 80% of the city of Hemet must be provided service pursuant to federal law. Therefore, in light of the FCC requirement, it is unreasonable and inappropriate to suggest that sites within the County of Riverside (where services are required by federal rule) are categorically excluded and need not be considered within the range of alternatives.

Another factor that comes into play is the regional nature of the Lazer tower. In *Banning Ranch Conservancy the City of Newport Beach (Newport Banning Ranch LLC, et al., Real Parties in Interest* (2017) \_\_\_ Cal. 5<sup>th</sup> \_\_\_ (published March 30, 2017), the court addressed the issue of project alternatives in the context of a regionally significant project. In that case, the city

of Newport Beach argued that it was not required to analyze environmentally sensitive habitat areas because that was within the jurisdiction of the California Coastal Commission, citing CEQA Guideline §15126.6. On this issue, the Supreme Court ruled as follows:

“The Guidelines specifically call for consideration of related regulatory regimes, like the Coastal Act, when discussing project alternatives. An EIR must “describe a range of reasonable alternatives to the project,” or to its location, that would “feasibly attain” most of its basic objectives but “avoid or substantially lessen” its significant effects. (Guidelines, § 15126.6, subd. (a).) Among the factors relevant to the feasibility analysis are “other plans or regulatory limitations, [and] jurisdictional boundaries (**projects with a regionally significant impact should consider the regional context**).” (*Id.*, subd. (f)(1).) By definition, projects with substantial impacts in the coastal zone are regionally significant.” [Page 20 of Opinion] [Bold Added]

Decisions as to the feasibility of alternatives and mitigation measures are subject to a rule of reason. (*Goleta Valley, supra*, 52 Cal.3d at p. 565; *Laurel Heights Improvement Assn. v. Regents of University of California, supra*, 47 Cal.3d at p. 407 (*Laurel Heights I*); see Guidelines, § 15126.6, subd. (f)(1).) No one factor establishes a categorical limit on the scope of reasonably feasible alternatives to be discussed in an EIR. (*Goleta Valley*, at p. 566; Guidelines, § 15126.6, subd. (f).) Here, however, the City’s EIR omitted *any* analysis of the Coastal Act’s ESHA requirements. It did not discuss which areas might qualify as ESHA, or consider impacts on the two ESHA delineated in the Coastal Commission’s consent orders. As a result, the EIR did not meaningfully address feasible alternatives or mitigation measures.<sup>1</sup> Given the ample evidence that ESHA are present on Banning Ranch, the decision to forego discussion of these topics cannot be considered reasonable. [Pages 20, 21 of opinion]

[W]here comments from responsible experts or sister agencies disclose new or conflicting data or opinions that cause concern that the agency may not have fully evaluated the project and its alternatives, these comments may not simply be ignored. *There must be good faith, reasoned analysis in response.’*” (*People v. County of Kern* (1974) 39 Cal.App.3d 830, 841-842; accord, *Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935 (*Concerned Citizens*).) Rather than sweep disagreements under the rug, the City must fairly present them in its EIR. [Page 25 of opinion]

The Project clearly is regional in nature. The radio tower will reach broad areas within the counties of San Bernardino and Riverside County and possibly Los Angeles County, as well.

While the proposed tower is located in San Bernardino County, the community of service technically is the City of Hemet in the County of Riverside. The technical rules governing where the tower can be located (including spacing and interference rules) are adopted by the FCC. The rule of reason set forth in CEQA Guideline §15126 can only be interpreted as requiring that the Project's alternatives analysis include feasible locations within the County of Riverside. The County fails to do that and, in fact, takes the contrary position that there is an ironclad (yet unspecified) rule that it has no obligation to do so. As a consequence, the County's alternatives analysis is fatally defective because the DEIR and the FEIR fail to analyze feasible, FCC compliant alternatives suggested by CPRL (through the three engineering statements submitted), which are located in the County of Riverside.

#### **5. Historic/Archeological/Paleontological Impacts.**

The Land Use Application Questionnaire (questions 11 and 23) asserts there are no known cultural or historic resources on site. However, the application also admits that the site has not been surveyed for historical, paleontological or archaeological resources. Such surveys must be performed under CEQA.

CPRL retained David Earle ("Earle") for the purpose of conducting a study of Indian history and cultural resources located in the Wildwood Canyon area. Earle is an ethnographer in the Department of Anthropology at Antelope Valley College, who has spent decades studying Indian history in Southern California, as well as other areas of the country.

Earle completed a study entitled "Preliminary Report on Wildwood Canyon Region Ethnographic Research ("Earle Study"). A summary of the findings is set forth below:

- A. Wildwood Canyon is a "cultural landscape" as defined by the National Park Service and the Advisory Council on Historic Preservation;
- B. Native settlements occurred in the Pisgah Peak mountain and Wildwood Canyon areas.
- C. Springs fed by water flow from upslope areas were an important factor in native settlement of the Wildwood Canyon Region; such springs were considered sacred by the local Indian tribes;
- D. Trails were an important element of the native cultural landscape. Sources suggest that the trail ascended Water Canyon and then across the Ridge to the north to connect with the West End of Potato Canyon. Native trails often featured shrines (conical mounds of stone) that were gifts to the supernatural).
- E. Santos Manuel and John Harrington visited Wildwood Canyon in 1918. Santos Manuel identified this as an area where were bears (humans that were grizzly bears in form) were found.

F. The mountain ridge bounding Water Canyon on the west was recalled by Santos Manuel as being called Ahenemenat. He noted that the name was derived from the Serrano term for Eagle indicating the potential religious aspect of the area.

The County has failed to study in any way the important Indian history associated with Wildwood Canyon and the surrounding hillsides as part of the Cultural Resources analysis in the FEIR and DEIR. The Earle Study shows that there was an Indian village immediately adjacent to the Project site, which requires further evaluation under CEQA. Therefore, the FEIR fails to properly analyze the impact of a radio tower visible to the immediately adjacent areas where there were Indian villages and significant findings of religious and daily activities by local Indian tribes.

**6. FEIR is Inadequate Under CEQA and Must Be Rejected .**

For the reasons stated above, as well as the reasons set forth in our July 21, 2016 letter, the FEIR is inadequate under CEQA for its failure to properly analyze all of the Project's potentially adverse impacts to the environment. These defects in the environmental analysis also render the County's CEQA Findings and Statement of Overriding Considerations fatally flawed, as well.

We at CPRL appreciate your consideration, and reserve all of our rights. We ask that the BOS reject this ill-advised Project once and for all.

Please feel free to call me with any questions or comments you may have.

Very truly yours,

MIRAU, EDWARDS, CANNON,  
LEWIN & TOOKE

By:

  
John K. Mirau, Esq.

Cc w/out Encl: Supervisor James Ramos  
Mayor Dick Riddell  
Mr. David Myers, The Wildlands Conservancy  
Mr. David Miller, Yucaipa Valley Conservancy















































# Bert Goldman Background

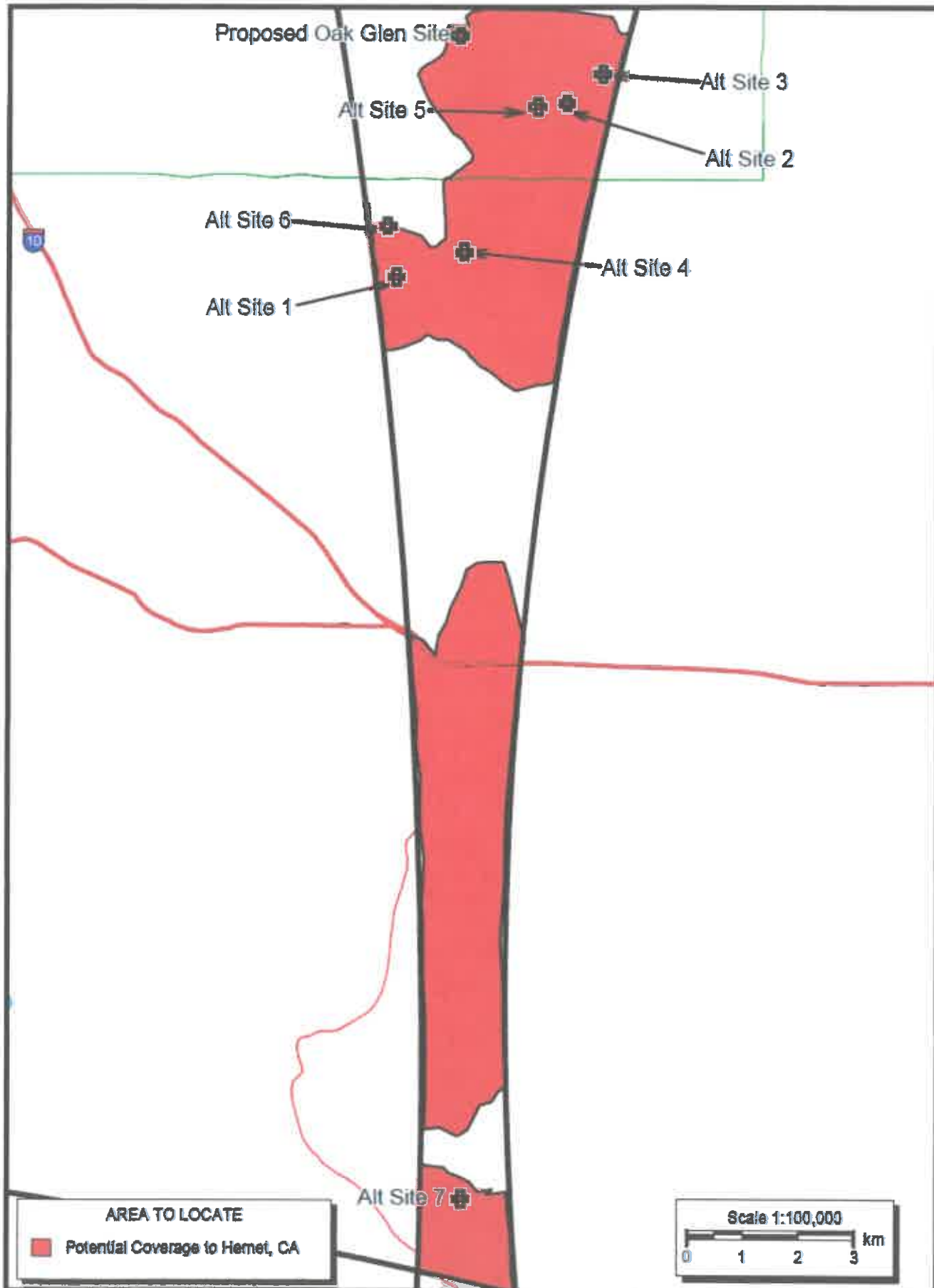
- **Broadcast engineer for over 40 years**
- **Corporate VP of Engineering for**
  - **Shamrock Broadcasting (Roy Disney Family)**
  - **Nationwide Broadcasting (Nationwide Insurance)**
  - **ABC/ Disney**
    - **Owned and Operated radio stations**
    - **ESPN Radio**
    - **ABC Radio Network**
    - **Radio Disney**
- **Last 15 years focused on relocating and upgrading radio stations**

# Criteria for Site Selection<sup>1</sup>

- Distance to other protected radio stations (interference)
- Line of sight to the community of license
  - 80% of population must be covered
  - 80% of community area must be covered
  - Can use either of two methods to show coverage
- Good line of sight to maximum population

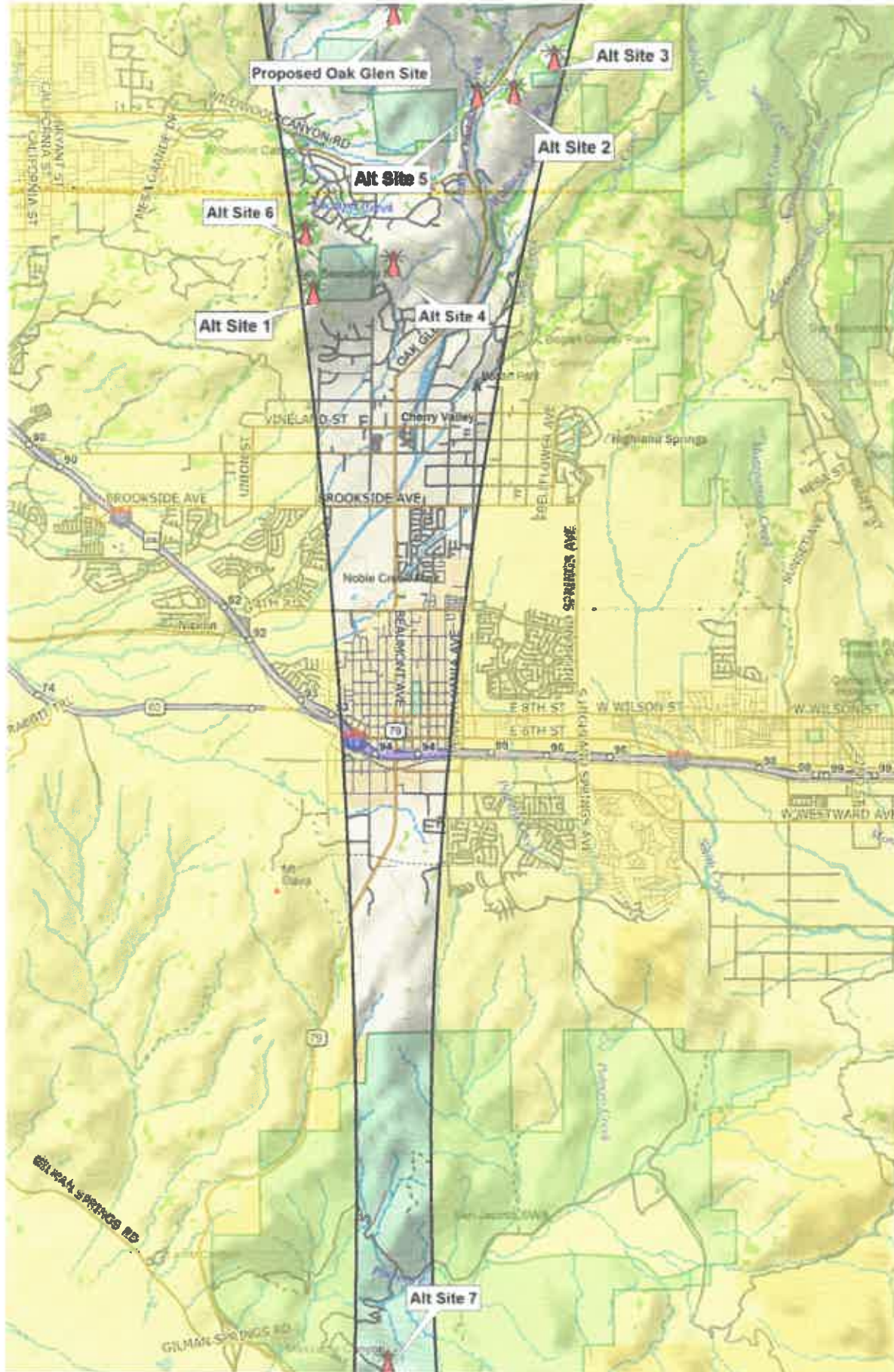
<sup>1</sup>*Use of an existing site was NOT made a criteria, as the currently proposed Oak Glen site is similarly not built*

# Potential Alternative Sites Within 36.3km<sup>2</sup> Area to Locate





# Multiple Alternative Tower Sites Within 36.3km<sup>2</sup> ATL



# Potential FCC Compliant Tower Sites

Alternate Site	Latitude	Longitude	Twr Hgt	Population Covered*	Notes
Proposed Site	N34° 01' 41"	W116° 58' 40"	9.4m	3,000,411	Prop Oak Glen Site
Current KXRS	N33° 41' 17"	W116° 55' 32"	14m	548,645	Existing KXRS
1, Calimesa	N33° 59' 22"	W116° 59' 24"	11m	2,763,052	Past end of Cherrystone Av
2, Yucaipa	N34° 01' 02"	W116° 57' 24"	25m	3,116,383	Better than OG Site, E OG RD.
3, Yucaipa	N34° 01' 19"	W116° 57' 01"	40m	2,948,364	East of OG Rd.
4, Beaumont	N33° 59' 36"	W116° 58' 37"	120m	2,555,945	Current ASR 1202850
5, Yucaipa	N34° 01' 00"	W116° 57' 46"	125m	2,834,814	End of Oak Crest Dr.
6, Calimesa	N33° 59' 51"	W116° 59' 30"	10m	3,150,286	Better than OG site
7, Gilman H.S.	N33° 50' 29"	W116° 58' 39"	10m	1,727,699	On existing access Rd.

