APPENDIX P
RESPONSES TO COMMENTS ON THE YUCCA VALLEY RETAIL SPECIFIC PLAN PROJECT DRAFT ENVIRONMENTAL IMPACT REPORT

The comments received regarding the Yucca Valley Retail Specific Plan Project Draft EIR (State Clearinghouse No. 2004071127) and the responses to comments are included in this document. Sixty comment letters have been received. These letters include the following:

Letter A:	Center for Biological Diversity
Letter B:	County of San Bernardino, Department of Public Health
Letter C:	Josephine Harty
Letter D:	Denise King
Letter E:	Dennis Wahl
Letter F:	Marilyn Hartson
Letter G:	Gilbert Gutierrez
Letter H:	Louise Wootton
Letter I:	Lisa Gutierrez
Letter J:	Leslie Sanchez
Letter K:	United States Fish and Wildlife Services
Letter L:	Kathleen Wahl
Letter M:	Bryan Newman
Letter N:	Terry Spurrier
Letter O:	State of California, Department of Toxic Substance Control
Letter P:	County of San Bernardino, Department of Public Works
Letter Q:	Mary Ann
Letter R:	Jim Riley
Letter S:	Karen Perry
Letter T:	Christy Marshall
Letter U:	Melinda Hedley
Letter V:	Donald and Connie Sachs
Letter W:	Gordon and Miriam Zittel
Letter X:	Lavane Gwartney
Letter Y:	Debra Magnuson
Letter Z:	Elizabeth Wuite
Letter AA:	Susan Hogervorst
Letter BB:	Eugene M. Daily
Letter CC:	Lorraine Marino
Letter DD:	Keith Scott
Letter EE:	California Department of Transportation, Division of Aeronautics
Letter FF:	Morongo Basin Property Association
Letter GG:	Jane and Floyd Humphries

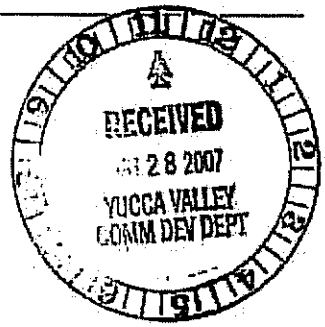
Letter HH:	Beatrice Roth
Letter II:	Paul Miller
Letter JJ:	Betsy Goza
Letter KK:	Theresa Bulone
Letter LL:	David Dodge
Letter MM:	Alex and Gladys Kovaleff
Letter NN:	Bradford Berger
Letter OO:	Ann Holley
Letter PP:	Allen Perry
Letter QQ:	Becky Boyles
Letter RR:	Willie Ramerize
Letter SS:	Ronald Reitenauer
Letter TT:	Hi-Desert Water District
Letter UU:	Bill Souder
Letter VV:	Rae Packard
Letter WW:	John Woods
Letter XX:	State Clearinghouse and Planning Unit
Letter YY:	Lisa Hohimer
Letter ZZ:	Mojave Desert Air Quality Management District
Letter AAA:	Defenders of Wildlife
Letter BBB:	Morongo Basin Conservation Association, Inc.
Letter CCC:	Anja Homburg and Sanford Berlove
Letter DDD:	J.B. Homburg
Letter EEE:	Jean McLaughlin
Letter FFF:	Carrie Woodward
Letter GGG:	Cindy Zacks
Letter HHH:	US National Park Service, Joshua Tree National Park

The primary objective and purpose of the EIR public review process is to obtain comments on the adequacy of the analysis of environmental impacts, the mitigation measures presented, and other analyses contained in the report. The California Environmental Quality Act (CEQA) requires that the Town of Yucca Valley respond to all significant environmental issues raised (*CEQA Guidelines* Section 15088). Comments that do not directly relate to the analysis in this document (i.e., are outside the scope of this document) are not given specific responses; however, all comments are included in this section so that the decision-makers may know the opinions of the commentors. The comments regarding the Yucca Valley Retail Specific Plan Project Draft EIR and the individual responses to each comment are included in this section. In the process of responding to the comments, revisions to the Draft EIR were made. These revisions are provided in Section 4.0 as "Revisions to the Draft EIR."

