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December 1, 2009

Mr. Mitch Glaser
Supervising Regional Planner
Department of Regional Planning
Los Angeles County
320 West Temple Street
Los Angeles, CA 90012

RE: One Valley One Vision Draft Area Plan and
Draft Environmental Impact Report

Dear Mr. Glaser:

The Attorney General provides these brief preliminary comments on the draft Environmental Impact Report (DEIR) prepared by Los Angeles County on the draft Santa Clarita Valley Area Plan (the Plan).¹ The Plan itself was developed as part of the One Valley, One Vision (OVOV) process as an amendment to the Los Angeles County General Plan. We note and appreciate that the County and the City of Santa Clarita (City) have developed and attempted to apply joint planning objectives and principles for planning in the Santa Clarita Valley.

While we believe that the County takes seriously its responsibilities to adopt a land use plan for the unincorporated portion of the Santa Clarita Valley in accordance with state law and the OVOV principles that the County and the City have developed, our review convinces us that the Plan has serious flaws. As written, the proposed Plan will not meet the mandates of the Global Warming Solutions Act of 2006 (AB 32); instead, it will result in increased greenhouse gas emissions of nearly four million metric tonnes over current levels. The Plan will also double current emissions of conventional air pollutants in the OVOV area, which is within the most polluted air basin in the country, and will result in an increase of 121% in trips driven on already very congested roads and freeways. It does not require enforceable, specific measures to contain

¹ The Attorney General submits these comments pursuant to his independent power and duty to protect the environment and natural resources of the State from pollution, impairment, or destruction, and in furtherance of the public interest. (See California Constitution, article V, section 13, Government Code sections 12511, 12600-12612, and *D'Amico v. Bd. Of Medical Examiners* (1974) 11 Cal.3d 1, 14-15.) While this letter sets forth various areas of particular concern, it is not intended, and should not be construed, as an exhaustive discussion of the DEIR's compliance with the California Environmental Quality Act.

the urban form, prevent further sprawl, or adequately preserve natural and biological resources. It also fails as an informative document, in that it is confusing and internally contradictory in several places, and it is very difficult to determine such basic facts as the number of additional housing units expected to result from the proposed Plan.

We believe that the DEIR for the proposed Plan does not comply with the requirements of the California Environmental Quality Act (CEQA). We are providing you with a short description of our principal areas of concern regarding the DEIR now, in the hopes that it may be of help to the County in the EIR process. As we understand from our discussions that this is an iterative process, we may wish to submit additional comments at a later time in the EIR process, if circumstances warrant.

Our review to date indicates that the DEIR fails as an informational document, in that it fails to apprise the decision makers and the public of the full range and intensity of the adverse effects on the environment that may reasonably be expected if the Plan is adopted and carried out. It compares the environmental impacts of the proposed Plan to the impacts that are expected if the existing Los Angeles County Area Plan for the Santa Clarita Valley is fully built out, instead of comparing the impacts from the proposed plan to the existing, on-the-ground conditions CEQA requires.. (14 Cal. Code of Regs. § 15125(a); *County of Amador v. El Dorado Water Agency* (1999) 76 Cal.App.4th 931, 955.) The failure to evaluate the impacts of the proposed Plan as measured against existing conditions, not hypothetical future conditions, results in the DEIR finding the proposed Plan would have no significant impact on climate change (despite adding almost four million metric tonnes of greenhouse gases to the atmosphere), on air quality (despite doubling existing pollutant emissions into an air basin that already is the most polluted in the nation), on transportation (despite increasing average daily trips by about 120%), and other areas. We believe that these findings are not supported by substantial evidence, and that they render the DEIR legally inadequate. We note also that an inadequate EIR can not be used as a program EIR from which EIRs for future development projects may be tiered.

We also believe that the findings of non-significance for so many impact areas renders the DEIR deficient as a substantive document, in that it fails to recommend and analyze the effectiveness of all feasible measures to mitigate adverse environmental effects as required by CEQA (Pub. Res. Code §§ 21002, 21081(a); *County of San Diego v. Grossmont-Cuyamaca Community College Dist.* (2006) 141 Cal.App.4th 86, 98), particularly the impacts on climate change and air quality. Mitigation measures that are proposed tend to be voluntary and unenforceable, merely requiring that mitigation be “encouraged” or “promoted”, and not required. A very few examples of such measures are Policies C 2.2.7, LU 5.2.5, C 1.2.5, LU 2.3.2, LU 5.2.5, C 1.1.1.6, and C 1.1.1.12, C 1.2.2, C 1.2.9, LU 2.1.2, LU 2.3.2, LU 3.2.2, LU 5.2.2, and LU 5.2.3. Many others could be cited.

In addition, the DEIR does not adequately analyze alternatives to the proposed Plan, as CEQA requires. (Cal. Code of Regs., tit. 14, § 15126.6(a).) The Preservation Corridor Alternative, identified by the DEIR as the environmentally superior alternative, is dismissed, but is not shown to be infeasible. The DEIR rejects it primarily on grounds that it would not meet all of the 36 joint planning principles underlying the joint OVOV planning process as well as the

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proposed project would. (DEIR, p. 6.0-44.) We note that the DEIR identifies only three of these principles as to which this alternative is “less effective” than the proposed Plan. (*Id.*) We believe that CEQA requires a fuller consideration of the environmentally superior alternative, and substantial evidence supporting its rejection, given that alternatives must be fully considered “even if these alternatives would impede to some degree the attainment of the project objectives.” (Cal. Code of Regs., tit. 14, § 15126.6.)

Further, the cumulative impacts of the proposed OVOV Plan, taken together with the impacts that will result from development and growth in the remainder of the North County subregion, particularly the Antelope Valley, are barely explored at all. The DEIR states that about 59% of the projected growth for the North Los Angeles County subregion will take place in the Antelope Valley (DEIR, pp. 3.19-6, 3.3-39), but it fails to analyze what the effects of that growth may be on, e.g., air quality or greenhouse gas emissions, when considered cumulatively with the growth expected from the Santa Clarita proposed Plan. The DEIR takes the position that if an impact is not “significant”, it cannot contribute to cumulative impacts. This contravenes CEQA’s requirements and is at odds with one of the central rationales for cumulative impact analysis, namely that impacts that may not be significant in and of themselves may add up to significance if examined cumulatively. (*Los Angeles Unified School District v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1025.) We believe that a cumulative impacts analysis is required for climate change, air quality, transportation, and land use, at the least.

These are the major areas of concern we have with the DEIR at this stage of our review; we hope that this is of assistance to you and to the Planning Commission. As you know, we have had a preliminary discussion of the document with the Regional Planning staff, and hope to continue that dialogue. To discuss this matter further, please contact the undersigned.

Sincerely,

/s/

SUSAN L. DURBIN
Deputy Attorney General

For EDMUND G. BROWN JR.
Attorney General