- Sites are unbuilt in the same way as the proposed Oak Glen site is unbuilt
- Derived from the 36.3km<sup>2</sup> "Area to Locate"
- All sites are at least a 300% improvement in population covered. Most are over 500% improvement
- All sites vetted for FCC compliance to Hemet
- Two Sites better than Oak Glen site (Alt 2, 6)



## SUMMARY OF DAVID EARLE INDIAN STUDY

1. **Cultural Landscape.** The Wildwood Canyon area is a "cultural landscape" as defined by the National Park Service and the Advisory Council on Historic Preservation. Native American cultural landscapes include places and areas that were and are culturally significant to the native inhabitants and their ancestors. Cultural landscapes were composed of native places (sometimes these were larger landscape features like mountains or canyons) that were often named and fit into a wider landscape or spatial-geographic panorama that had distinctive cultural meaning for native people which was in part religious and supernatural.

2. **Sacred Springs.** Springs fed by subsurface water flow from upslope areas were an important factor in native settlement of the Wildwood Canyon region. Houghton Spring is located in Wildwood Canyon on the road to the Hi-Up property, and a second spring was apparently located nearby. Just southeast of the confluence of Water Canyon and Wildwood Canyon was another spring identified by Manuel Santos as Pa'uva't Spring, which according to him meant "full of water". Native people of Southern California and the eastern California desert believed that springs were sacred places. They were often associated with water spirits of various kinds. John Harrington (noted twentieth century ethnographer) told about a class of beings that lived in springs and under the earth, and noted the parallel to the Serrano belief in water spirits. It was also widely believed that springs were interconnected, and that supernatural beings that lived in springs could travel underground from one spring to another by a sort of subterranean highway. The springs in Serrano territory were believed to have been created by the founder deity coming from the east across the desert and using a magical staff to perforate the surface of the earth in order to create individual springs.

3. **Trails and Sacred Shrines.** Trails were also an important element of the native cultural landscape. Sources suggest that a trail ascended Water Canyon and then crossed the ridge to the north to connect with the west end of Potato Canyon. Another trail probably ascended the floor of Wildwood Canyon, and a portion of this trail in the upper canyon is shown on an 1897 General Land Office plat map. The trails were sacred to the Indians. Native trails often featured shrines (conical mounds of stones) that were gifts to the supernatural and believed to give the hunter good fortune in the hunt and the traveler supernatural aid.

4. **Wildwood Canyon Were-Bears.** When Santos Manuel and John Harrington visited Wildwood Canyon in 1918, Manuel recalled the name of Huhuj'ava't Mountain, the mountain mass surrounding Pisgah Peak and bounded by Water Canyon on the west and Wildwood Canyon on the south and southeast. Manuel remembered that it was an area where were-bears (humans that were grizzly bears in form) were found. These were-bears had shamanic powers and were greatly feared. Manuel noted that native people living in the region were concerned about encountering these supernaturally powerful were-bears.

5. **The Eagle Place.** The mountain ridge bounding Water Canyon on the west was recalled by Santos Manuel as being called Ahenemenat. He noted that the name was derived from the Serrano term for Eagle. The eagle was the representation of a supernatural being, Eagle, that had accompanied the founding chief into the area from the north. Eagle thus became associated with the office of chief. In ancient times, an elaborate eagle sacrifice was held by each local group or clan. The eagle sacrifice ceremony was said to have been first held in the aftermath of the death and cremation of the cultural hero Kukitat.

6. **Indian Habitation of Wildwood Canyon.** The availability of spring water in the Wildwood Canyon region permitted the Serrano to occupy the same locality with habitation sites. Reliable springs were very important and were a principal determinant of the location of both temporary seasonal camps and permanent winter villages. Native settlement occurred in the Pisgah Peak mountain and Wildwood Canyon areas, including the upper part of the Wildwood Canyon drainage. Santos Manuel's recollection of the named native spring of pa'uva't in Wildwood

Canyon just upstream from the junction of Water Canyon and Wildwood Canyon suggest that there was a settlement in this area.

7. **Wildwood Canyon--Traditional Use Area.** Wildwood Canyon was a traditional use area used by native groups to acquire important resources. The Wildwood Canyon region contained traditional use areas for rabbit and deer hunting. Serrano accounts of rabbit hunting generally tend to emphasize jackrabbits. Bow hunting of jackrabbits was described by Manuel Santos for hunting that took place in Water Canyon. Rabbit hunts that involved the setting for a nighttime feast that involved dancing and the singing of traditional sacred songs.

8 **Acorn Harvests.** Acorns were also a key food resource. Santos Manuel noted that the area of the Pisgah Peak mountain and Wildwood Canyon was an important acorn collecting area for native people. Native occupation of the region would have included the period of acorn harvest in October and early November. Acorn harvests are also known to have been the occasion for inter-clan fiesta gatherings. Manuel Santos suggested that the landscape of the oaks (in addition to the pine trees in the mountains) were the supernaturally transfigured remains of what had been the first people who had mourned the death and cremation of the culture hero Kukitat.

**12/01/2016**

## **Preliminary Report on Wildwood Canyon Region Ethnographic Research**

**David D. Earle**

### **Introduction**

This document provides a preliminary overview and background on native use of the Wildwood Canyon region and adjacent areas included in the territories of the Pavi'kajam and Jukai'pa't clans of the Serrano. It is also intended to provide an orientation regarding the kinds of information on local native life that research has so far yielded and how that information can be interpreted. This has made it advisable to provide some background discussion about issues such as the characteristics of Serrano clans and clan settlements, Serrano involvement with the Franciscan mission system, and 20<sup>th</sup> century sources of ethnographic information on the Serrano. Particularly important for the last topic was the collaboration between Serrano elder Santos Manuel and Bureau of American Ethnology linguist and ethnographer John Peabody Harrington.

This overview has emphasized the value of documenting and interpreting native use of the Wildwood Canyon region in the wider context of the activities of the Pavi'kajam clan. A reconstruction of the cultural landscape layout and the settlement and land-use activities of the Pavi'kajam clan provides a more satisfactory context for interpreting native life in the Wildwood Canyon region.

This document also provides a point of departure for further research on the Pavi'kajam and Jukai'pa't clans and their use of the Wildwood Canyon area. This further work will continue to focus on the identification of native activity areas on the ground, reconstruction of local cultural landscapes, and the identification of areas of possible native religious and supernatural significance.

### **Serrano Clans**

Individual Serrano families belonged to a larger grouping of people connected by both kinship ties and bonds of a religious nature. This larger grouping is referred to by anthropologists as a clan, or occasionally as a sib. This clan group was made up of people who shared the same line of male ancestors through the father's side of the family. Both males and females belong to a clan. This meant that siblings and cousins related to each other through a common grandfather, great grandfather, and so on, were members of the same clan. However, marriage was not permitted inside the clan,



so that at marriage a person would find a spouse in another clan. In addition, it was customary that the female bride would leave the clan she was born into to reside at the clan of her husband. This practice emphasized the idea that within a clan the related men stayed put within the clan village and territory throughout their lifetimes- females did the moving. In addition, a person seeking a spouse in another clan had to look within a clan that was of opposite ritual moiety affiliation to the clan the person belonged to. The ritual moiety system was based on the idea, commonly found in small-scale human societies, that all the clans were divided into two groups (or moiety divisions) for religious purposes. In the case of the Serrano and other native groups in southern California the two ritual categories were Coyote and Wildcat. This means that for each of these two divisions, either a supernatural Coyote being (Coyote moiety), or a supernatural Wildcat being (Wildcat moiety) was their totem and representative. This was important for religious and social life. Someone getting married had to find a spouse in another clan that belonged to the opposite moiety group. In addition, clans tended to favor political alliances, the lending and borrowing of food resources, and the lending of assistance in carrying out religious rituals with clans of the opposite moiety affiliation. Thus clans that intermarried because of opposite moiety membership also tended to help each other out in economic, political, and ritual situations.

An individual Serrano clan was often associated with a permanent headquarters village. This is often referred to by anthropologists as a winter village, since clan members tended to congregate here year after year during the colder and wetter winter months. Such a village contained a ceremonial house and dance area, a chief's house, a cemetery, a sweat lodge, and a menstrual hut. In addition, the clan chief or paha (ceremonial assistant) was the custodian of the clan's sacred bundle. This consisted of sacred items- seagrass matting, feather bundles, and shell beads, for example- that embodied the supernatural spirit and identity of the clan as a whole. Thus the clan as a group also had a supernatural identity.

The Serrano clan was not just a place, but a territory. Individual clans occupied defined territories on the landscape that appear to have had fixed boundaries. In the case of Serrano clans located on the edges of the San Bernardino mountain range, clan territories tended to run uphill and downhill. They tended to be located around canyons that provided access to upland resources like pinyon pine nuts. Some clans had territories that extended all the way up to the top of the San Bernardino range, in the vicinity of what is now Big Bear Lake. Higher altitude areas like the top of the range provided temporary campsites in the summer for hunting and gathering. In the wintertime, downslope winter village settlements in the canyons or at the mouths of

canyons were occupied. During the warmer months of the year, individual families or groups of families could take excursions away from the headquarters winter village to occupy temporary camps and subsidiary village sites. Some clans may have had subsidiary settlements that were occupied during much of the year. The clan territory thus consisted of a range of different habitats and landscapes, with camps and village sites, bedrock milling areas, trails and trail shrines, rock art sites and other places of supernatural significance, prime hunting and gathering areas, and springs and stream courses. Anthropologists consider such clan territories that contain areas with these features to be cultural landscapes, where a number of localities and activity areas used by native people are embedded in the natural landscape.

Religious and ritual activities associated with clans included periodic mourning ceremonies, hosted every several years by a clan at its clan headquarters village. The ceremonies commemorated members of the community who had died since the last mourning ceremony. It involved the burning of the property of the dead, and also the exchange of food and other gifts by the host with allied clans that had been invited to the ceremony. This multi-day ritual sequence also involved ritual dancing and singing and the burning of images of the dead. This ceremony was separate from rites of cremation that were held soon after the deaths of individual people. Certain other ceremonies, including male and female initiation and ceremonies for the naming of infants were also carried out at the headquarters village. In addition, however, fiestas could also be held at locations away from the main village where several clans would assemble for the gathering of acorns or Pinyon pine nuts. This fiesta could also involve group hunting of deer or rabbits, and often included both social dancing and also singing and dancing of a religious nature, related to the hunting or harvesting of these food sources.

### **Research on Serrano Political Geography- Native Places and Clan Territories**

Research by anthropologists to identify Serrano village and clan locations, and other native places, began with the work of Alfred Kroeber during the first decade of the twentieth century. He visited the Morongo Reservation at Banning, and collected some Serrano village and place names (Kroeber 1925:617-618). Kroeber's colleague from the Department of Anthropology at U.C. Berkeley, Edward Gifford, collected information on Serrano clans in the later teens (Gifford 1918). In 1918-1919, John P Harrington of the Bureau of American Ethnology carried out field research with Serrano consultants, as is discussed further below. He collected a great deal of information on clans and Serrano political geography (Harrington 1986). In 1922, Ruth Benedict carried out

ethnographic research on the Serrano, and collected information on clan territories (Benedict 1924). In around 1924, William Duncan Strong, a student of Kroeber's, also worked with Serrano consultants, who provided information on Serrano clans (Strong 1929). All of these researchers worked with elderly consultants but faced difficulties in getting complete information about clan territories and political geography. There were significant discrepancies between the lists of clans assembled by the different researchers. However, Harrington's work, especially with his primary consultant, Santos Manuel, provided the most comprehensive body of data about clans and native places within individual clan territories. Therefore, his information about the Yucaipa and Wildwood Canyon areas has proved especially useful.

### **Santos Manuel (1839 Yukon?-1919)**

Santos Manuel (known to John Harrington as Manuel Santos) was a Captain or chief of the Yuhaviatum (or Kutsáviám) clan of the Serrano. The Yuhaviatum had lived on the lower and upper Santa Ana River, and further north around Big Bear. Ruth Benedict was told that the clan was located at 'The Pines', on the upper Santa Ana River near Seven Oaks, and at 'Big Meadows', seven miles to the east. The clan territory also included Atán'pa't on the south side of modern Big Bear Lake, a summer settlement where Santos Manuel had told John Harrington he was born (Harrington 1986:49). Santos noted that during the wintertime members of his clan moved down slope from the country around Big Bear Lake, since in former times snow was very abundant in the mountains in the winter.

Manuel's father Antonio belonged to the Yuhaviatum clan, while his mother was a Colorado River 'Paiuche', probably a Chemehuevi. Although various sources provide birthdates for Manuel as early as 1810 and as late as around 1858, official San Manuel reservation rolls from 1897 indicate that he was born in around 1839, and his son Tomás in circa 1865 (Laird 1975:105). These dates fit better with the accounts of incidents in his own life that were provided to anthropologist John Harrington than the very early or late dates.

Santos Manuel was an especially important source of information regarding the Serrano clans, including the Jukaipat and the Pavi'kajam, for several reasons. First of all, he had lived in the Yucaipa Valley, apparently as an adult. In addition, his own clan, the Yuhaviatum, had originally been located to the west of the east side of the San Bernardino Mountains and the Morongo Valley area. He did not recognize the Marengayam clan of Morongo Valley as the highest status Serrano clan. His testimony

suggests that, for his group, the Ataiviatam [Aturiaviatam] clan was the senior group in terms of political prestige, and not the Marengayam. He thus had different information and a different perspective on clan organization and clan territories from other anthropological consultants who were members of the Marengayam clan itself. The Marengayam clan was head of a group of clans living in historic times on the east slopes of the San Bernardino Mountains. Santos Manuel had greater knowledge about Serrano clans in southern and western Serrano territory that had been largely depopulated by movement to Mission San Gabriel.

### **John Peabody Harrington**

John Peabody Harrington (1884-1961) was a linguistic and ethnographic researcher who spent virtually his entire career as for the Bureau of American Ethnology of the Smithsonian Institution. Harrington worked for the BAE during 1915-1955, although his California field research began around five years earlier. He worked with Native American consultants in North and South America and recorded at least 130 native languages. He left more than 700 linear feet of field notes at the Bureau of American Ethnology, in his obsessive pursuit of the goal of recording and preserving endangered Native American languages. In California he carried out field research with the Chumash (1912-1915), the Kitanemuk (1916-1917), before working with Serrano consultants in late 1918 and early 1919. Harrington's notes are usually not dated, but one of his note pages from work with Santos Manuel is dated October 19<sup>th</sup>, which would indicate fieldwork in the fall of 1918. His Serrano research included intensive work with Santos Manuel (known to him as Manuel Santos) and his son Tomás Manuel. This included not only interviews with Santos Manuel at the San Manuel reservation, but a number of place name trips by automobile with Santos and his son Tomás. These trips took them around the San Bernardino Mountains and down the Mojave River as far as Barstow. Harrington and Santos Manuel also traveled through Wildwood Canyon and Oak Glen and down Little San Gorgonio Creek canyon during these travels. Harrington also interviewed other Serranos, but Santos and Tomás Manuel were his key sources of information.