At the close of the Draft EIR public review period (July 9, 2007 to August 23, 2007), the Town had received forty nine comment letters. An additional eleven comment letters arrived after the close of the 45 day public review period. Although the Town of Yucca Valley has no obligation to address these late arriving letters, a response has been provided for each. Aside from the courtesy statements, introductions, and closings, individual comments within the body of each letter have been identified and numbered. A copy of each comment letter is included in the Final EIR. Brackets delineating the individual comments and an alphanumeric identifier have been added to the right margin of the letter. Responses to each comment identified are included on the page(s) following each comment letter.

Letter A

CENTER for BIOLOGICAL DIVERSITY



Via Overnight Mail, with Attachments

August 27, 2007

Thomas A. Best, Community Development Director
Town of Yucca Valley, Community Development Department
58928 Business Center Drive, Yucca Valley, CA 92284

Re: Comments on the Draft Environmental Impact Report for the Yucca Valley Retail Specific Plan (Super Wal-Mart), State Clearinghouse No. 2005051047

Dear Mr Best:

These comments are submitted on behalf of the Center for Biological Diversity on the Draft Environmental Impact Report ("DEIR") for the Yucca Valley Retail Specific Plan (Super Wal-Mart), State Clearinghouse No. 2005051047 ("the Project"). According to the DEIR, the Project proposes the construction and operation of an approximately 229,000-square foot Wal-Mart Supercenter on 25.51 acres of undeveloped land. As proposed, the Project would generate significant amounts of greenhouse gases emissions that cause global warming and have significant impacts to the threatened desert tortoise and other species.

The Center for Biological Diversity ("Center") is a non-profit conservation organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center's Climate, Air, and Energy Program works to reduce greenhouse gas emissions to protect biological diversity, our environment, and public health. We work to educate the public about the impacts of climate change on our world and the animals and plants that live in it and to build the political will to enact solutions. The Center has over 35,000 members throughout California and the western United States, including in the Town of Yucca Valley and San Bernardino County. Center members will be directly impacted by the Project.

The Project as proposed will have numerous substantial impacts on the environment due to its nature, size, and location. This letter will focus on the Center's concern that the EIR and the City have failed to adequately evaluate the Project's impacts to imperiled species, as well as greenhouse gas emissions and contribution to global warming. Curbing greenhouse gas emissions to limit the effects of climate change is one of the most urgent challenges of our time. Fortunately, the California Environmental Quality Act ("CEQA"), Cal. Pub. Res. Code §§ 21000 et seq., 14 Cal. Code Regs. § 15000 et seq. ("Guidelines"), set forth a clear and mandatory process to address the Project's greenhouse gas and global warming impacts. As detailed below, the DEIR must be revised so that it includes a complete and adequate inventory of the Project's greenhouse gas emissions, a full discussion of the impacts from those emissions, a finding that these impacts are significant under CEQA, and a thorough

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and quantitative analysis of alternatives and mitigation measures to reduce those impacts. The Town of Yucca Valley cannot lawfully approve the project until the required CEQA analysis has been completed and all feasible mitigation measures implemented.

The Project would also have significant impacts on the threatened desert tortoise and other species. Although the project would eliminate habitat that can currently support the desert tortoise, the DEIR fails to adequately recognize and address biological impacts to the tortoise. The DEIR's analysis of hydrology and water quality and water supply issues is also inadequate.

A revised DEIR must be prepared to remedy the DEIR's deficiencies. Only by circulating a corrected document can the public, decision makers and affected agencies be adequately informed of the environmental repercussions of the Project.

