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Via E-Mail and U.S. Mail

Ms. Kelley Gage
San Diego Water Authority
4677 Overland Drive
San Diego, CA 92123
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Re: Cleveland National Forest Foundation's Comments of the Draft
SPEIR for the County Water Authority's 2013 Master Plan Update

Dear Ms. Gage:

This firm represents the Cleveland National Forest Foundation ("CNFF"), which promotes sustainable regional land use planning in order to stem the tide of urban encroachment into San Diego County's backcountry. The purpose of this letter is to inform the County Water Authority that its Draft SPEIR for the 2013 Master Plan Update ("Project") fails to comply with the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000 et seq., and the CEQA Guidelines, California Code of Regulations, title 14, § 15000 et seq. ("Guidelines"). For the reasons set forth below, we request that the County Water Authority delay further consideration of the Project until such time as a legally adequate EIR is prepared that fully complies with CEQA.

I. Introduction

Without water, the San Diego region would be a desert. The water provided by the County Water Authority facilitates land development, and without it, development is infeasible. Unfortunately, San Diego's extensive growth and sprawling development pattern has put the region in a precarious situation. Indeed, the SPEIR states that there is still "a serious water supply deficit facing the region." SPEIR at 2-3. California is facing a water "crisis" brought on by a variety of factors: urban sprawl, drought, population growth, historical over-drafting of our water resources and the resulting neglect of the environment. In fact, 75% of the state's rainfall is north of Sacramento, while 75% of the state's water demand lives south of Sacramento. Unfortunately, irresponsible planning

exacerbates this supply and demand problem, and wantonly wastes this valuable public resource on private land exploitation.

Despite these modern challenges, the SPEIR and the Master Plan Update proceed with business-as-usual. The Plan over-emphasizes water supply from the Colorado River and Bay Delta, under-emphasizes conservation and enables local agencies to continue to approve sprawl development. The SPEIR also violates CEQA: it downplays and obfuscates the scope of the project; ignores the Master Plan's growth inducing impacts; and understates its contribution to climate change.

II. The Project Description Omits and Obscures Critical Information.

An EIR must include a clear and comprehensive description of the proposed project, which is critical to meaningful public review. *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193. The court in *Inyo* explained why a thorough project description is necessary:

“A curtailed or distorted project description may stultify objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the “no project” alternative) and weigh other alternatives in the balance.” d. at 192-93. Thus, “[a]n accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR.” *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3d 818, 830.

The SPEIR understates the massive raw water supply capacity increases proposed by the Project. Among other facility projects, the Master Plan Update proposes the Pipeline P3/P4 conversion project to “increase imported water conveyance capacity from the MWD system.” Master Plan Update at 7-7. Because the pipeline conversion project would reduce the total capacity of *treated* water pipelines, the SPEIR deceptively states that it would “not increase total conveyance capacity.” SPEIR at 2-14. The document further downplays the conversion project, calling it an “efficiency improvement” that does not increase overall supply capacity. *See* SPEIR at 2-11.

The SPEIR's statement is misleading and wrong. Buried in the Master Plan Update, the document explains that the P3/P4 conversion project would increase the total untreated water delivery potential from MWD "by 190 to 970 cfs." Master Plan Update at 7-11.¹ Doing the math, the P3/P4 project thus increases raw water capacity by 137,000 acre-feet per year to 700,000 acre-feet per year. This is an enormous amount of water. To put it in perspective, the Master Plan Update estimates that the entire region's water demand is anticipated to increase by 121,400 acre-feet per year, from 538,400 acre-feet per year (2015) to 659,800 acre-feet per year (2035). Master Plan at 2-8 (Table 2.2). Why then is the Project proposing to massively increase its untreated conveyance capacity of MWD water, well beyond the anticipated demands? And what are the corresponding environmental and growth inducing impacts?

The SPEIR must describe this net increase, and analyze the impacts of providing this oversized infrastructure. Moreover, the SPEIR's false and misleading statement that the Project does not propose any "additional water supplies" (SPEIR at 2-11) must be corrected.