### **Serrano Clans in the Yucaipa and Wildwood Canyon Areas**

The Jukaipat clan was recorded by both Benedict and Strong as located in the Yucaipa Valley. A few members of this clan are listed as having been baptized at Mission San Gabriel. Santos Manuel recalled that native settlement was scattered across the



Yucaipa Valley (Figure 1). Manuel himself had lived in the valley, probably in the late 1850s or 1860s. He and other Serranos who were resident in the valley at the time maintained livestock, and he recalled having had 50 head of horses. He also recalled that Jukaipat residents were accustomed to ascending Mill Creek to reach upland areas where deer hunting and the gathering of pine nuts could be carried out. Several Harrington consultants recalled the forcible removal of Jukaipat residents from the valley, apparently in the 1860s, probably around the time of the establishment of the Dunlap ranching operation. One account of this episode claimed that the Jukaipat residents and their belongings had been taken down to Banning and dumped on the side of the road. It is likely that native residents of the Yucaipa Valley area were also affected by several serious outbreaks of smallpox- the first in 1862-1863 and the second in the mid-1870s. Santos Manuel recalled having fled with his family up the Santa Ana River Canyon to the Seven Oaks area to escape the smallpox.



**Figure 1: Harrington Sketch Map Showing Yucaipa Valley, With The Predecessor to Sand Canyon Road to the Left, and the Site of Santos Manuel's House and a Tule Pond to the Right (Harrington 1986:663).**

The San Bernardino Valley had been the site of a mission rancho established by Mission San Gabriel that had brought in numbers of Gabrielino/ Tongva neophytes as ranch workers. In addition, by the early 1850s a large number of Mountain Cahuilla under chief Juan Antonio had re-settled at Saahatpa in San Timoteo Canyon from a former location at Politana. They had been brought into the area to help stop the depredations of Native American stock raiders coming out of the desert by way of Cajon Pass and San Gorgonio Pass. The 1860 U.S. Decennial census listed more than 3,000 native people living in this part of San Bernardino County, including Gabrielinos, Cahuillas, and

Serranos. These populations were decimated by the 1862-1863 smallpox outbreak. Both disease and the expansion of Anglo American ranching operations disrupted the patterns of native settlement that had developed after the secularization of the Franciscan missions in the 1830s. During the years from the 1830s to the 1860s, native communities in the region consisted of ex-neophyte returnees from the mission system and individuals and families that had never been baptized.

The Jukaipat clan was recalled by Santos Manuel as involved in an incident while hunting rabbits in the Wildwood and Water Canyon region. This hunt was carried out by igniting the brush. It was recounted that a man who was intent on his bow-hunting of individual rabbits did not heed warnings to flee the fire, that had gotten out of control, and he was killed. At that time the clan settlement of Jukaipat had a cemetery where the man was buried.

However, Manuel also explained to Harrington that the Wildwood and Water Canyon areas had originally been part of the Pavi'kajam [Pavə'kayam] clan, eastern neighbors of the Jukaipat clan (Bean et al. 1981:214). This extended from Wildwood Canyon eastward across Little San Gorgonio Creek canyon and southward to the base of this canyon in the direction of Beaumont. This clan was also recorded by Ruth Benedict as the Pavükuyam. The clan was placed by Benedict at Akavat, which she located at the mouth of Beaumont Canyon Benedict 1924: 368) .

In her 1922 fieldwork, Benedict interviewed Rosa Morongo, whom she noted as the wife of Capt. Ben Morongo, a chief of the Marenga clan at the Morongo Reservation. Benedict was told by Rosa Morongo that she had been born at Akavat, about 70 years before, or in circa 1852. Benedict stated that her research was focused on the more easterly Serrano clan groups:

The emphasis in this paper is upon the eastern, or Morongo Valley, Serrano. They are probably the only bands whose life can be reconstructed to any extent today. The western settlements removed almost bodily to the missions, and at the secularization in 1834 there were apparently too few survivors to reestablish tribal life. A very few returned to Akavat, north of Beaumont, Mrs. Morongo's birthplace, but it was in the eastern regions of the pass that native cultures survived, though even here some Indians had been at the missions (Benedict 1924:366).

Benedict's note that Serrano returned to Akavat suggests that this settlement was originally occupied by Serranos. William Duncan Strong also interviewed Mrs. Rosa

Morongo, some two years later. He claimed, unlike Benedict, that Mrs. Morongo was a Cahuilla by birth. He also stated that he had been told by Desert and Pass Cahuilla chiefs that she had been born at Pihatapa, a Pass Cahuilla village “at Banning Water Canyon”, (Strong 1929:10). Thus, he said, she had not been born “...at Akavat, north of Beaumont (in Serrano territory)” (Strong 1929:10). It is possible that Rosa Morongo may have lived at Akavat at some point later in her life.

Strong thus clearly placed Akavat within the territory of the Serrano. As mentioned above, Benedict had placed the Pavükuyam [pavi'kajam] clan at Akavat, as had Santos Manuel. This was the fourth clan in her list of Serrano clans. Somewhat inexplicably, Strong decided that this clan actually corresponded to a Pass Cahuilla clan called Pisatañavitcem, located in Banning Water Canyon. This is clearly an erroneous interpretation on Strong's part.

Santos Manuel did note that the pavi'kajam did speak Serrano a little bit like Cahuilla, which also indicates that the clan probably intermarried with neighboring Pass Cahuilla. He was also asked about information collected by E. W. Gifford that the Marengayam clan had claimed both Jukaipat and Akavat. Santos Manuel disagreed with this information, which probably would have applied to the later nineteenth century. Manuel claimed, as was his habit, that the Ataiviatam [Aturiaviatam] clan was the most senior and supernaturally privileged of the Serrano clans, "el mayor de todos" [the most senior of all], and that it was they who claimed Jukaipat and Akavat.

### **The Jukaipat and Pavi'kajam Clans and Mission San Gabriel**

The Spanish occupation of coastal California began in 1769, and was followed by the establishment of Franciscan missions dedicated to the conversion of the native population to Roman Catholicism. The policy of the Franciscan missionaries was to congregate native populations within the individual missions after baptism, rather than permitting them to continue to live in their home villages. While movement of native people to the Franciscan missions was officially supposed to be voluntary, there appear to have been situations where coercion was used. In Southern California, Mission San Gabriel Arcangel was founded in September 1771. For almost the next 30 years, until the founding of Mission San Fernando Rey de España in 1797, Mission San Gabriel was the center for the missionizing of native populations in the Los Angeles region, including the Gabrielino/ Tongva. Very few Serrano had been missionized prior to 1795. During the next 10 years, members of some western and southwestern Serrano villages, especially children, were baptized at Mission San Gabriel. However, after Fr.

José María de Zalvidea became the energetic and harsh missionary manager at Mission San Gabriel in 1806, greater efforts were made to missionize the Serrano, as well as surviving Gabrielino/Tongva villages. Zalvidea's treatment of both native people at his mission and of unconverted natives appears to have contributed to a revolt at Mission San Gabriel in November of 1810. This revolt was supported by some unconverted Serrano village leaders, by desert Chemehuevi, and by Mojaves of the distant Colorado River. A force of Mojave warriors reportedly numbering 600 traveled from the Colorado River and nearly reached Mission San Gabriel before turning back. The year following the revolt, military expeditions were conducted in Serrano territory and large numbers of Serranos from more southerly and westerly villages were baptized at Mission San Gabriel. The Spanish reaction to the revolt appears to have involved forced removal of village populations to Mission San Gabriel.

When native people were baptized at the Franciscan missions, the officiating priest recorded information about the baptized person in a baptismal register. Along with the date of baptism and the baptismal number, the priest customarily recorded the individual's native name and native place of origin. This meant what the Franciscan priests called a *ranchería* or village, but which often also meant a clan grouping that used the village as their headquarters. The "ranchería name" recorded by the Franciscan priests was often not the name of a place but rather the name of the clan that the baptized individual belonged to. The baptismal register entry also recorded the individual's estimated age, the Spanish name given at baptism, and single or married status. Information about relatives, baptized or unbaptized, was also sometimes provided in a baptismal entry. Parallel marriage records indicate which individuals had been married to one another before being brought to the missions. In the early decades of operation of Mission San Gabriel, the missionary priests had assumed that husbands and wives that had been married before being brought to the mission were born in the same clan village. However, in early 1810 it dawned on Fr. Zalvidea that this might not be the case. He commenced to check carefully with native couples that had been married before coming to the mission, as to whether the husband and wife had been born in the same village. After that point in time, virtually all previously married husbands and wives are recorded in the mission marriage records as coming from separate villages (and clans). Thus marriage information provides an important clue about interaction and alliances between clan villages.

Pavocoya [Pabocoya], a rancheria or settlement name for a Serrano group that appears to have been located east of the San Bernardino Valley is listed in the San Gabriel baptismal registers (Huntington Library 2006). This appears to correspond to the *pavə'kajam* [Pavi'kajam] clan territory. The correspondence of the names is even



greater given that Harrington noted that Manuel's pronunciation of the name was close to Pavu'kayam, and that it was used as both a singular and plural term (Bean et al. 1981:214). Eleven people originating at Pavocoya are recorded as baptized at Mission San Gabriel. The personal names of both males and females from this clan recorded in the baptismal registers indicate that they were Serranos and not Cahuillas. At least four of these people were adult females from the Pavocoya clan who had married into other villages. These villages were located to the south or west of Pavocoya territory. Both Pavocoya and the Jukaipat clan of Yucaipa were linked by marriage to several of the same villages located further west. They were also not indicated as having married one another. This would suggest that they may have been of the same moiety affiliation. William Duncan Strong (1929:11) recorded the moiety affiliation of Jukaipat as Coyote.

The first five of the baptisms of people originating at Pavocoya occurred in April and May of 1811, during the period of mass removal of Serranos to Mission San Gabriel after the mission revolt. All of the people baptized were adult females married into other villages that were subjected to the apparently forced removal of residents to Mission San Gabriel. This indicates that members of the Pavocoya clan had managed to avoid the roundup. Also suggesting this are the baptisms of a male adult in 1815, of two male adults in 1823 and 1824, and another male adult in 1832. In addition, an eight year old male child listed as originating at Pavocoya was baptized in 1824, hinting that it may still have been occupied in 1815-1816. This pattern of a very limited number of baptisms is also found for Jukaipat as well as for clan groupings like the Peaveatam and Marengayam, located on the east and north sides of the San Bernardino mountain range. In contrast to clan villages located on the San Bernardino Valley side of the range that were more thoroughly subject to removal to Mission San Gabriel, clan villages located further to the north and east tended to be less affected by this apparent roundup.

### **The Clan Territory of the Pavi'kajam [pava'kayam]**

Manuel Santos and John Harrington visited the Wildwood Canyon region, apparently in the fall or winter of 1918-1919 (Laird 1975:105). Harrington described the trip as follows:

On our way from Redlands to San Jacinto after passing jukai'pa' we left the traveled road to San Jacinto, taking a road which went up a canyon

[Wildwood or Hog Canyon], then up a grade and then down another canyon [Little San Gorgonio Creek] into Beaumont.

As a result of this trip at least 3 sketch maps were prepared by Harrington showing landscape features and native places in the vicinity of the Wildwood and Little San Gorgonio Creek canyons. These depicted a number of places that Manuel listed as located within the clan territory of the Pavi'kajam.

Manuel elsewhere stated the following about places within the territory of the Pavi'kajam:

This tribe cuidaban (took care of) [various places]. When I asked how the pávə'kajam talked, informant says they talked poco como a little like Cahuilla. They cuidaban pátSkīviat, pihátəpa't (Ben [Morongo] lives there now but it was not Mariña territory), akáva't , pā'uva't, húhu'java't, 'ahəŋəmənət. But apíhanat was territory of the apíhanatam. The pávə'kajam are nearly all dead. One woman of this tribe came to Highlands reservation recently. Kiwəna't and hikíhaveat are also pávə'kajam territory--- all the region hitherward from and including the last mentioned two places was pávə'kajam (Bean et al. 1981:27-28).

This comment indicates that the pávə'kajam survived into post-mission times, that Manuel knew members of this group, and that his comment about their speech was from direct observation. This strengthens the reliability of his identification of the pávə'kajam as a Serrano and not a Pass Cahuilla group.

The enumerated places included the following:

1) Húhu'javat:

This is the mountain mass located to the east of Water Canyon, to the west of Little San Gorgonio Creek, to the north of Wildwood Canyon, and to the south of the Oak Glen Road. The name means "quemaron", or 'they burned it'. Santos noted that it was associated with human shamans that turned into bears, and that the mountain area was considered excellent for hunting deer and gathering acorns. A satellite settlement to the main clan village at Aka'vat was located on this mountain (Harrington 1986:667).

3) Ahijiminat:

On the west margin of Water Canyon and north of Wildwood Canyon was a hill or mountain that was called Ahijiminat. The name was derived from the

Serrano word for eagle, and thus may have a supernatural association (Harrington 1986:667)..

4) Pá'uv'at (spring):

In Wildwood Canyon itself, at the westerly foot of the steep grade portion of the Wildwood Canyon Road, Santos Manuel identified a spring called Pá'uv'at. The name was said to mean "full of water" (Harrington 1986:664, 667).

5) Pá'uv'at (hill):

The hill or mountain ridge to the south of the spring and to the south of the ascending grade of Wildwood Canyon Road was also referred to as Pá'uv'at. This hill was noted as extending eastward to near the intersection of Wildwood Canyon Road and the road that ascended the Little San Gorgonio Creek canyon in the direction of Oak Glen (Harrington 1986:667).

6) PátSkiveat:

An area containing two hills to the east of the Little San Gorgonio Creek canyon was identified by Manuel as PátSkiveat. He elsewhere stated that there was much pinyon pine there (Bean et al. 1981:168, Harrington 1986:667,668).

7) Máipaveat:

Further up Little San Gorgonio Creek , just to the east of the head of that canyon, was another native settlement called Máipaveat. The name was derived from an unidentified plant called Máit (Harrington 1986:667).

8) Aka'va't:

Perhaps a mile or a mile and a half down-canyon below the intersection of Wildwood Canyon Road and the road that ascended the Little San Gorgonio Creek canyon, at the mouth of the canyon, was the location of the village of Aka'va't, the headquarters village for the Pavi'kajam clan. Manuel recalled that a cemetery was located at that village site (Harrington 1986:668).

9) Pihátipa't:

A place formerly associated with the Pass Cahuilla- Peatopa- was said by Manuel to have been occupied by the Pavi'kajam. It is likely that the

Pavi'kajam, before mission times, had intermarried with the Pass Cahuilla from this area (Bean et al. 1981:224).

10) Kiwəna't [Kiwuŋa't]:

Located in a canyon downslope from PátSkiveat and east or northeast of Aka'va't but to the west of Banning Canyon- apparently the lower end of Cherry Canyon (Bean et al. 1981:28, Harrington 1986:670).

11) Hikíhaveat:

Apparently located somewhere in the direction of Banning from Aka'va't (Bean et al. 1981:28).

The layout of the clan territory of the Pavi'kajam on the landscape reflects several common Serrano cultural features in their exploitation of the environment. The frequent practice of locating winter village sites at lower altitudes sites at the bottom end of steep mountain canyons is seen here. This had the advantage of providing access to mountain resources at the same time that food resources found down beyond the base of the canyon could be exploited. In this case, in San Gorgonio Pass, before the era of European stock raising, native grasses with food value were abundant, along with other food resources. The location of the principal winter village site adjacent to the corridor of communication to the Desert Cahuilla and the Colorado River that the Pass represented was also important. It is likely that the Pavi'kajam intermarried with the adjacent Pass Cahuilla, and engaged in exchange of desert products from the southeast with them. The population of the entire Pavi'kajam clan area might be estimated at 80-100 people or more.