I. The DEIR Fails to Adequately Analyze and Mitigate the Project's Global Warming Impacts

A. CEQA Requires a Full Analysis of a Project's Greenhouse Gas Emissions.

The DEIR's suggestion that CEQA does not require an analysis of a project's contribution to the greenhouse gas emissions that cause global warming because "neither the Appendix G Guidelines, not any judicial decision or CEQA regulation or statute require an EIR to address a project's impact on greenhouse gases" is fundamentally flawed. (DEIR at 4.3-9.) CEQA is "to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language." *Laurel Heights Improvement Ass'n v. Regents*, 47 Cal.3d 376, 389 (1988) ("Laurel Height I"). A project impact must be assessed if it has "an effect on the environment within the meaning of CEQA." *See Protect the Historic Amador Waterways v. Amador Water Agency*, 116 Cal.App.4th 1099, 1111 (2004). *See also Cadiz Land Co. v. County of San Bernardino*, 83 Cal.App.4th 74, 85-86 (2000) (an EIR must "evaluate all potential effects on those physical conditions and resources" within the project area). Whether or not the specific impact is defined in the Appendix G Guidelines is irrelevant. *Protect the Historic Amador Waterways*, 116 Cal.App.4th at 1111. (rejecting argument that reduction in stream flow need not be analyzed because it was not listed among potential project impacts in Appendix G of Guidelines). A-1

CEQA defines "environment" as "the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance." Pub. Res. Code § 21060.5. Global warming affects the "environment" as defined by CEQA because it is and will transform the physical conditions throughout California, including in the project area. As the California Legislature has declared:

> Global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California. The potential adverse impacts of global warming include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from A-2

> the Sierra snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious diseases, asthma, and other human health-related problems.

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California Global Warming Solutions Act of 2006 (Heath & Safety Code § 38501(a)). Major sources that discuss the present and future physical impacts on the environment from global warming include: California Department of Water Resources, (2006); California EPA (2006); Intergovernmental Panel on Climate Change (2007a,b); Kim (2005); Murray and Weiss (2002); Parmesan and Galbraith (2004); Union of Concerned Scientists (2006); Thomas et al. (2004); WHO (2002). Overall, the World Health Organization estimates that as of the year 2000, 154,000 deaths and the loss of 5.5 million daily adjusted life years per year worldwide are attributable to global warming (World Health Organization 2002). This toll is due to the combined impacts of higher temperatures, increasing whether variability such as more frequent and intense droughts and floods, a pattern of more violent tropical storms, as well as more subtle, gradual changes that can also profoundly damage public health (Epstein and Mills 2005).

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The California Climate Change Center has evaluated the present and future impacts of climate change to California and the project area in research sponsored by the California Energy Commission and the California Environmental Protection Agency. *See, e.g.* California Climate Change Center ("CCCC"), Projecting Future Sea Level (2006); CCCC, Climate Change and Electricity Demand in California (2006); CCCC, Public Health Related Impacts of Climate Change in California (2006); CCCC, Climate Change and Wildfire In and Around California: Fire Modeling and Loss Modeling. Indeed, as set forth in these studies, global warming directly affects environmental factors listed in Appendix G, including impacts to biological resources, air quality, utilities, and hydrology/water quality. In addition, the United States Supreme Court has determined that carbon dioxide, the principle greenhouse gas generated by the project, is an "air pollutant" within the meaning of the Clean Air Act. *Massachusetts v. EPA*, 127 S. Ct. 1438, 14660-61 (2007).

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There is also robust, peer-reviewed literature on estimating the social costs of climate change and quantifying the cost of carbon dioxide emissions (Stern 2006). The Stern Review of the Economics of Climate Change, a comprehensive report commissioned by the British government, recently concluded that allowing current emissions trajectories to continue unabated would eventually cost the global economy between 5 to 20 percent of GDP each year within a decade, or up to $7 trillion, and warned that these figures should be considered conservative estimates (Stern 2006). By contrast, measures to mitigate global warming by reducing emissions were estimated to cost about one percent of global GDP each year, and could save the world up to $2.5 trillion per year (Stern 2006). If we take no action to control emissions, each ton of CO_2 that we emit now is causing damage worth at least $85 (Stern 2006). As economic and social costs of a physical change may be used to determine the significance of physical changes to the environment, the DEIR should incorporate the costs of the emissions generated by the Project into its analysis. *See* CEQA Guidelines 15131(b).