III. The Draft SPEIR Fails to Adequately Analyze Growth Inducing Impacts.

An EIR must discuss the "Growth-Inducing Impact of the Proposed Project." Guidelines § 15126(d). To meet this requirement, the EIR must "[d]iscuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment" Guidelines § 15126.2(d). Of particular relevance, the Guidelines note that a project can induce growth by "remov[ing] obstacles to population growth," such as by expanding a waste water treatment plant to allow more construction within its service area. *Id.*

As the San Diego Water Authority routinely acknowledges, water fuels the region's economic engine. *See* Exh. 1 (CWA article stating, "highly reliable water supplies [] help fuel our economy and protect the region from devastating water shortages"). According to the San Diego Union-Tribune, water is the region's "economic lifeblood." Exh. 2 (UT Op-Ed dated Nov. 27, 2012).

¹ Confusingly, the SPEIR simply states that the project would increase raw water capacity "to 970 cfs." SPEIR at 2-14. The document thus obscures the existing capacity and the proposed net increase.

Despite CEQA's plain direction to analyze the economic, population and housing growth induced by the Master Plan Update, the SPEIR fails to do so. Instead of analysis, it provides excuses. First, it claims that water is but one of several barriers to growth, and that expanded transportation and wastewater facilities may also be necessary. SPEIR at 4-20 and 4-22. This excuse is, of course, nonsensical. It will always be the case that several factors much coalesce to allow growth to occur. CEQA requires analysis of growth inducing impacts when one or more obstacles to growth are removed (such as the provision of wastewater or, by analogy, water), not only when all such obstacles are removed. Guidelines § 15126.2(d).

Next, the SPEIR claims that analysis of growth inducing impacts is too speculative. SPEIR at 4-21. But the courts have flatly rejected this argument. They have repeatedly held that the "speculative" nature of growth-inducing impacts is no excuse for omitting analysis of those impacts, particularly for the impacts of growth induced by infrastructure improvements. *See, e.g., Stanislaus Audubon Soc'y, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 158 ("[The developer] asserts that an EIR is not necessary because the growth-inducing impacts of the proposed project are too 'remote' and 'speculative.' This argument has been decidedly rejected . . ."); *City of Davis v. Colman* (9th Cir. 1975) 521 F.2d 661, 676 ("That the exact type of development is not known is not an excuse . . . Uncertainty about the pace and direction of development merely suggests the need for explaining in the EIS/EIR alternative scenarios . . .").

For example, in *City of Antioch*, the respondent agency argued that it would be speculative to analyze the growth-inducing impacts of a project that would extend road and sewer service into an undeveloped area. 187 Cal.App.3d at 1338. The court emphatically disagreed: "[W]hile Pittsburg need not predict the precise form, location, and amount of commercial and residential development resulting from construction of roadways and utilities, it cannot pretend none will occur; it simply must assume the general form, location, and amount of such development that now seems reasonable to anticipate . . . and evaluate it by means of the EIR process." *Id.*

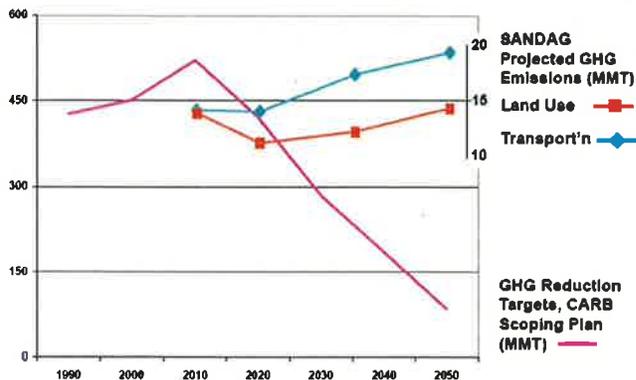
Similarly here, CEQA requires the Water Authority to evaluate the general form, location, and amount of growth that could result from the Project. The Water Authority has several tools at its disposal to conduct this analysis. It has not only SANDAG's population numbers, but also city and county general plans and specific project EIR's that set forth projected land use patterns and their impacts. For example, the Water Facilities Plan induces growth with respect to the following projects:

1. **Accretive/Lilac Hills:** The SPEIR should address how the Project will facilitate development of the 1,746-unit Accretive/Lilac Hills project. Lilac Hills is a classic example of urban sprawl; it is located within the Valley Center and Bonsall Community Plan areas, far from public transit and job centers. Lilac Hills could not be developed without water and, in June 2013, County Water Authority member Valley Water District approved Accretive's preliminary concept. *See* Exh. 3. According to the Initial Study released in June 2012, the Lilac Hills project would cause a host of significant environmental impacts and will require the preparation of an EIR. *See* Exh. 4.
2. **Castlerock:** Similarly, in October 2013, Authority member Padre Dam MWD approved the 430-unit Castlerock project outside of the City of Santee. *See* Exh. 5. The sprawling subdivision will bring 1,000 new residents to an area underserved by transit and jobs.
3. **Forest Conservation Initiative (FCI) General Plan Amendment:** The County of San Diego is considering an amendment to the County General Plan that would dramatically "upzone" certain private inholdings in the Cleveland National Forest. For example, the FCI amendment would re-designate land to accommodate an additional 2,893 dwelling units in Alpine (Staff Recommendation), many of which would be served by SDCWA member agencies. Exh. 13 at 4 (Oct. 18, 2013 Planning Commission Hearing Report). The County's SEIR acknowledges that the FCI amendment would result in population and housing growth in SDCWA member service areas, and would contribute to significant and unavoidable water supply impacts. *See* Exh. 14 (SEIR at 2.14-8). The Water Authority's refusal to recognize these same population and housing impacts induced by the Project is inconsistent with the County's SEIR, and wholly implausible.

None of these projects can move forward without water purchased from the County Water Authority, and provided by this Project. Why, then, are these growth inducing impacts ignored?

Other regional agencies, such as SANDAG, have analyzed the growth-inducing impacts of providing transportation facilities. According to SANDAG, San Diego region's land use pattern and resulting vehicle miles traveled (VMT) will result in a long term GHG emission picture as follows:

The Total Emission Picture



If SANDAG can determine the GHG impacts of regional patterns of growth, how can these impacts be too speculative for the County Water Authority? The SPEIR should analyze the role that water availability plays in these same growth patterns, and the resulting impacts. Furthermore, infill and transit-based development dramatically reduce both GHG emissions and water consumption rates. *See* Exh. 6 (“Urban Sprawl: Impacts on Water Use”); Exh. 15 (LA Times, Jan. 14, 2014, “Carbon footprint maps reveal urban-suburban divide”).

In addition, increased access to public transit also improves water quality by reducing traffic and corresponding automobile emissions, which have been shown to directly cause water pollution. The same automobile-generated chemicals that cause air pollution also cause water pollution, because these chemicals can enter water bodies when it rains and pollutants precipitate from the atmosphere and back onto the ground. In addition, harmful chemicals such as polycyclic aromatic hydrocarbons (PAHs) are released from cars in the form of automobile soot, asphalt, motor oil, tires, and exhaust emissions, and have been found in heavy concentrations in water bodies near congested highways. *See* Exh. 7 (Science Daily, Pollution from Urban Sprawl Threatens Aquatic Life in Major U.S. Cities”). Transit directly reduces VMT, thereby reducing the release of PAHs and other chemicals from cars, as well as reducing airborne emissions that have the potential to pollute water bodies.

Please include this analysis in the revised and recirculated draft.

IV. The Draft SPEIR Fails to Adequately Analyze and Mitigate Climate Change Impacts.

On the surface, the SPEIR provides the public and decisionmakers with a “warm fuzzy” feeling with respect to the Project’s climate impacts. It quantifies existing greenhouse gas (“GHG”) emissions as 9,325 MT CO₂eq. per year, and estimates that, with GHG reduction measures in place, emissions will drop to *negative* in 2020 and rise to 283 MT in 2035. The Climate Action Plan graphs these estimates in Figure ES.2:

FIGURE ES.2 Water Authority Emissions and Targets



Notes: MT CO₂e = metric tons of carbon dioxide equivalent. BAU = business as usual.

Based on these numbers, the SPEIR concludes that Project impacts will be less than significant. SPEIR at 3.7-13.

Scratching beneath the surface, the warm fuzzy quickly disappears. First, as a threshold matter, the SPEIR fails to support its astounding conclusion that the Project

would have negative GHG emissions in 2020. Because the County Water Agency does not propose to purchase carbon credits, the SPEIR's conclusions is completely implausible.