The upland portions of the Pavi'kajam territory included Wildwood Canyon, Little San Gorgonio Creek canyon and Oak Glen, the Húhu'javat mountain area, and areas to the east of Little San Gorgonio Creek. Manuel indicated that specific localities within these areas produced abundant acorns and pinyon pine nuts, and there were good areas for deer hunting and the exploitation of jackrabbits. In addition, both springs and streamflow from the upland zone provided the inhabitants of this clan area with reliable sources of water. The Húhu'javat mountain area contained a settlement that was seasonally focused on acorn exploitation. Máipaveat, east of Oak Glen, was located in a prime pinyon exploitation area. It is worthy of note that Manuel indicated that the high mountain ridge, Cedar Mountain, located uphill behind Oak Glen, called Apihanat, did not form part of the territory of the Pavi'kajam. It is presumed that



trails crossing the westerly or easterly shoulder of this ridge provided the Pavi'kajam with travel access to the Mill Creek drainage, and via Angeles Oaks and the Santa Ana River drainage, to the highest sections of the San Bernardino range.

### Summary

This document has provided preliminary results of ethnographic research on the Wildwood Canyon region. Each of the research data topics discussed herein will be further pursued and refined. Particularly important will be further investigation of local landscapes and environments and their relationship to both documentary and archaeological evidence of human activities in and near the Wildwood Canyon area. This will include a special focus on further identifying spring sites in the area, as well as evidence of their native use.



Figure 2: Harrington Sketch Map of Wildwood Canyon and Upper San Gorgonio Creek Regions (Harrington 1986:667).

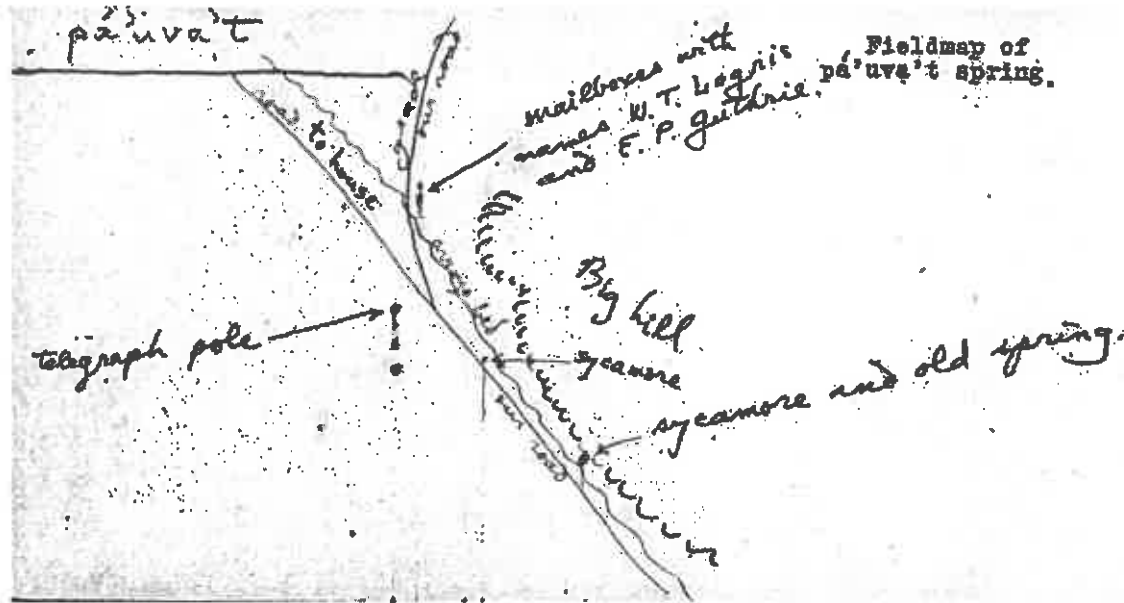


Figure 3: Harrington Sketch Map of Location of Pá'uva't Spring on Wildwood Canyon Road Near Turnoff of Road Entering Water Canyon (Harrington 1986:664).

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David Earle – Earle and Associates  
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## The Environment and the Religious Significance of Native Cultural Landscapes in Wildwood Canyon and the Clan Territory of the Pavi'kajam

### Environment and Native Cultural Landscapes

Areas traditionally occupied by Native American tribal groups are recognized today as containing both traditional cultural properties and cultural landscapes. Individual places that were and are of cultural significance to Native American communities are often referred to under federal historic preservation guidelines as “traditional cultural properties”, which may be found eligible for listing in the National Register of Historic Places (Parker and King 1998). Native American places and archaeological sites may also be eligible for nomination to the National Register under the criteria of either their historical significance or their potential to yield cultural, historical, or archaeological information. Within the definition of native places are included both localities that were of traditional religious significance to Native Americans and what are called “traditional use areas”. The latter term is applied to areas where native people carried out important traditional gathering or procurement activities, and where the locations of these activities were recalled in native oral history.

Where a number of native places and areas are documented for a particular region, these places are referred to as conforming a cultural landscape. As defined by the Advisory Council on Historic Preservation (2016a, 2016b) and the National Park Service (Page 2009), Native American cultural landscapes consist of both physical manifestations of the native use of their local habitat- the remains of habitation sites, trails, quarries, rock art sites, or hunting camps, for example- and of places and areas that were and are culturally significant to these native inhabitants and their descendants. Such places of cultural significance were often named. Individual places and areas of cultural significance fit in to a wider “landscape” or spatial-geographical panorama that had distinctive cultural meaning for native people. This meaning was in part religious and supernatural. The Euro-American or “Western” view of the environments and landscapes that were encountered during westward expansion was that they were a natural wilderness to be exploited, an economic resource, not something spiritually significant. For Native Americans, their home areas had a completely different cultural significance, bound up with their Native American religion. They believed that what was for the Euro-American settler a natural landscape was, in reality, a spiritual world filled with supernatural places and powers and beings. This included the idea that what to the Euro-Americans were inanimate features of the landscape- rocks, springs, caves, trees, mountains- were in fact endowed with spiritual power and even, in fact, associated with animate beings. Native American elders decried what they saw as the stupidity of the block-headed

Euro-American intruders who could not see that the natural world around them was supernaturally endowed.

The culturally significant Native American places or areas may have been recorded in historical documents- maps; diaries, newspaper accounts, official reports, etc.- or in information collected from native people by anthropologists or other researchers, or otherwise provided by native people in the past or at present. Under current federal and California environmental law, the cultural significance of specific Native American places and wider cultural landscapes for both Native Americans and other members of the public is taken into account in land use planning. The Wildwood Canyon region provides an example of a Native American cultural landscape.

### Environmental Features of the Wildwood Canyon Region

The Wildwood Canyon region includes a mountain mass of granitoid composition surrounding Pisgah Peak, occupying approximately 7 mi.<sup>2</sup>, bounded on the south and east by Wildwood Canyon, and on the west by Water Canyon (Matti et al. 2003). To the west of Water Canyon another mountain ridge of similar geological composition extends for several miles from north to south. Another hill and ridge of schist composition extends along the southern margin of Wildwood Canyon. The north side of the Pisgah Mountain area is located on the southern margin of Potato Canyon (Oak Glen), through which runs a branch of the San Andreas Fault. Elevation of the Wildwood Canyon region ranges from approximately 3,000 feet at the junction of Water Canyon and Wildwood Canyon to a height of 5,488 ft. at Pisgah Peak. Rainfall averages 19 in. per year in Yucaipa to the west, and 22 in. in Oak Glen. Chaparral and interior live oak-sycamore woodland plant communities, the former found on open hillsides and the latter in canyons and on north facing slopes, respectively, are important biotic components of the area.

Other adjacent areas found within the clan territory of the Pavi'kajam clan included the drainage of Little San Gorgonio Creek just to the east of Wildwood Canyon, and ridges and canyons further to the east. The upper end of Little San Gorgonio Creek in the vicinity of Oak Glen and Pine Bench also included habitation areas that formed part of the clan territory of the Pavi'kajam. The main settlement of the clan was located downstream on Little San Gorgonio Creek about 1.5 miles south of the southeast corner of Wildwood Canyon.

The Wildwood Canyon region has been subject to the effects of heavy storm runoff, both with winter storms and summer thunderstorms. This precipitation has been triggered by storm cells from the south and southwest approaching the ridge area upslope from Pisgah Peak and Oak Glen, and Mt. San Gorgonio further upslope to the northeast. The mountain slopes on the north side of San Gorgonio Pass have



experienced heavier rainfall and alluvial fan development than on the south side of the pass (Vaughan 1922:343). The relatively steep hillside terrain within the Wildwood Canyon region has created conditions for relatively high runoff velocity. In the Wildwood Canyon the long-term effect of storm events has been the down cutting of canyons in the alluvial terraces and the deposition of alluvial gravels widely across the canyon bottoms. Relatively short side canyons feeding into Water Canyon, for example, feature deep and vertical-walled erosional down cutting. Wildwood Canyon itself has also been deeply down cut along most of its upper 3.5 miles, with locations along it with a ratio of 180 ft. depth and 450 ft. width. It is not clear that this down cutting can be solely attributed to the increased runoff impacts of modern ranching activities- grazing- in the area, in part because of the recency of ranching in the area and the great areal extent of intact chaparral. The presence of mature interior live oak woodland in the canyon bottoms suggests that the down cutting is not recent. It is possible, however, that the effects of wildfire, both in prehistoric and historic times, in promoting flooding may have contributed to this down-cutting.

An important feature of Water Canyon and its vicinity is the presence of springs fed by subsurface water flow from upslope areas. These include Houghton Spring, located on the floor of Water Canyon just to the north of the roadway leading east to the Hi-Up property, and a second spring apparently located nearby. This was shown on an 1884 General Land Office plat map as located on the west side of the canyon approximately 550 feet north of the south boundary of section 4, T1S,R2W, and approximately 150 feet east of the west boundary of the same section (General Land Office 1884). Just to the southeast of the confluence of Water Canyon and Wildwood Canyon was another spring that was identified by Manuel Santos as Pa'uva't Spring. The name, according to him, meant "full of water" (Harrington 1986:Fr. 101: 667). The name of the spring was applied to the entire ridge that lies to the south of it. As mapped by Harrington in 1918, the spring was located near a sycamore tree on the south side of the Wildwood Canyon Creek. Its location was just to the west of where the 1918 roadway crossed the creek from northwest to southeast and ascended the ridge. This spring also appears to have been recorded on the 1884 General Land Office plat referred to above. In addition, other springs are known to have been located at the head of a canyon located close to the southeast of the Hi-Up ranchhouse, and also at the former Hastings-Huebner farmstead in Lot 10 further to the northeast on the east side of Water Canyon (Earle 2007:19).

The presence of these springs would have been an important factor in native settlement of the Wildwood Canyon region. In addition, the indications of storm-related flooding at least hints that archaeological traces of habitation areas are located on benches or terraces above the canyon floor. One such area was identified on an elevated terrace to the east of lower Water Canyon. It is not clear, however, whether periodic flooding of the canyon floors may have obscured traces of native

campsites located there. Within Water Canyon, geologic mapping and archaeological survey have indicated extremely recent alluvial fan gravel deposits across the canyon floor suggesting periodic flooding (Matti et al. 2003).

Abundance of rainfall in the Wildwood Canyon region also led to the abundance of three important food resources mentioned by Serrano elder Manuel Santos for this area - acorns, jackrabbits, and deer (Harrington 1986:RI. 101:180, 232, 666-667). The availability of spring water sources in the same region permitted the Serrano to occupy the same locality with habitation sites and to take advantage of these and other resources. The key to these resources was the presence of interior live oak woodland on the floor of the canyons and on north facing slopes of hillsides in the Pisgah Peak Mountain region. Not only did this provide an abundance of acorns for native people in the area, but it provided habitat and browse for game, including both deer and jackrabbits.

### The Serrano Cultural Landscape: Religious Beliefs and Sacred Places, and Supernatural Associations of the Wildwood Canyon Region

#### The Native Cultural Landscape and Sacred Songs

Native groups in southern California held religious and social gatherings that featured both traditional dances and also songs that frequently had a religious content. Religious songs were also sung by shamans, who used them in their curing and other supernatural activities. Individual clan groups had a special officer permanently designated as the ceremonial singer to lead songs during religious ceremonies. He was called the *Tcaka* (Benedict 1924:375, Strong 1929:21). The songs were the 'scripture', so to speak, of Native American groups in southern California. They provided sacred accounts of the creation of the world, of the first people, and of the supernatural powers that came to inhabit and govern the world. These songs mapped out the supernaturally endowed landscapes that people lived in, and provided a sacred charter for proper human behavior. Francisco Patencio, a *net* (chief) of a group belonging to the Pass Cahuilla, who inter-married with the Pavi'kajam clan, explained about these songs:

When anyone did something that was not in the law, the Indian people would say that "the song is against them". Their own people would not recognize them if the songs were against them. That is our law. ... When I speak of the songs of the people being against them, it means that the songs were the laws of the people. The songs were remembered. They could not forget, because they were always singing at the ceremonial houses (Patencio 1943:xi).

Sacred songs sung during community rituals often referred to supernatural 'culture heroes' that traversed the southern California region via magical travel. These supernaturals were associated with, or even bestowed names on, specific landmarks and places. The traditional sacred songs could take many hours to sing. Chief Patencio, for example, referred to a culture hero creating and naming places:

*Evon ga net* left Gilman's Hot Springs to find more places for his people. He went to what is now known as San Jacinto mountain. He came to the canyons, the rocks, the trees, the springs, and he gave them all names. He lined the country in sections for his tribes to come in more generations, and he made the signs where certain tribes of his people were to come. The signs he made so that the people who came after would see and know.

At the top of the mountain he formed a spring which he named *To quo a*, meaning a mountain lion. Then he went near Tahquitz Peak to a large rock which is standing there, and he called that *Pul lo cla*, which means the top of the ridge. *Evon ga net* gave this place much power. From there the thunder comes and the earthquakes, much sound. He did this for his people, that they should have good hunting. If the hunter finds the tracks of game and nothing else, then he sings the hunting prayer song, calling upon the name of *Evon ga net* to help him, and then in his dreams he is shown the way to go to find his game (Patencio 1943:52).

Manuel Santos mentioned a number of similar songs still sung by Serrano elders, including himself, in the early twentieth century. Such songs were important features of the week-long mourning ceremony, the most important group ritual fiesta, held to commemorate the community's dead. These sacred songs are still sung today in many southern California native communities, and are a key element of their contemporary cultural identity.

The sacred songs describing and calling out the landscape features of native Southern California express the native belief that these features were supernaturally endowed. These included hills and mountains, springs, meadows, lakes, rivers and streams, caves, and rock formations. In some cases, particular locations were the sites where significant supernatural events took place or where supernatural beings were encountered.

In regard to the territory of the Pávə'kajam and elsewhere in Serrano territory, Manuel Santos told Harrington about the supernatural assignment of names. He said

that the Ato'aveatam clan ancestors had been the original mythic settlers of Serrano country, coming from the east. He said it was they who had bestowed all the names of places and had directed the other Serrano clans, as they appeared, as to where to settle (Harrington 1986:RI. 101:Fr. 413).

## Mountains

Gabrielino elder Juan de los Santos Juncos stated the following to John Harrington:

And the earth and especially the hills and las sierras [the mountains] are Sowoó'ic [sacred and awesome]... and all the songs have to mentioned these (Harrington 1986:RI. 105:396).

De Los Santos Juncos also noted that that the equivalent Serrano concept for the sacredness or holiness of the mountains and other places and things was called Páahavit. This term in Serrano applied to supernaturally powerful things- including spirit helpers and other spirit beings (Anderton 1988:452). Mountains were frequently named in the travels of supernatural beings- including deer and mountain sheep- that were narrated in the sacred songs. Santos Manuel mentioned various mountains that were mentioned and sung about in Serrano sacred songs (Bean et al. 1981:9).