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While the DEIR curiously characterizes the science of global climate change as "subject to extensive debate and uncertainties" (DEIR at 4.3-8), there is nothing uncertain about

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the fact that higher levels of greenhouse gas pollution will lead to greater environmental impacts. As the DEIR notes, the United Nations Intergovernmental Panel of Climate Change concluded that "a stabilization of greenhouse gases at 400-450 ppm carbon dioxide-equivalent concentration is required to keep global mean warming below 2°C, which in turn is assumed to be necessary to avoid 'dangerous' climate change (IPCC 2001)." (DEIR at 4.3-42.) Recent peer reviewed works emphasize the urgent need to reduce greenhouse gas emissions immediately: just ten more years of "business as usual" emissions may commit us to climate feedbacks and impacts which would entirely transform the planet as we now know it (Hansen et al. 2007). As aptly noted in a report commissioned by CalEPA: A-6

> Because most global warming emissions remain in the atmosphere for decades or centuries, the choices we make today will greatly influence the climate our children and grandchildren inherit. The quality of life they experience will depend on if and how rapidly California and the rest of the world reduce greenhouse gas emissions.

CCCC, Our Changing Climate, Assessing the Risks to California (2006).

Thus, contrary to the DEIR's suggestion, because global warming is and will impact the physical conditions of the project area, the project's contribution to global warming through the generation of greenhouse gases *must* be analyzed under CEQA, independent of any policy rationales underlying AB 32. Indeed, the legislature recently eliminated any doubt that a global warming analysis is required under CEQA with the passage of SB 97, which requires promulgation of CEQA guidelines be developed for the feasible mitigation of greenhouse gases. A-7

B. The DEIR Grossly Underestimates the Greenhouse Gas Emissions Generated by the Project.

CEQA requires that an EIR be detailed, complete, and reflect a good faith effort at full disclosure. Guidelines § 15151. The document "should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences." *Id.* Consistent with this requirement, the information regarding a project's impacts must be "painstakingly ferreted out." *Environmental Planning and Information Council of Western El Dorado County v. County of El Dorado*, 131 Cal.App.3d 350, 357 (1982). Meaningful analysis of impacts effectuates a fundamental purpose of CEQA: to "inform the public and responsible officials of the environmental consequences of their decisions before they are made." *See Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* ("Laurel Heights II"), 6 Cal.4th 1112, 1123 (1993). A-8

As currently presented, the EIR's analysis of the Project's greenhouse gas emissions is inadequate, incomplete, and does not reflect a good faith effort at full disclosure. In conducting a greenhouse gas inventory, all phases of the proposed project must be considered. *See* Guidelines § 15126. In addition, the inventory for the project must include the project's direct and indirect greenhouse gas emissions. *See* 14 Cal. Code Regs § 15358(a)(1) ("Indirect or secondary effects may include growth-inducing effects and other effects related to induced A-9

changes in the pattern of land use, population density, or growth rate, and related effects on air and water and other natural systems, including ecosystems."). A complete inventory of a project's emissions should include, at minimum, an estimate of emissions from the following:

- Construction vehicles and machinery;
- Manufacturing and transport of building materials;
- Electricity generation and transmission for the heating, cooling, lighting, and other energy demands of the buildings;
- Water supply and transportation to the project;
- Vehicle trips and transportation emissions generated by the project;
- Fugitive emissions, such as methane leaks from pipeline systems and leaks of HFCs from air conditioning systems;
- Wastewater and solid waste storage or disposal, including transport where applicable; and
- Outsourced activities and contracting.

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Rather then conduct a complete analysis of the greenhouse gases generated by the Project, the DEIR only includes a greenhouse gas assessment of two undefined components of the Project's overall emissions, emissions from "vehicles" and "natural gas combustion." Even here, a discussion of the underlying assumptions used to generate emissions from these two categories is so cursory and opaque as to render the entire analysis insufficient. *See, e.g., Citizens to Preserve the Ojai v. County of Ventura*, 176 Cal.App.3d 421, 429 (1985) (a "conclusory statement unsupported by empirical or experimental data, scientific authorities, or explanatory information of any kind not only fails to crystallize the issues but affords no basis for a comparison of the problems involved with the proposed project and the difficulties involved in the alternatives.") (citations omitted).