Second, the SPEIR fails to include all direct and indirect impacts in its emissions inventory. *See* CEQA Guidelines App. G VII. (requiring analysis of direct and indirect GHG impacts). Specifically, it completely ignores the massive energy requirements of—and resulting GHG emissions from—the Carlsbad Desalination Plant. Information available on the CWA's website, attached as Exhibit 8, explains the Desal Plant's enormous contribution to water consumption and energy use:

In November 2012, the Water Authority signed a 30-year agreement to purchase at least 48,000 acre-feet of desalinated seawater each year from Poseidon, as long as it meets pre-set quality and quantity requirements. The Water Authority may purchase up to 56,000 acre-feet annually, enough to serve about 112,000 typical single-family homes.

Desalination plants require a tremendous amount of energy to operate. According to a recent Wall Street Journal article (Exhibit 9), SDG&E build four new circuits to supply 40 MW of energy to run the Carlsbad plant—enough to power about 26,000 homes.² Similarly, the CAP completely overlooks GHG emissions from purchased water supplies that must be transported from Northern California and the Colorado River. Why were these GHG emissions not quantified? And how do they affect the CWA's ability to meet the reduction targets? The SPEIR must be revised to include this analysis.

Third, the SPEIR and CAP should have analyzed impacts to 2050 consistent with Executive Order S-3-05 and overwhelming scientific evidence. As explained in a recently-filed court document by the Attorney General, "the science tells

² Poseidon, which owns the Carlsbad Desalination Plant, apparently takes the position that the plant is carbon neutral. The Coastal Commission has considered Poseidon's claim, and found that it is based on "misrepresentation or omitted material information." Exh. 10 (Feb. 9, 2010 Coastal Commission staff report finding that while Poseidon misrepresented its claimed reduction of imported water and emission reductions, it would not recommend permit revocation). In any event, the Climate Action Plan and SPEIR must be revised to analyze the Plant's GHG emissions.

us that if we are to succeed in stabilizing our existing climate, we must achieve substantial greenhouse gas emissions reductions by mid-century.” Exh. 11 at 30 (arguing that climate impacts of SANDAG’s Regional Transportation Plan should be analyzed based on 2050 thresholds). California has recognized this principle in EO S-3-05, AB 32, and the AB 32 Scoping Plan, which states:

Climate scientists tell us that the 2050 target represents the level of greenhouse gas emissions that advanced economies must reach if the climate is to be stabilized in the latter half of the 21st century. Full implementation of the Scoping Plan will put California on a path toward these required long-term reductions.

Scoping Plan, Exh. 12 at 117.

The SPEIR and Climate Action Plan conveniently stop their analysis at 2035, apparently to avoid additional mitigation requirements. As shown on Figure ES.2, the CWA’s emissions (even without including emissions resulting from the Carlsbad Desal Plant and purchased water supplies) are on a collision course with GHG reductions mandated by EO S-3-05. In short, the CWA’s refusal to analyze impacts beyond 2035 flies in the face of climate science and public policy.

Fourth, the SPEIR and Climate Action Plan fail to adopt enforceable mitigation measures to achieve the assumed GHG reductions. Instead, the documents rely almost exclusively on the state’s Low Carbon Fuel Standard and its Renewable Portfolio Standard to reduce GHG emissions by over 9,000 MT per year. But, as the SPEIR concedes, the Authority has no control over whether SDG&E actually complies with the RPS; its analysis merely “assum[es] SDG&E’s continued compliance.” SPEIR at 3.7-11. In contrast, the Authority has committed to reducing its emissions by *only 4 MT per year*. The Water Authority can and must do better.

Finally, the SPEIR fails to analyze how the Master Plan Update is consistent with San Diego County’s Climate Action Plan, which assumes a 20 percent reduction in per capita water use by 2020. The SPEIR should analyze enforceable mitigation measures to meet and exceed these conservation goals.

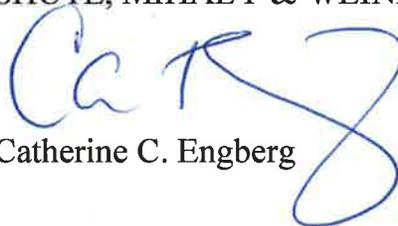
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V. Conclusion

For the foregoing reasons, CNFF urges the Water Authority to delay further consideration of the Project unless and until it prepares and recirculates a revised draft SPEIR that fully complies with CEQA.

Very truly yours,

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Catherine C. Engberg

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