## Springs

The springs in Serrano territory were believed to have been created by founder deity coming from the east across the desert and using a magical staff to perforate the surface of the earth in order to create individual springs as he traveled toward westward toward the eventual homeland of the mountain Serrano. In a previous section, reference was made to spring creation and spring naming by the culture hero *Evon Ga Net*.

Springs were associated with important events in the creation of the world, and seen as portals to the underworld. Arrowhead Hot Spring, near San Bernardino, was believed to have been the place where one of the two supernatural brothers who created humans at the beginning of the world, Pakrokaitis, traveled to the underworld after being defeated by his brother Kirikaitis (Bean et al. 1981:30-31). Later, Kirikaitis was in turn killed by unhappy people-animals that he had helped create, and was believed to have been cremated at a sacred spring in Big Bear Valley.

Native people of Southern California and the eastern California desert believed that springs were sacred places. They were often associated with water spirits of various kinds. Thus, there were stories recalled by native elders about springs that were

haunted by these water spirits that could punish individuals who are believed to have committed antisocial actions- broken the laws of the songs.

Johnston (1962:46), writing about the Gabrielino/ Tongva, mentioned John Harrington having been told about a class of beings that lived in springs and under the earth, and noted the parallel to the Serrano belief in water spirits. The term *Paavavut* was used to designate a spring spirit-being. The supernatural occupants of springs were described as sometimes making crying sounds. Santos Manuel mentioned one case where a quantity of sugar carrizo grass to be used for making arrows was removed from around a spring occupied by a crying spirit. Three native shamans positioned themselves around the edge of the spring and recited prayers that allowed them to remove the sugar carrizo without being harmed by the spirit (Harrington 1986:RI. 101:177).

Chief Patencio described animal and child-form spirits that lived at the spring at Palm Springs, and how people there prayed to be allowed to use the spring:

If the people wanted to do anything to the water- to clean the spring or use the water- they gave a food offering in the fiesta house and prayed to the water in the spring. Then they could do whatever they wished, without any harm happening to them (Patencio 1943:92).

It was also widely believed that springs were interconnected. Patencio mentions that the spring at Palm Springs was believed to be connected to all other hot water springs by subterranean passage-ways, so that material items from those distant places would appear at the spring (Patencio 1943:95).

The Chemehuevi, Mojave Desert people who also intermarried with the Serrano, believed that supernatural beings that lived in springs could travel underground from one spring to another by a sort of subterranean highway (Fowler 2002). It was also believed that shamans could take advantage of this particular type for means of travel to move from one location to another.

Springs were of special importance because they could potentially provide reliable sources of water during the warm summer months of the year when other sources of water were unreliable. Because of the nature of the Serrano food system large quantities of water were important for the maintenance of the Serrano subsistence system. The processing of acorns required relatively abundant amounts of water in order to leach tannic acid from the ground acorn meal. This meant that relatively substantial amounts of water would be needed for a camp of 30-50 people. This means that reliable springs were very important and were a principal determinant of the location of both temporary seasonal camps and permanent winter villages.



## Trails

Trails were also an important element of the native cultural landscape. Native trails, like later pioneer horse trails that often followed them, tended to follow more direct routes than twentieth century hiking trails. Native hunters were able to travel quickly on trails in rough terrain. In the San Bernardino Mountains region, travel between the southerly base of the mountains and the high country could be completed in a single morning, as Santos Manuel explained to Harrington (1986:RI. 101:202).

Foot/ horse trails are shown on maps and land surveys of the later nineteenth century and the beginning of the twentieth century in the Wildwood Canyon region. These sources suggest that a trail ascended Water Canyon, and then crossed the ridge to the north to connect with the west end of Potato Canyon to the north. This trail connection would have permitted native people from the Pavi'kajam clan area to reach the Mill Creek drainage and then the upper Santa Ana River canyon en route to the high country around Big Bear. The most direct route via Potato Canyon ascended Wilson Creek to cross Yucaipa Ridge to Mill Creek. Another trail probably ascended the floor of Wildwood Canyon, and a portion of this trail in the upper canyon is shown on an 1897 General Land Office plat map (General Land Office 1897).

Trails served to convey travelers from one place to another- Pass Cahuilla chief Francisco Patencio referred to such trails as 'friendship' trails, tying people in different communities together. Hunting trails, on the other hand, might veer 'off the beaten track' and were also sometimes animal track-ways. This was important where hunters selected locations where they could wait in ambush.

Native trails often featured shrines that were located at passes or other locations on the trail, where a stone or other offering might be left. These offerings formed conical mounds of stones. The shrine mounds were sometimes located next to other features such as boulders, rock outcrops, or rock art panels. Such gifts to the supernatural were believed to give the hunter good fortune in the hunt. For other travelers, relief from the fatigue of the journey and protection from possible hazards were believed provided by the offerings. Travelers might encounter particularly troublesome grizzly bears, for example, and Manuel Santos recounted the killing of a particular bear in the San Bernardino Mountains that was undertaken in order to make a major trail safer for travelers.

The religious and cultural importance of trails and trail shrines was commented on by Francisco Patencio, a Pass Cahuilla chief at Palm Springs:

All the Indians did their part to keep the trails clear. The trails were sacred to the Indians (Patencio 1943:70).

Then there is a small rock on the trail below in the canyon, just before coming to the point, where offerings were placed. This rock is by the old deep-worn Indian trail going from Palm Springs to Chino Canyon. Many parts of this trail are still there. This is the hunters' rock. The hunters put their offerings there, and then they never get tired or bitten by animals or snakes, or frightened. It brings what the white people call "good luck."

All trails were kept clear by the Indians. When the hunters were having trouble about things, they gathered up rocks from the trail, and put them in piles on the side. This pleased the spirits, and caused goodwill. This rock is a goodwill, a friendship rock, and was placed there for the people by *Ca wis com ca* (Patencio 1943:73)

Gough (2003:2) describes similar shrines in The Pipes, a canyon on the east slopes of the San Bernardino Mountains that was at one point home to the Ate'aveatam clan of the Serrano. Santos Manuel also described a trail shrine located in the San Bernardino Mountains north of Lake Arrowhead, apparently in the vicinity of Stove Flats. Leaving an offering at the shrine was believed to provide supernatural alleviation to the weary and jaded traveler:

It is not a single stone at all, but is a pile consisting of "piedras, ramas y palos" [rocks, branches and sticks] as tall as a man. ... When one is going along the trail there either way he says: Cura me, cura me [make me feel better]... ... He picks up piedra [stone], rama [branch] and piece of palo [stick] or piece of rama [branch] handy) and lays it on the pile, lays them on the pile, saying... Cura me, cura me... Estoy cansado [I'm tired], soy viejo [I'm old], ya no ando [I can't walk] (Bean et al. 1981:267-268, Harrington 1986:RI. 101:398).

Trail shrines have been observed and archaeologically recorded on many native trails in Southern California. In addition, native people have worked in recent years to restore native trail shrines damaged by natural processes or intentional vandalism.

#### Other Religiously Significant Features of the Wildwood Region

##### Were-Bears and Huhuj'ava't Mountain

When Santos Manuel and John Harrington visited Wildwood Canyon in 1918, Manuel recalled the name of Huhuj'ava't Mountain, the mountain mass surrounding Pisgah Peak and bounded by Water Canyon on the west and Wildwood Canyon on the south and southeast. He also remembered that it was an area where were-bears, grizzly bears that were humans in animal form, were found. These were-bears had shamanic powers, and were greatly feared. He noted that native people living in the region were concerned about encountering these supernaturally powerful were-bears.

Manuel on another occasion recounted the following to Harrington, describing the were-bears in the San Bernardino Mountains:

Once two men who had been hunting somewhere were each bringing a deer on his back down akəŋtsuk Canyon toward məktsuk, these men were punínqat (a Kaiuyam) and kwiánat (a Pəəveatam). At a certain point in the canyon they saw three bears. Punínqat told his companions that they were people as soon as he saw them (Harrington 1986:RI. 101:209).

Mentioning another man he knew, Muhjaqaət, Manuel added:

Those were really people - they turned into bears hoping to kill Muhjaqaət, but he was always smarter than they were. That was the way in the old times- whenever a man prospered they (the bears) wished to kill him. .... Once Muhjaqaət was at tərənka' and saw a bear whom he recognized as a person. He told the bear that he knew who he was as he had his arrow in drawn bow ready to release it, and the bear being afraid, straightaway turned into a man and thus saved himself from being killed (Harrington 1986:RI. 101:209).

He also mentioned that human shamans could assume the form of at least one other kind of animal, the wildcat. Francisco Patencio (1943:69) also mentioned men who could turn into bears. Among southern California native groups living closer to the Pacific Coast, the young native men who worked as vaqueros on ranches during Mission times (early nineteenth century) were sometimes afraid to kill bears out of fear that they might turn out to be their own relatives.

The fact that Huhuj'ava't Mountain was described by Santos as a haunt of the were-bears is very noteworthy, since he does not seem to have described to Harrington other specific localities in Serrano territory where native people believed that the were-bears were likely to appear in numbers .

#### The Eagle Place - Áhəŋəmənat

The mountain ridge bounding Water Canyon on the west was recalled by Santos Manuel as being called Áhəŋəmənat (Harrington 1986:RI. 101:232). He noted that

the name was derived from the Serrano term for Eagle- Áhəŋt. This name is significant because eagles were extremely important religious power symbols for the Serrano, and figured in various of their religious ceremonies. Santos Manuel mentioned two different kinds of eagles, Áhəŋt and Pa'ahəŋt, the latter translatable as 'water eagle', and recalled by him as a white headed eagle that would dive for fish in the Big Bear region (Bean et al. 1981:188-189; Harrington 1986:RI. 101:371,391). These appear to correspond to the Golden Eagle (*Aquila chrysaetos*) and the Bald Eagle (*Haliaeetus leucocephalus*) (California Department of Fish and Wildlife 2017a, 2017b). The former is found more frequently in lower altitude wildlands in California, while the Bald Eagle is associated with montane forests, lakes, and streams.

Different Serrano creation stories recount the arrival from the north of supernatural founding ancestor chiefs, accompanied by a supernatural white eagle with 13 tail feathers and members of the founding clan- either the Marengayam or the Atə'veeatam (Gifford 1918:183-184). Santos Manuel claimed that the Atə'veeatam clan had this white eagle, and that their chief carried this eagle under his arm. He also said that a population of these supernatural white eagles continue to live in the San Bernardino mountains (Harrington 1986:RI. 101:22,137).

The eagle was thus the representation of a supernatural being, Eagle, that had accompanied the founding chief into the area from the north. This belief was widespread among native groups in southern California (McCawley 1996:92-93). Eagle thus became associated with the office of chief. Both live young eagles and eagle feathers were given as offerings to chiefs (Harrington 1986:RI. 101:209).

In ancient times an elaborate eagle sacrifice ceremony was held by each local group or clan. This represented the communication of the Eagle spirit with the afterworld, and also the continuity of the office of chief (*nef*) that Eagle was associated with, and the continuity as well of the local group led by the chief. In more recent times, among the Serrano this ceremony was incorporated into the morning ceremony. Feathers from eagles were used to adorn the images created to represent the deceased during the clan mourning ceremony, and an Eagle Dance was also performed (Benedict 1924:377). The eagle sacrifice ceremony was said to have been first held in the aftermath of the death and cremation of the culture hero Kukitat, known elsewhere in native southern California as Wiyot or Wewyoot (McCawley 1996:93, 165-166).

Eagle feathers were among the most sacred components of the *muurtc*, the clan sacred bundle. The bundle was made from matting that contained sacred objects, including eagle feathers, and it embodied the spiritual essence and identity of the entire clan.

### The Native Cultural Landscape, Traditional Use Areas, and Native Ritual

Important elements of native cultural landscapes, as we have mentioned previously, are traditional use areas. These are areas within a cultural landscape that are known to have been traditionally used by native groups to acquire important resources. These might include localities that provided plant materials for making baskets,

deposits that provided pigments for body paint, meadows that might provide combs like *Calochortus*, or sites where fledgling eagles might be captured. Such places that were remembered in the oral history and recollections of members of native groups as important traditional use areas were often recorded by anthropological researchers. Native people in the past and today have also provided their own testimony about traditional use areas important to their communities, some of which may still be used by tribal members (Earle 2015).

The Wildwood Canyon region contained traditional use areas for rabbit and deer hunting and for acorn harvesting. Santos Manuel described rabbit hunting in the Wildwood Canyon area that took place when he was a child. This he associated with Húhu'javat mountain [Pisgah Peak mountain] (Harrington 1986:RI. 101:180). Since in this case at least some of the hunters were based at the Ju'kaj'pa't settlement in Yucaipa Valley to the west of Áhəŋəmənat mountain, the hunt may have been carried out on the west or Water Canyon side of Húhu'javat mountain. In the Wildwood Canyon region jackrabbits (*Lepus californicus*), brush cottontail rabbits (*Sylvilagus bachmani*), and desert cottontail rabbits (*Sylvilagus Audubonii*) are found, but Serrano accounts of rabbit hunting generally tend to emphasize jackrabbits. Hunting was frequently carried out with nets of plant fiber that when assembled and laid out from individual sections could create a barrier as much as 100 yards wide. Jackrabbits trapped against such barrier nets could be killed with clubs, but were also hunted with throwing sticks (*tukt*) resembling Australian boomerangs (Harrington 1986:RI. 101:24). In addition, hunters who were experts with the bow could hunt them with arrows. This kind of bow hunting of jackrabbits was described by Manuel Santos for the hunting described that took place in Water Canyon. In addition, the burning of brush could also be used to drive rabbits into the open during a hunt, as was done in Water Canyon.

Rabbit hunts that involved an entire community often provided the setting for a nighttime feast that involved dancing and the singing of traditional sacred songs. The hunting of rabbits was also sometimes intended as a means of amassing what was called "witc-at", a ceremonial fund of food presented to the chief presiding over the hunt, that would be later used to feed attendees at an upcoming ceremonial event (Benedict 1924:373-374). Manuel Santos mentioned that there were also ritual actions, sometimes involving the carving or modifying of rock surfaces, that groups of people could perform during a rabbit hunting gathering, in order to improve the prospects of a successful hunt (Harrington 1986:RI. 101:176).

Mule deer (*Odocoileus hemionus*) hunting was also carried out in the Wildwood Canyon area. Santos Manuel noted that these deer were especially abundant in the region around the Húhu'javat mountain [Pisgah Peak mountain] (Harrington 1986:RI. 101:667). They would consume both grasses and forbs on the one hand and browse



on the other, including chaparral plants and interior Live Oak foliage (Innes 2013). Acorns are also a key food resource, so the deer were found in the areas of oak woodland- canyon bottoms and north facing slopes- in the Wildwood Canyon region. Deer were hunted with the bow and arrow. As Santos Manuel described, deer hunters frequently wore antler headdresses tied to the head as a hunting disguise. Community hunts could include both rabbit hunting and deer hunting, with accompanying dancing and songs. In addition, it was reported by Benedict (1924:379) that when a deer hunt was successful, an all-night 'deer ceremony' was held, with singing of sacred songs and dancing.

The interior live oak woodland areas in the canyon bottoms and north facing slopes were also exploited for acorns. This was the most important plant food staple for native people of the region. Santos Manuel noted that the area of the Pisgah Peak mountain and Wildwood Canyon was an important acorn collecting area for native people, thus documenting its importance as a traditional use area (Harrington 1986:RI. 101:665-666). Native settlement occurred in this area, including the upper part of the Wildwood Canyon drainage. In addition, his recollection of the named native spring of pá'uva't in Wildwood Canyon just upstream from the junction of Water Canyon and Wildwood Canyon suggest there was settlement in this area as well. Native occupation of the region would have included the period of acorn harvest in October and early November. Santos Manuel also stated that during periods of heavy winter rainfall in the Húhu'jvat mountain area, people residing there might move down to the clan headquarters village located about a mile and a half south of Wildwood Canyon in the Little San Gorgonio Creek drainage (Harrington 1986:Reel 101:667).