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With regard to the assessment of project carbon dioxide emissions, the DEIR states only:

> The project will generate emissions of carbon dioxide in the form of vehicle exhaust and in the consumption of natural gas for heating. Carbon dioxide emissions from vehicles were calculated using URBEMIS2002 assumptions and EMFAC2002 emission factors that are used in URBEMIS2002. Carbon dioxide emissions from natural gas combustion were generated using an EPA AP-42 emission factor (EPA 1998).

(DEIR at 4.3-40.)

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The DEIR's seemingly half-hearted attempt to quantify the Project's carbon dioxide emissions is inadequate on a number of grounds. First, the DEIR does not define the scope of "vehicle" emissions analyzed in the DEIR. Accordingly, it is impossible to discern whether the DEIR has looked at vehicles emissions from (1) vehicles used in project construction; (2) vehicle trips generated by Wal-Mart customers; and/or (3) Wal-Mart supply trucks and other supply vehicles. With regard to construction vehicles, Appendix B of the DEIR calculates emissions of other air pollutants, such as ozone and PM_{10} from vehicles used during

the construction of the Project but omits any evaluation of carbon dioxide and other greenhouse gas pollutants. (DEIR, Appendix B at sub-appendix D.) Thus, based on the documentation supporting the DEIR, it would appear the vehicle greenhouses emissions did *not* include emissions during construction. As all other air pollutants generated by vehicles during the construction phase of the project were evaluated, accounting for carbon dioxide emissions is clearly feasible. With regard to deliveries from Wal-Mart diesel trucks, Appendix B notes that such deliveries "would occur 24 hours per day and seven days a week." (Appendix B at 29). This is a significant, quantifiable source of emissions which, if not already included within the DEIR's undisclosed definition of "vehicle emissions," must also be calculated. Accordingly, a revised DEIR must clearly account for emissions from vehicles used during construction and operation of the project (both by customers and Wal-Mart suppliers) and explain the basis for its calculations. A revised DEIR should also specify whether supply trucks will or could idle at the Project site during deliveries and if so, calculate these emissions. Unless idling is expressly prohibited as part of Project mitigation (and electric plug-ins provided to supply trucks), it should be assumed that idling will occur.

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In addition, the DEIR fails to disclose "URBEMIS2002 assumptions," making it impossible for decision-makers and the public to evaluate the DEIR's conclusions. Moreover, the EMFAC2002 emission factors, which are literally the only carbon dioxide related information included in Appendix B also appear flawed. These factors are based on assuming a temperature of 50°F and 30% relative humidity. (DEIR, Appendix B at sub-appendix C.) As the project area is located in the desert, with a maximum average temperature of 83.9°F (with at least three months a year with a maximum average over 100.4°F), an average minimum of 51°F, and low humidity, the EMFAC2002 factors should be re-run to accurately reflect project area conditions.

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Second, like vehicle emissions, the DEIR does not provide any explanation for its calculation of carbon dioxide emission from natural gas combustion. Indeed, while the DEIR cites to EPA emission factors, it does not appear to include a full citation to the source of this information, making it impossible to follow the basis for the DEIR's calculations. A revised DEIR must explain the source of emissions from "natural gas combustion" and how total emissions were calculated. *See Citizens to Preserve the Ojai*, 176 Cal.App.3d at 429.

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Third, significant sources of project greenhouse gas emissions are omitted from the DEIR's analysis. For example, although Wal-Mart acknowledges it is the "largest private consumer of electricity in the United States,"[1] the DEIR appears to entirely omit any consideration of greenhouse gas omissions generated from electricity consumed in construction and operation of the Project. This omission is particularly glaring as the DEIR acknowledges that "[l]ong-term stationary source emissions would occur due to energy consumption such as electricity usage by the proposed land uses." (Appendix B at 14; *see also* Appendix B at 17 "[t]he stationary source emissions from these land uses would come from consumption of natural gas *and electricity*.") (emphasis added). While the DEIR calculates stationary source emissions for other air pollutants, it fails to do so for carbon dioxide and other greenhouse gases. (Appendix B at 17.) The DEIR's apparent oversight is especially glaring considering that

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[1] Wal-Mart, Wal-Mart Greenhouse Gas Emissions, available at www.walmartfacts.com (last visited August 9, 2007) (included in attachments)

greenhouse gas emissions from electricity (and other sources) can be readily calculated using standard emissions factors. The average kWh of electricity purchased in California required .61 lbs of CO_2 to produce. These and other emissions factors are available online at http://www.wri.org/climate/pubs_description.cfm?pid=3756. A-19

The DEIR must be revised to include a full and adequate inventory of the Project's greenhouse gas emissions. Without a complete inventory, there is simply no way that the DEIR can then adequately discuss alternatives, avoidance, and mitigation measures to reduce those impacts. Because the failure to conduct an inventory precludes adequate analysis of environmental impacts in virtually all sections of the DEIR, the DEIR must be revised and recirculated once this critical information is included. *See Cadiz*, 83 Cal.App.4th at 95 ("A prejudicial abuse of discretion occurs if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process."). A-20

The greenhouse gas inventory can be conducted in conjunction with the required assessment of the project's energy consumption. As CEQA Guidelines Appendix F, entitled "Energy Conservation," clarifies: "In order to assure that energy implications are considered in project decisions, the California Environmental Quality Act requires that EIRs include a discussion of the potential energy impacts of proposed projects, with particular emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy." *See also* Cal. Pub. Res. Code § 21000(b)(3) (EIR must include section discussing "[m]itigation measures proposed to minimize significant effects on the environment, including, but not limited to, measures to reduce the wasteful, inefficient, and unnecessary consumption of energy.") The DEIR's assessment of the project's energy consumption is also inadequate because it does not address all of the Project's energy use as required by CEQA. A-21

C. The Project's Greenhouse Gas Contribution Is a Cumulatively Significant Impact.

A project's impacts require a mandatory finding of significance if they are "cumulatively considerable." Cal. Pub. Res. Code § 21083(b). "'Cumulatively considerable' means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." 14 Cal. Code Regs. § 15064(h)(1). Climate change is a classic example of a cumulative effects problem; emissions from numerous sources combine to create the most pressing environmental and social problem of our time. These sources may "appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact." *Los Angeles Unified School Dist. v. City of Los Angeles*, 58 Cal.App.4th 1019, 1025 (1997). The solution to climate change lies not in any one single action, but in systematically reducing emissions from all possible sources. A-22

The DEIR's contention that the Project's greenhouse gas emissions are not a cumulative impact because the "project is compatible or consistent with applicable CAT strategies" (DEIR at 4.3-40) fails for at least three reasons. First, because the "CAT strategies" referred to in the DEIR is not "a previously approved plan or mitigation program which provides A-23

specific requirements that will avoid or substantially lessen the cumulative problem ... within the geographic area where the project is located" and is also not "specific in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency," it cannot be legitimately relied upon to conclude the Project's greenhouse gas emission are not a cumulative impact. *See* Guidelines § 15064(g)(3). Second, even if CAT strategies could be relied upon, the Project does not comply with the general provisions in the CAT report. Third, regardless of the CAT report, there is substantial evidence that the Project's impact to global warming is cumulatively considerable.

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The March, 2006 "California Action Team Report to Governor Schwarzenegger and the Legislature" (CAT Report) upon which the DEIR relies is a report that "addresses the impact of climate change on the state and includes adaptation measures the state can implement to best respond." (CAT Report at 16.) Recommendations set forth in the report are general in nature, directed at state agencies, and are not binding. (CAT Report at 39, 79.) Thus, because the CAT Report does *not* provide specific requirements for reducing climate change impacts and is not directed at local government approvals of development projects, it cannot be relied upon to the claim that the Project's cumulative impacts are not significant. *See* Guidelines § 15064(g)(3).