Acorns were first gathered in small quantities at the beginning of the harvest season in a first fruits ceremony. The gathered acorns were processed and turned into meal and ceremonially consumed by members of the local group- this sometimes took place in the harvest camp or settlement. Benedict (1924:374) mentions first-fruits thanksgiving, and Bean and Saubel (1972:125-126) describe a similar ceremony for the neighboring Pass Cahuilla. They note a prohibition against anyone gathering acorns before the first fruits ceremony, with the offender suffering sickness or death. Acorn harvests are also known to have been the occasion for inter-clan fiesta gatherings hosted by the clan group in whose territory acorns were being gathered (Earle 2004). Acorn groves were culturally and spiritually important places for the native groups that exploited them. Local lineages or family groups used specific groves and often left their own processing equipment at these groves. Manuel Santos also suggested that not only the landscape of pine trees found in the San Bernardino Mountains region, but also the landscape of oaks, were the supernaturally transfigured remains of what had been the first people who had mourned the death and cremation of the culture hero Kukitat (Harrington 1986:RI. 101:267)

Serrano settlements, whether temporary camps or more permanent habitation areas, were dependent on processing stored dried acorns on a regular basis, since this was the staple of the daily diet. This meant that it was desirable to have access to bedrock mortars near settlement locations, and necessary to have access to significant quantities of water that were needed to leach the tannic acid out of the prepared acorn meal.

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2017b *Bald Eagles in California*. California Department of Fish and Wildlife, Wildlife Branch- Non-Game Wildlife Program, Sacramento, Ca. <https://www.wildlife.ca.gov/Conservation/Birds/Bald-Eagle>

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**From:** Sara Schmetzer <petition@stophetowernow.org>  
**Sent:** Sunday, September 03, 2017 5:25 PM  
**To:** supervisors@stophetowernow.org  
**Subject:** Stop The Tower Now!

From: Sara Schmetzer  
Subject: Stop The Tower Now!

County of San Bernardino  
Land Use Services Department, Current Planning Division

Attention: Kevin White, Senior Associate Planner, CC: Greg Devereaux, County Administrative Officer 385 N. Arrowhead Avenue, 3rd Floor San Bernardino, CA 92415-00110

James Ramos, 3rd District Supervisor County Government Center  
385 North Arrowhead Avenue, Fifth Floor San Bernardino, CA 92415-00110

Dear Mr. White and Supervisor Ramos:

In 2009 and again in 2012, the communities of Yucaipa and Oak Glen spoke out against the proposed Lazer Broadcasting radio tower project. Our communities continue to strongly oppose this project. In an overwhelming response to Lazer's second attempt to forever spoil the scenic vistas of Wildwood Canyon State Park (the Park), concerned citizens submitted more than 17,000 opposition letters to the Planning Commission. Lazer has falsely told our community that this tower is different and that our concerns have been allayed. Nothing is farther from the truth; this tower is substantially the same as the 2009 proposed tower.

The current proposed Lazer Tower will still result in significant, unavoidable adverse impacts on the scenic resources of the Park. The tower will have substantial adverse effects on the undeveloped scenic vistas, will degrade the visual quality of the Park and its surroundings and upset the natural balance of our rural environment. Hikers, bicyclists and equestrian riders of the Park do not want their unspoiled trails and pristine mountain ridges to be turned into a radio tower broadcast zone.

Additionally, is it vitally important that the natural wilderness values within Wildwood Canyon State Park and the Pisgah Peak Open Space area remain protected. Construction of the radio tower and transmission complex place several threatened animals, birds and plants in danger including the coast horned lizard, western yellow bat, rufous-crowned sparrow and Lawrence goldfinch. Installation of underground utility lines to feed power to the transmission station could impact miles of sensitive vegetation. Rare and threatened species of concern in San Bernardino County must be preserved and protected for future generations.

Now is your opportunity to stop the tower once and for all. I am hopeful that you agree that this project would have an adverse visual impact on Wildwood Canyon State Park, it would have a substantial adverse effect on abutting properties and would be inconsistent with the goals, maps, policies and standards of the General Plan and the Oak Glen Community Plan.

I strongly urge the County of San Bernardino to DENY this project and encourage Lazer to fully evaluate alternative tower locations.

**Sincerely,**

**Sara Schmetzer**

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**Sincerely,**

**Eric Ewalt**

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**From:** Winston Dale Martin <petition@stophetowernow.org>  
**Sent:** Friday, September 01, 2017 1:41 PM  
**To:** supervisors@stophetowernow.org  
**Subject:** Stop The Tower Now!

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Sincerely,

Winston Dale Martin

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**From:** Mark wiseman <petition@stophetowernow.org>  
**Sent:** Friday, September 01, 2017 8:44 PM  
**To:** supervisors@stophetowernow.org  
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**Sincerely,**

**Mark wiseman**

---

**From:** Steve Wiseman <petition@stopthetowernow.org>  
**Sent:** Friday, September 01, 2017 11:53 PM  
**To:** supervisors@stopthetowernow.org  
**Subject:** Stop The Tower Now!

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Subject: Stop The Tower Now!

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Land Use Services Department, Current Planning Division

Attention: Kevin White, Senior Associate Planner, CC: Greg Devereaux, County Administrative Officer 385 N. Arrowhead Avenue, 3rd Floor San Bernardino, CA 92415-00110

James Ramos, 3rd District Supervisor County Government Center  
385 North Arrowhead Avenue, Fifth Floor San Bernardino, CA 92415-00110

Dear Mr. White and Supervisor Ramos:

In 2009 and again in 2012, the communities of Yucaipa and Oak Glen spoke out against the proposed Lazer Broadcasting radio tower project. Our communities continue to strongly oppose this project. In an overwhelming response to Lazer's second attempt to forever spoil the scenic vistas of Wildwood Canyon State Park (the Park), concerned citizens submitted more than 17,000 opposition letters to the Planning Commission. Lazer has falsely told our community that this tower is different and that our concerns have been allayed. Nothing is farther from the truth; this tower is substantially the same as the 2009 proposed tower.

The current proposed Lazer Tower will still result in significant, unavoidable adverse impacts on the scenic resources of the Park. The tower will have substantial adverse effects on the undeveloped scenic vistas, will degrade the visual quality of the Park and its surroundings and upset the natural balance of our rural environment. Hikers, bicyclists and equestrian riders of the Park do not want their unspoiled trails and pristine mountain ridges to be turned into a radio tower broadcast zone.

Additionally, is it vitally important that the natural wilderness values within Wildwood Canyon State Park and the Pisgah Peak Open Space area remain protected. Construction of the radio tower and transmission complex place several threatened animals, birds and plants in danger including the coast horned lizard, western yellow bat, rufous-crowned sparrow and Lawrence goldfinch. Installation of underground utility lines to feed power to the transmission station could impact miles of sensitive vegetation. Rare and threatened species of concern in San Bernardino County must be preserved and protected for future generations.

Now is your opportunity to stop the tower once and for all. I am hopeful that you agree that this project would have an adverse visual impact on Wildwood Canyon State Park, it would have a substantial adverse effect on abutting properties and would be inconsistent with the goals, maps, policies and standards of the General Plan and the Oak Glen Community Plan.

I strongly urge the County of San Bernardino to DENY this project and encourage Lazer to fully evaluate alternative tower locations.

Sincerely,

Steve Wiseman

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**From:** Kathy Ewalt <petition@stophetowernow.org>  
**Sent:** Sunday, September 03, 2017 5:25 PM  
**To:** supervisors@stophetowernow.org  
**Subject:** Stop The Tower Now!

From: Kathy Ewalt  
Subject: Stop The Tower Now!

County of San Bernardino  
Land Use Services Department, Current Planning Division

Attention: Kevin White, Senior Associate Planner, CC: Greg Devereaux, County Administrative Officer 385 N. Arrowhead Avenue, 3rd Floor San Bernardino, CA 92415-00110

James Ramos, 3rd District Supervisor County Government Center  
385 North Arrowhead Avenue, Fifth Floor San Bernardino, CA 92415-00110

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I strongly urge the County of San Bernardino to DENY this project and encourage Lazer to fully evaluate alternative tower locations.



Sincerely,

Kathy Ewalt

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**From:** Sallie Evans <petition@stopthetowernow.org>  
**Sent:** Sunday, September 03, 2017 5:26 PM  
**To:** supervisors@stopthetowernow.org  
**Subject:** Stop The Tower Now!

From: Sallie Evans  
Subject: Stop The Tower Now!

County of San Bernardino  
Land Use Services Department, Current Planning Division

Attention: Kevin White, Senior Associate Planner, CC: Greg Devereaux, County Administrative Officer 385 N. Arrowhead Avenue, 3rd Floor San Bernardino, CA 92415-00110

James Ramos, 3rd District Supervisor County Government Center  
385 North Arrowhead Avenue, Fifth Floor San Bernardino, CA 92415-00110

Dear Mr. White and Supervisor Ramos:

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Additionally, is it vitally important that the natural wilderness values within Wildwood Canyon State Park and the Pisgah Peak Open Space area remain protected. Construction of the radio tower and transmission complex place several threatened animals, birds and plants in danger including the coast horned lizard, western yellow bat, rufous-crowned sparrow and Lawrence goldfinch. Installation of underground utility lines to feed power to the transmission station could impact miles of sensitive vegetation. Rare and threatened species of concern in San Bernardino County must be preserved and protected for future generations.

Now is your opportunity to stop the tower once and for all. I am hopeful that you agree that this project would have an adverse visual impact on Wildwood Canyon State Park, it would have a substantial adverse effect on abutting properties and would be inconsistent with the goals, maps, policies and standards of the General Plan and the Oak Glen Community Plan.

I strongly urge the County of San Bernardino to DENY this project and encourage Lazer to fully evaluate alternative tower locations.

**Sincerely,**

**Sallie Evans**

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**Sent:** Thursday, May 18, 2017 5:32 AM  
**To:** White, Kevin - LUS  
**Subject:** Letter of opposition from Citizens for the Preservation of Rural Living



Dear Board of Supervisors:

In 2009 and again in 2011, the communities of Yucaipa and Oak Glen spoke out against the proposed Lazer Broadcasting radio tower project. Our communities continue to strongly oppose this project. In an overwhelming response to Lazer's second attempt to forever spoil the scenic vistas of Wildwood Canyon State Park (the Park), concerned citizens submitted 17,000 opposition letters to the Planning Commission. Lazer has falsely told our community that this tower is different and that our concerns have been allayed. Nothing is farther from the truth; this tower is substantially the same as the 2009 proposed tower.

In 2009, you overturned the Planning Commission and voted unanimously to deny an almost identical project by Lazer Broadcasting. We are asking that you do this once again to represent the interests of your constituents.

Allowing this tower creates a slippery slope that could result in future radio towers being built along the scenic viewsheds of the Park. Hikers, bicyclists and equestrian riders of the Park do not want their unspoiled trails and pristine mountain peaks to be turned into a radio tower farm. The current proposed Lazer Tower will still result in significant, unavoidable adverse impacts on the scenic resources of the Park. The tower will have substantial adverse effects on the undeveloped scenic vistas, will degrade the visual quality of the Park and its surroundings and upset the natural balance of our rural environment.

The proposed Lazer project could likely be the source of fire that will threaten adjacent residential structures and the apple orchards of Oak Glen. The project is located in Fire Safety Area 1 which is characterized by high fire hazard conditions and important County fire regulations have not been complied with.

Construction of the radio tower and transmission complex place several threatened animals, birds and plants in danger including the coast horned lizard, western yellow bat, rufous-crowned sparrow, and Lawrence goldfinch. Installation of underground utility lines to feed power to the transmission station could impact miles of sensitive vegetation. Rare and threatened species of concern in San Bernardino County must be preserved and protected for future generations.

We strongly encourage you grant the appeal and deny the project as it would have an adverse visual impact on Wildwood Canyon State Park, it would have a substantial adverse effect on abutting properties and would be inconsistent with the goals, maps, policies and standards of the General Plan and the Oak Glen Community Plan.

I strongly urge the County of San Bernardino to DENY this project and encourage Lazer to fully evaluate alternative tower locations.

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**From:** Lijin Sun [mailto:L.Sun@aqmd.gov]  
**Sent:** Wednesday, September 06, 2017 6:01 PM  
**To:** White, Kevin - LUS <Kevin.White@lus.sbcounty.gov>  
**Cc:** Jillian Wong <jwong1@aqmd.gov>; Todd Warden <twarden@aqmd.gov>  
**Subject:** Lazer Broadcasting Facility (Project No. P201000215)

Mr. White,

SCAQMD staff received a public hearing notice for the proposed Lazer Broadcasting Facility (Project No. P201000215) (Proposed Project) (SCAQMD IGR Control Number: SBC170901-07). I understand that the San Bernardino County Board of Supervisors will consider the certification of the Final EIR for this Proposed Project on September 7, 2017 at 9 a.m.

As a CEQA commenting agency, SCAQMD staff reviews and may comment on the CEQA documents. Our goal is to ensure that project emissions and health risk impacts are adequately and sufficiently evaluated, disclosed, and mitigated to the maximum extent feasible. SCAQMD staff provided comments on the Notice of Preparation on November 12, 2014, available at: <http://www.aqmd.gov/docs/default-source/ceqa/comment-letters/2014/november/noplazer.pdf>. However, we have no record to show that the Draft EIR was provided to us for review. In the future, please provide the CEQA documents to SCAQMD staff for review.

Thank you,  
Lijin Sun, J.D.  
Program Supervisor, CEQA IGR  
South Coast Air Quality Management District  
21865 Copley Drive, Diamond Bar, CA 91765  
Direct: (909) 396-3308  
Fax: (909) 396-3324

Undergraduate Studies  
Educational Support Programs

October 25, 2017

Kevin White, Senior Planner and  
San Bernardino Planning Commission  
Land Use Services Department  
385 N. Arrowhead Avenue, 1st Floor  
San Bernardino, CA 92415-0182

RE: Lazer Radio Project APN: 0325-011-19; Project Number: P200700557

Dear Mr White and Planning Commission Members,

I am writing in support of the expansion project proposed by Lazer Broadcasting Corporation in the unincorporated community of Oak Glen, California. KXRS-FM (Radio Lazer) is proposing to build a 45-foot monopole, with antennae attached, on a 38-acre parcel owned by Mr. Alfredo Plascencia. This modest expansion project will increase their service area with a potential to reach up to 2 million residents in the Inland Empire, which is critical during a natural disaster---as in the Northern California wildfires and the broadly expected major earthquakes.

Mr. Plascencia and his family have shown a great deal of support to local and regional members of the San Bernardino County community. Lazer Broadcasting has a similar station licensed to the Big Bear area and is well known and widely accepted in San Bernardino County communities.

Radio Lazer's broadcast is a primary source of public service announcements, news, education, and entertainment to and for the Spanish-speaking community. In addition, Lazer Broadcasting is active with local charities and family oriented organizations to promote their services with remote broadcasts. With this expansion, more residents of the Inland Empire can enjoy and benefit from the services currently offered by Lazer Broadcasting.

Due to Mr. Plascencia and his family's proven charitable track record and the safety and general information and entertainment that the expansion project promises to provide area residents, I urge your approval of Lazer Broadcasting Corporation's proposal.

Sincerely,



Tom M. Rivera, Ed.D.  
Emeritus, Associate Dean  
Undergraduate Studies

cc: Paul F. Smith, Chair  
SB County Planning Commission

cc: Terri Rahhal, Planning Director  
Bart Brizzee, County Counsel

909.537.5044 • fax: 909.537.5645

5500 UNIVERSITY PARKWAY, SAN BERNARDINO, CA 92407-2393





## Chatten-Brown & Carstens LLP

2200 Pacific Coast Highway, Suite 318

Hermosa Beach, CA 90254

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

[jrcb@cbcearthlaw.com](mailto:jrcb@cbcearthlaw.com)

### Hermosa Beach Office

Phone: (310) 798-2400

Fax: (310) 798-2402

### San Diego Office

Phone: (858) 999-0070

Phone: (619) 940-4522

September 27, 2017

*By FedEx*

County of San Bernardino Planning Commissioners  
385 N. Arrowhead Ave., 1st Floor  
San Bernardino, CA 92415

**Re: Legal Deficiencies of the Final Environmental Impact Report for Lazer  
Radio Broadcasting Facility**

Dear Honorable Planning Commissioners:

The law firm of Chatten-Brown & Carstens represents Citizens for the Preservation of Rural Living (CPRL) on matters relating to the proposal by Lazer Broadcasting to build a new radio broadcast facility (“Project”) adjacent to Wildwood Canyon State Park. CPRL is a public interest association that seeks to ensure that the open space and natural wilderness values of the Pisgah Peak and Wildwood Canyon State Park areas are preserved.

Chatten-Brown & Carstens represented CPRL in its successful challenge to the County’s adoption of a Mitigated Negative Declaration (MND) for the Project. CPRL challenged the MND’s analysis of visual and recreational impacts, land use impacts, and fire impacts, and the trial court concluded the County’s analysis was legally deficient with regard to all three legal issues. The trial court ordered the County to prepare an environmental impact report (EIR) for the project. The Court of Appeal affirmed the trial court’s judgment.

Unfortunately, as discussed below, the Final EIR suffers from numerous errors, flaws, and omissions resulting in a legally inadequate environmental review. Since an inadequate EIR was prepared for the Project, we urge the Planning Commission to deny certification of the EIR and direct the County to prepare a legally adequate revised Draft EIR, which would then be recirculated for public review.

**1. The County's Failure to Prepare a Comprehensive EIR Analyzing All Potential Significant Effects Is Fatal to the Final EIR.**

The County erroneously contends that all issues other than those addressed in the EIR were either addressed in the previously prepared MND or “not addressed and thus waived in the writ of mandate proceedings.” The Final EIR states:

Many of the comments submitted ... asked questions already addressed in the Initial Study/Mitigated Negative Declaration dated October 26, 2011 ... In October 2013, the Superior Court required the County to further evaluate and prepare a focused EIR on the potentially significant issues limited to: Aesthetics, Land Use, Hazards (Fire Safety), and Recreation. All other issues were either determined to be have been adequately addressed in the Initial Study/Mitigated Negative Declaration or were not addressed and thus waived in the writ of mandate proceedings.

(Final EIR, p. 2-2, emphasis added.) The September 7, 2017 Planning Commission Staff Report expands on this argument:

**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.

(September 7, 2017 Planning Commission Staff Report, p. 9.)

The County is wrong. The trial court did not direct the County to prepare a focused EIR limited to four issues. Rather, the trial court agreed with CPRL that substantial evidence in the record supported a fair argument that significant effects in these four areas may occur. The trial court ruled as follows:

Grant the writ petition to vacate approval of the subject mitigated negative declaration, conditional use permit, and major variance. Require the County to undertake an EIR on the proposed project.

(Ruling on Petition for Writ of Mandate, p. 38.)

Public Resources Code section 21168.9 provides that when a public agency's decision, determination, or finding does not comply with CEQA, a peremptory writ of mandate must issue containing one or more of the following mandates:

- (1) A mandate that the determination, finding, or decision be voided by the public agency, in whole or in part.
- ...
- (3) A mandate that the public agency take specific action as may be necessary to bring the determination, finding, or decision into compliance with [CEQA].

(Pub. Resources Code, § 21168.9, subd. (a), emphasis added.)

Under Public Resources Code Section 21168.9, subd. (b), a court *must* make three specific findings prior to issuing a “limited writ” of the type the County contends the trial court issued: “(1) [T]he portion or specific project activity or activities are severable, (2) severance will not prejudice complete and full compliance with [CEQA], and (3) the court has not found the remainder of the project to be in noncompliance with [CEQA].” Without valid severability findings, a CEQA writ may not be limited to only a “portion of a determination, finding, decision or the specific project activity or activities found to be in noncompliance” with CEQA. (*Ibid.*) The trial court did not make any such severability findings.

Clearly, the trial court ordered the MND be voided in whole, and that an EIR be prepared. The trial court did not authorize a limited-scope EIR. Therefore, the County improperly omitted important analysis in its EIR.

An unpublished Court of Appeal opinion rejects the argument the County now advances. In *Deltakeeper v. S. San Joaquin Irr. Dist.*, No. C051432, 2006 WL 3059829, the agency – the South San Joaquin Irrigation District (SSJID) – claimed that it could prepare a partial EIR after the trial court set aside the MND it had previously prepared. The Court of Appeal concluded this approach was improper:

SSJID cites no authority interpreting these provisions as allowing SSJID to prepare a partial EIR addressing groundwater only and relying on the trial

court's judgment in this case as a reason for not discussing other effects. We do not know what evidence or public comments may be presented during the EIR process. The case cited by SSJID-*Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 11 Cal.Rptr.3d 104-is inapposite because there the water agency *did* prepare an EIR, the EIR was the subject of the litigation, the trial court found the agency had complied with CEQA, and on appeal we determined the EIR was defective in only one respect. (*Id.* at pp. 1105, 1112, 11 Cal.Rptr.3d 104.) Under those circumstances, the agency was not required “to start the EIR process anew. Rather, the Agency need only correct the deficiency in the EIR ... before considering recertification of the EIR.” (*Id.* at p. 1112, 11 Cal.Rptr.3d 104.) Here, SSJID has not yet prepared any EIR.

(*Deltakeeper v. S. San Joaquin Irr. Dist.*, No. C051432, 2006 WL 3059829, at \*7 (Cal. Ct. App. Oct. 30, 2006).)

While the County evidently believes the MND previously prepared is still relevant to the environmental analysis, the California Supreme Court explained, “It is of no consequence whether the [agency] believed that the prior MND remained ‘wholly relevant.’” (*Friends of the Coll. of San Mateo Gardens v. San Mateo Cty. Cmty. Coll. Dist.* (2017) 11 Cal. App. 5th 596, 608.)

## **2. The County’s Decision to Prepare A Limited Scope EIR Resulted In the Failure to Consider Tribal Cultural Resources.**

“If an EIR fails to include relevant information and precludes informed decisionmaking and public participation, the goals of CEQA are thwarted and a prejudicial abuse of discretion has occurred.” (*Save our Peninsula Comm. v. Monterey Cty. Bd. of Supervisors* (2001) 87 Cal. App. 4th 99, 128.) Where relevant information is omitted from an EIR, the error is prejudicial. (*County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 946.)

Here, the County’s decision to not prepare a full EIR resulted in the County not analyzing the Project’s impacts on tribal cultural resources. The Cultural Study prepared by David Earle and the opposition letter from the San Manuel Band of Mission Indians demonstrate that tribal cultural resources constitutes relevant information, and this information was improperly omitted from the EIR.

**3. The EIR's Alternatives Analysis is Legally Inadequate.**

**a. The EIR Fails to Consider Feasible Alternatives.**

“[T]he duty of identifying and evaluating potentially feasible project alternatives lies with the proponent and the lead agency, not the public.” (*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal. 3d 553, 568.) “Nowhere in CEQA ... is there a provision that this duty is conditional on a project opponent coming forward with a documented alternative.” (*Laurel Heights Improvement Assn. v. Regents of Univ. of California* (1988) 47 Cal. 3d 376, 406.)

Nonetheless, CPRL submitted an Engineering Statement, as well as a presentation, prepared by Goldman Engineering Management. The presentation identified six alternative site locations. These alternative locations satisfy the project's reasonable objectives.

**b. The EIR Rejects Feasible Alternatives on the Basis of Improperly Restrictive Project Objectives.**

The DEIR states:

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.

(DEIR, p. 6-10)

The DEIR also states,

However the “Other Location Alternative” would not meet the Project's objective of: 1) Contributing to the expansion of Wildwood Canyon State Park (WCSP) through the implementation of a passive, non-active land use; and 2) Creating 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 close to four percent of the current WCSP land area.

...  
“the ‘Other Location Alternative’ although still subject to potentially greater aesthetic impacts, appears to be the environmentally superior alternative of the two considered.”

(DEIR, p. 1-14.)

The California Supreme Court has explained, “Under CEQA, the public agency bears the burden of affirmatively demonstrating that . . . the agency’s approval of the proposed project followed meaningful consideration of alternatives and mitigation measures.” (*Mountain Lion Foundation v. Fish and Game Commission* (1997) 16 Cal.4th 105, 134.) “One of [an EIR’s] major functions ... is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official.” (Laurel Heights I, 47 Cal.3d at 400.) While “[a]n EIR need not consider every conceivable alternative to a project, ‘it must consider ‘a reasonable range of potentially feasible alternatives...’” (Guidelines § 15126.6(a).)

This EIR considers a limited range of alternatives, analyzing only two potentially feasible alternatives – a “No Project/Single-Family Residence Development” and one “Other Location Alternative.” The EIR rejects the “Other Location Alternative” on the basis that it does not meet the Project’s objectives of contributing to the expansion of the Park and creating long-term buffering of land uses near the Park. However, the EIR fails to explain how developing this Project within pristine wilderness adjacent to a State Park helps the Park expand and/or protects the Park.

#### **4. The EIR’s Land Use and General Plan Consistency Analysis Is Insufficient.**

In response to Lazer’s claim in the October 2011 Initial Study and Mitigated Negative Declaration (MND) that “the project will not conflict with any applicable land use plan, policy” because the developer has agreed to provide an open space easement to the Wildwood Canyon Park and relinquish future development rights for the greater portion surrounding the parcel,” the trial court said:

However, no analysis is provided to support this conclusion in light of prior findings that made reference to General Plan Goal LU2 and Oak Glen Community Plan goals related to preserving and improving the open space corridor and scenic vista attached to the Wildwood Canyon State Park, including Pisgah Peak. The property at issue is undeveloped land "in a pristine wilderness area." Given the prior findings, a fair argument in support of an inconsistency still exists, even if the proposed Project would

"disturb only a small portion of the 38.12 acre parcel" and Lazer agrees to provide a open space easement to the Park. Construction including a monopole, equipment shelter, and fencing are proposed in the area intended to provide a "pristine wilderness experience to park visitors." Substantial evidence supports a fair argument the Project is inconsistent with the applicable General Plan and Oak Glen Community Plan policies.

(Ruling, p. 31.)

The DEIR acknowledges, "The Proposed Project is in direct conflict with the goal and policies of the County of San Bernardino General Plan and the Oak Glen Community Plan." Yet, the County claims that the impact is "less than significant" after the implementation of the following mitigation measure:

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).

(DEIR, p. 1-20.)

The County failed to provide any substantive analysis as to why deed restricting the unused portion of the project site reduces the project's inconsistency with the Plan policies to a "less than significant" level. This omission is surprising in light of the fact that the trial court focused on the fact that no analysis was initially provided in the MND to support the same conclusion the County now makes in the Draft EIR.

Moreover, the County's responses to comments are inadequate. The County fails in the Final EIR to reconcile the trial court's conclusion that a fair argument exists of an inconsistency with General Plan Goal LU2 and Oak Glen Community Plan goals, even with the open space easement to the Park. Rather than locating the Project in an alternative location that would not result in this inconsistency, the County instead repeatedly argues that the installation of the radio tower "allows for passive use of the property; without the Project, the public use of this undeveloped land would not be possible." (FEIR, p. 3-14.) The notion that visitors to Wildwood Canyon State Park would visit a pristine wilderness area and elect to hike or horseback ride immediately adjacent to the radio tower strains credulity.



**5. The EIR Fails to Adequately Analyze the Project's Visual Impacts.**

The trial court stated:

The facts remains that the Project site and monopole is visible from the State Park, which contradicts the State Park's goal of providing a pristine wildlife experience to users and the objective of a BLM Class 1 area: to preserve the existing character of the landscape.

(Ruling, p. 22.)

The Court of Appeal stated:

In assessing the potential significance of an impact, setting is critical ... It is undisputed the project site is undeveloped pristine ridgeline wilderness adjacent to a state wilderness park. The Lilburn studies conceded the project site must be treated as a BLM Class I Visual Resource, like National Wilderness Areas and wild sections of National Wild and Scenic Rivers, and as such an area designated for preservation of a natural landscape. Any change to the character of the landscape must be "very low and must not attract attention."

(Opinion, p. 22.)

The DEIR does not refer to the BLM visual resource classification. Rather, the DEIR uses a different classification, focusing on the scenic value of a landscape:

The relative scenic value of a landscape is classified as: Class A - distinctive; Class B - typical; and Class C - indistinctive. The scenic attractiveness of the Project Site area set within an unincorporated area of San Bernardino County near the eastern portion of the City of Yucaipa is Class B.

(DEIR, p. 4.1-20.) The DEIR further explains:

The overall scenic integrity from the four (4) viewpoints selected and analyzed in the 2012 Scenic Report within the Wildwood Canyon State Park would not change and would remain at Moderate/Low levels for all views meeting the L[and] M[anagement] P[lan's] Aesthetic Management Standards.

(DEIR, p. 4.1-22.)

Similar to the previous simulations conducted, the photographs and simulations in the DEIR were taken from mostly distant viewpoints. These include photographs at 1.5 mile, 1.4 mile, approximately 1 mile, and approximately 1200 feet.

The DEIR states that portions of the Proposed Project would be visible along portions of trails within the Park. (DEIR, p. 4.1-2.) This is inconsistent with the analysis in the MND, which said that the Project would be visible from 2/3 of the park. The Final EIR fails to address or reconcile this inconsistency.

The DEIR states that the aesthetic impacts of the project are “potentially significant” before mitigation, but “less than significant” after mitigation. (DEIR, p. 1-15.) Later, the DEIR states:

Since the Project would not have a significant number of views, would not create a significant change in the landscape and is considered a less intense land use than what could potentially be developed onsite (i.e., single-family unit and related uses), impacts are considered less than significant. However due to the sensitive receptors in the area including single-family residences and trail users, potential impacts may be considered significant and should be reduced ... 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, *emphasis added.*)

After first stating that the visual impacts of the project are “less than significant” after mitigation (DEIR, p. 1-15), the EIR concludes that the visual impacts are “significant and unavoidable” (DEIR, p. 4.1-25). The DEIR fails to reconcile this disparity, and when this disparity was brought to the County’s attention in comments on the Draft EIR, the Final EIR failed entirely to respond to CPRL’s concern.

## **6. The EIR’s Erosion/Safety Impacts Are Inadequately Analyzed.**

The DEIR provides the following Site Standards for slopes with a weighted natural gradient of 30% - 40%:

Development within this category shall be restricted to those sites where it can be demonstrated that safety will be maximized while environmental and aesthetic impacts will be minimized. Use of large parcels, variable setbacks, and variable building structural techniques (e.g., stepped

foundations) shall be expected. Extra erosion control measures may be included as conditions of approval.

(DEIR, p. 4.5-7.)

The DEIR also provides:

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.

(DEIR, p. 4.5-10.)

The EIR's conclusion that "there are no slopes greater than 40 percent" is not supported by the evidence in the record. An EIR must disclose the evidence supporting its conclusions, thereby showing the logical path from facts to conclusions. Merely stating that a "review of the project site and project plans" confirms that the slopes are not steeper than 37.5% is not supported.

#### **7. The EIR Fails to Adequately Consider the Project's Growth Inducing / Cumulative Impacts.**

In its ruling, the trial court explained:

With respect to growth-inducing impacts, the evidence presented demonstrate that Lazer has stated that its goal is to promote the expansion of its radio station through the implementation of "a passive - not active" land use. It stated, "As a passive land use - Broadcast Towers have been implemented in many CA State Parks." (AR 5:196:3365.) Lazer also presented evidence of such towers in other parks. (AR 4:131 :2525.)

The EIR states:

Based upon the plans, policies, and building guidelines associated with the County of San Bernardino General Plan, Development Code, and the Oak Glen Community Plan, much of the area surrounding the Proposed Project could not be developed with additional broadcast towers as steep terrain and limited access from Pisgah Peak Road becomes a development limiting factor.

(DEIR, p. 5-3.)

The DEIR assumes that up to seven (7) additional broadcast towers could be developed within the cumulative project area, even after including criteria that may apply to the land here (e.g. elimination of lands exceeding the 40 percent slope development requirements).

The DEIR also states:

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 and due to power source availability. Therefore, cumulative impacts to aesthetic resources would not be considered significant.

(DEIR, p. 5-7.)

The EIR's claim that much of the area surrounding the Proposed Project could not be developed with additional broadcast towers due to the steep terrain and limited access from Pisgah Peak Road is belied by the project proponent's current attempt to develop a broadcast facility in an area of steep terrain with limited access to Pisgah Peak Road.

Further, seven additional towers in the vicinity would have a significant visual impact. Moreover, the County fundamentally misunderstands cumulative impacts, claiming that "project-specific mitigation measures for any other future tower development ... would ensure that any potentially significant aesthetic related impacts would be mitigated individually and therefore cumulatively." (DEIR, p. 5-7.) Even assuming that the project's impacts are mitigated (and not significant and unavoidable), a minor impact individually could have a significant impact when considering all of the projects. The term "cumulative impacts" refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214.) Cumulative impact analysis "assesses cumulative damage as a whole greater than the sum of its parts." (*Irritated Residents*, 107 Cal.App.4th at p. 1403, *emphasis added*.)

**Conclusion**

The Final EIR fails to adequately analyze land use impacts, including General Plan consistency; visual impacts; alternatives; erosion/safety impacts; and growth inducing impacts. A Revised Draft EIR must be prepared to correct the errors described above and examine other alternatives. Finally, this Project may not legally proceed in the present location unless the County amends its General Plan to eliminate the protections for the open space corridor and scenic vista attached to the Wildwood Canyon State Park, including Pisgah Peak.

Thank you for your consideration of these important issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Josh Chatten-Brown". The signature is stylized and written in a cursive-like font.

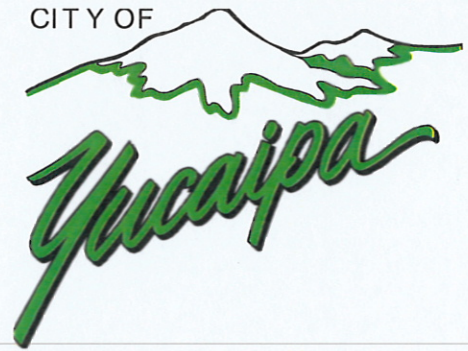
Josh Chatten-Brown  
*Attorney for Citizens for the  
Preservation of Rural Living*

cc:

Jean Rene Basle  
County Counsel  
E-mail: [jbasle@cc.sbcounty.gov](mailto:jbasle@cc.sbcounty.gov)



September 6, 2017



Kevin White, Senior Planner  
Current Planning Division  
Land Use Services Department  
County of San Bernardino  
385 N. Arrowhead Avenue, 1<sup>st</sup> Floor  
San Bernardino, CA 92415 - 0182

**Regarding: Lazer Radio Broadcasting Facility Notice of Public Hearing (Project No. P201000215)**

Thank you for the public hearing notice for the above-referenced project. Concerns for the City of Yucaipa are included in the staff report dated November 26, 2012, Resolution 2012-71, and correspondence dated September 29, 2010 and September 19, 2012, which were attached to the City's DEIR comments that were provided on July 20, 2016 (attached). A signed copy of Resolution 2012-71, adopted by the Yucaipa City Council opposing the Lazer Radio Broadcasting facility, was also submitted for your records and should already be included in the Administrative Record. In addition, the City provided additional comments regarding the inadequacy of the Final EIR on April 11, 2017, which are attached for reference. The concerns continue to be valid, and the City requests that the County deny the proposed Project.

In addition, the City has reviewed the testimony provided by the Board of Supervisors on April 18, 2017, which ultimately lead to the denial of the Project as a result of a no majority vote. However, some of the comments presented in favor of the Project are of great concern to City, and are discussed below:

**Pristine Environment:**

The comments made by Supervisor Gonzales during the public hearing related the proposed Project to the Serendipity wedding venue Project, which was presented as another public hearing item directly before the subject Project at the Board of Supervisors' meeting on April 18, 2017. Specifically, the comments argued that it was improper for the County to support one business and not another, and that the impacts from Serendipity would alter the "pristine environment" for the subject property. The City would like to clarify that aside from the two Projects being located within the Oak Glen community designation, there is absolutely no relationship between the two projects. Serendipity is an existing wedding venue located adjacent to existing urban development, including a number of residences. The proposed Project is located in a more remote location, directly adjacent to the California State Park, approximately a mile away from Serendipity, and is separated by a number of ridgelines and valleys from the Serendipity location. As a consequence, the visual character for each site is *significantly* different. The City



disagrees with the argument that the new visual character resulting from a modification of the Serendipity site has somehow reduced the pristine environment for the Lazer Radio site. Additionally, the City considers that such an argument could be used to set a precedent of future towers in the vicinity. If the County argues that separate project a mile away, with uniquely different settings, has somehow degraded the visual environment near the tower, then once the tower is constructed, future towers could be permitted since the location "is no longer pristine," as stated by the Supervisor. The City strongly contests the argument presented.

**Adequacy of EIR:**

Supervisor Hagman's comments during the public hearing noted that he felt that the EIR prepared was adequate. As noted in the City's correspondence on July 20, 2016 and April 11, 2017, the City contends that the EIR falls short in many regards, including: Project objectives, aesthetics, biological impacts from fire safety, cumulative and growth inducing impacts, and its alternative analysis.

**Public Comments:**

As noted in the presentation provided by County Staff during the Board of Supervisor meeting of April 18, 2017, staff noted that the proposed Project has had over 17,000 pieces of correspondence in opposition to the Project. In addition, each of the local conservancy organizations within the vicinity of the project has also provided testimony in opposition of the Project. The City requests that the County observe that the individuals, organizations, and the City, all of which are stakeholders that would be impacted by the Project, are against approval of the proposed Project at this particular location. Instead, there are other locations that would meet the needs of the application without the detrimental impacts to a pristine environment. As noted in the City's comments regarding the environmental review, the City disagrees that the alternatives analysis provides an effective metric for decision makers to accurately assess the merits of this project and compare environmental impacts and to provide an effective discussion on an environmentally superior project.

**Conclusion:**

The City of Yucaipa would like to reiterate that it opposes the Project, and requests that the County Planning Commission and Board of Supervisors deny the Project. Expansion of the radio station can be accomplished without the unnecessary degradation of the scenic nature of the proposed Project site. Further, if this facility is constructed, it is almost certain that the County will receive additional applications for more communication towers and/or co-located facilities and therefore, the cumulative impacts/growth inducing impacts associated with this project also must be considered as significant.

If you have any questions, please feel free to contact me at 909-797-2489 x.247 or [ptoomey@yucaipa.org](mailto:ptoomey@yucaipa.org).

Sincerely,



CITY OF YUCAIPA



Paul Toomey  
Director of Community Development

Attachments:

July 20, 2016 DEIR Comments  
April 11, 2017 FEIR Comments

cc: City Council  
Ray Casey, City Manager



# THE WILDLANDS CONSERVANCY

*Behold the Beauty*

Mr. Kevin White, Project Planner  
San Bernardino County Land Use Services Department  
Planning Division  
385 N. Arrowhead Avenue, First Floor  
San Bernardino, CA 92415-0182

September 1, 2017

**RE: Project - Radio Tower Application  
Lazer Parcel - APN 0325-011-19-0000**

Dear Mr. White:

Founded in 1995, The Wildlands Conservancy is dedicated to preserving the beauty and biodiversity of the earth and to providing programs so that children may know the wonder and joy of nature. In working to achieve this mission, TWC has established the largest nonprofit nature preserve system in California, comprised of fifteen preserves encompassing 147,000 acres of diverse mountain, valley, desert, river, and oceanfront landscapes. These preserves are open to the public free of charge for passive recreation, including camping, hiking, picnicking, birding, and so much more.

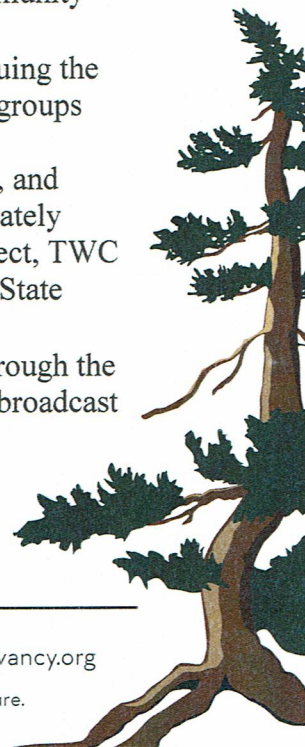
Ultimately, saving our treasured landscapes from development means educating and instilling a love for nature in future generations. For this reason, TWC is also the state's nonprofit leader in providing free outdoor education opportunities for California youth. Through these programs and our reverent stewardship of preserves—visited by nearly half a million people per year—we foster a love and respect for life in all of its magnificent forms.

TWC has been active for close to 20 years in the Yucaipa and Oak Glen communities promoting conservation values and purchasing land for public enjoyment and open-space purposes. TWC is frequently recognized as a resource in the community relating to open-space issues. Because of this reputation, TWC is specifically mentioned in the Oak Glen Community Plan policies and goals:

- Policy OG/OS 1.2: County is committed to supporting and actively pursuing the expansion of WCSP, including cooperation with open space community groups such as The Wildlands Conservancy and Yucaipa Valley Conservancy.

TWC owns several thousand acres of land in the Oak Glen and Pisgah peak area, and thus has a keen interest in the Lazer radio tower project that may be constructed immediately adjacent to Wildwood Canyon State Park. In reviewing the Draft EIR for the Lazer project, TWC noted that the following project objectives were included relating to Wildwood Canyon State Park:

- Contribute to the expansion of Wildwood Canyon State Park (WCST) through the implementation of a passive, not active, land use. As a passive land-use, broadcast towers have been implemented in many CA 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 close to 4% of the current WCSP land area.

As one of the two Conservancy's specifically mentioned in the Oak Glen Community Plan policy OG/OS 1.2, TWC feels an obligation to comment on these supposed "goals" of the Lazer tower project. TWC has consistently opposed the Lazer radio tower, because that radio tower is incompatible with the surrounding open spaces of Wildwood Canyon State Park, as well as other lands owned by open-space conservancies, including TWC. Having monitored the Lazer tower project since 2008, it is clear that the goal of the project is to expand coverage of Lazer's radio station, regardless of broad and vast community opposition to the project where over 17,000 citizens wrote letters or signed petitions in opposition to this radio tower project.

TWC does not believe Lazer's business desire is to expand the audience of its radio tower into a supposed "goal" of expanding Wildwood Canyon State Park. It is clear to TWC that rather than facilitating expansion of the park, the radio tower will actually prevent it. It is our understanding that Yucaipa Valley Conservancy and Citizens for the Preservation of Rural Living own property in the surrounding area, which they intend to eventually dedicate as open-space and incorporate into the Wildwood Canyon State Park. However, by building a radio tower, equipment shed, fencing, and parking space in the middle of these open-space lands, that expansion of the park will be marred by the radio tower project. It is inconceivable to understand how Lazer and/or the County could take the position that constructing a radio tower and associated facilities in any way helps to expand Wildwood Canyon State Park. The fact that Lazer is proposing to provide an open-space easement over the area of their property surrounding the radio facilities does not in any way facilitate expansion of the park. In addition, the radio tower and equipment constitute blight on the scenic views from Wildwood Canyon State Park and TWC's Oak Glen Preserve.

TWC has protected over 1250 square miles of open space land and manages more than 200 square miles of land throughout the State of California. TWC has been involved in extensive work involving restoration of deserts, wetlands, rivers, forests and other sensitive wildlife habitat. Because of this extensive work involving restoration of a wide variety of habitat, TWC believes they are an expert in analyzing effective versus ineffective restoration of damaged habitat.

TWC continues to oppose the Lazer Radio project with thousands of our local neighbors and residents, visitors, tourists, the City of Yucaipa, Yucaipa Valley Conservancy, and the Citizens for the Preservation of Rural Living.

Very truly yours,



Dana Rochat  
Acquisitions Director

Cc: Supervisor James Ramos, County of San Bernardino  
Mayor Denise Hoyt, City of Yucaipa  
Mr. John Mirau, Citizens for Preservation of Rural Living  
Mr. David Miller, Yucaipa Valley Conservancy

## **Prusch, David - LUS**

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**From:** Tiffany McCree <petition@stopthetowernow.org>  
**Sent:** Tuesday, October 31, 2017 11:30 AM  
**To:** supervisors@stopthetowernow.org  
**Subject:** Stop The Tower Now!

From: Tiffany McCree  
Subject: Stop The Tower Now!

County of San Bernardino  
Land Use Services Department, Current Planning Division

Attention: Kevin White, Senior Associate Planner, CC: Greg Devereaux, County Administrative Officer 385 N. Arrowhead Avenue, 3rd Floor San Bernardino, CA 92415-00110

James Ramos, 3rd District Supervisor County Government Center  
385 North Arrowhead Avenue, Fifth Floor San Bernardino, CA 92415-00110

Dear Mr. White and Supervisor Ramos:

In 2009 and again in 2012, the communities of Yucaipa and Oak Glen spoke out against the proposed Lazer Broadcasting radio tower project. Our communities continue to strongly oppose this project. In an overwhelming response to Lazer's second attempt to forever spoil the scenic vistas of Wildwood Canyon State Park (the Park), concerned citizens submitted more than 17,000 opposition letters to the Planning Commission. Lazer has falsely told our community that this tower is different and that our concerns have been allayed. Nothing is farther from the truth; this tower is substantially the same as the 2009 proposed tower.

The current proposed Lazer Tower will still result in significant, unavoidable adverse impacts on the scenic resources of the Park. The tower will have substantial adverse effects on the undeveloped scenic vistas, will degrade the visual quality of the Park and its surroundings and upset the natural balance of our rural environment. Hikers, bicyclists and equestrian riders of the Park do not want their unspoiled trails and pristine mountain ridges to be turned into a radio tower broadcast zone.

Additionally, is it vitally important that the natural wilderness values within Wildwood Canyon State Park and the Pisgah Peak Open Space area remain protected. Construction of the radio tower and transmission complex place several threatened animals, birds and plants in danger including the coast horned lizard, western yellow bat, rufous-crowned sparrow and Lawrence goldfinch. Installation of underground utility lines to feed power to the transmission station could impact miles of sensitive vegetation. Rare and threatened species of concern in San Bernardino County must be preserved and protected for future generations.

Now is your opportunity to stop the tower once and for all. I am hopeful that you agree that this project would have an adverse visual impact on Wildwood Canyon State Park, it would have a substantial adverse effect on abutting properties and would be inconsistent with the goals, maps, policies and standards of the General Plan and the Oak Glen Community Plan.

I strongly urge the County of San Bernardino to DENY this project and encourage Lazer to fully evaluate alternative tower locations.

Sincerely,

Tiffany McCree