The DEIR's reliance of the CAT Report is also flawed because the CAT Report explores ways to reduce existing greenhouse gas emissions in California. Here, the Project does not reduce but *contributes* to existing emissions California, making any efforts at reducing overall emissions and complying with Executive Order S-3-05 that much more difficult. Thus, the DEIR's claim that "[b]y providing a 10 percent increased energy efficiency over the required 2005 standard, the proposed project reduces greenhouse gas emission" is misleading to decision-makers and the public. The Project does not reduce emissions by 10% from an imaginary baseline. It adds 90% of its projected emissions to existing levels. Accordingly, any new source of greenhouse gas pollution must be considered significant, as approving a new source of emissions when the state is working to reduce its total emissions back to 1990 levels by 2020 and to 80% below 1990 levels by 2050 clearly impedes and frustrates the mandates of both the Global Warming Solutions Act and Executive Order S-3-05. Accordingly, other lead agencies, such as the County of Marin, have logically determined that *any* increase in greenhouse gases above existing levels in a significant impact under CEQA. (*See* Marin Countywide Plan Update Draft EIR (Jan. 2007) (excerpts enclosed).

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The DEIR's claim that the Project complies with the state green building initiative set forth in Executive Order, S-20-04 (CA 2004) is also incorrect. (DEIR at 4.3-47.) Executive Order S-20-04 encourages commercial building owners "to take aggressive action to reduce electricity usage by retrofitting, building and operating the most energy and resource efficient buildings by taking measures in the Green Building Action Plan." Executive Order, S-20-04 § 11. The Green Building Action Plan adopts Leadership in Energy and Environmental Design (LEED) standards set by the U.S. Green Building Council.[2] As the LEED standards recognize, "[b]uildings fundamentally impact people's lives and the health of the planet. In the United States, buildings use one-third or our total energy, two-thirds of our electricity, one-eight of our

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[2] Sustainable or "green" building, http://www.green.ca.gov/GreenBuildings/default.htm

water, and transform land that provides valuable ecological resources." (See Green Buildings Rating System for New Construction & Major Renovations, Version 2.2 at 3 (revised 2007) (attached as reference)). In the case of new construction, the Governor's office has clarified that compliance with S-20-04 requires an LEED-NC Silver rating or higher under LEED's new construction standards. *See* Leadership in Energy and Environmental Design for New Construction (LEED-NC), http://www.green.ca.gov/GreenBuildings/newconst.htm (scanned printout of webpage enclosed).

The DEIR claims the Project is compliant with the Green Building Initiative because it is "initiating energy efficiency measures 10 percent beyond what is required by Title 25." (DEIR at 4.3-47.) First, this assertion is misleading because LEED compliance is based on a complex point system assessing a number of factors, including energy efficiency, which the DEIR does not fully evaluate. Second, energy efficiency at 10% greater than Title 24 standards is insufficient to muster even one of the ten possible points in LEED new construction certification for energy efficiency, much less a silver rating as required under S-20-04. *See* LEED, LEED-NC v2.2 and California Title 24-2005 (enclosed as reference). Because the Project does not meet this standard or determine whether the Project conforms to a LEED Silver certification, it does not comply with the state's green building initiative. As presented, the DEIR is fundamentally misleading to both decision-makers and the public and violates CEQA's most basic informational mandates. A-25

The DEIR's claim that the Project is compliant with "Smart Land Use and Intelligent Transportation Systems (ITS)" also falls flat. (DEIR at 4.3-36.) The DEIR's claim that the Project can be considered smart land use because it is located next to residential land uses is misleading and inaccurate because vacant land is to the immediate north, south and east of project site. (Appendix B at 1). Moreover, while the DEIR claims that "[t]he proposed project provides goods to those located near the project site thereby improving the efficiency of goods and movement" it provides absolutely no data to support this conclusion. *See Santiago County Water Dist. v. County of Orange*, 118 Cal.App.3d 818 (1981) (An "EIR must contain facts and analysis, not just the bare conclusions of a public agency."). Located on the fringe of Yucca Valley, it is difficult to conceive how the proposed Supercenter would result in a reduction in vehicle miles traveled, thereby "improving the efficiency of goods and movement" as the DEIR claims. To the contrary, by consolidating the necessities of life into massive stores that aggregate car-borne shoppers from large areas, average shopping trips are longer in length. *See* Wal-Mart Watch, Sustaining Wal-Mart (2007) (attached as reference). A-26

The DEIR also suggests that the Project's cumulative climate change impacts are insignificant because the Project's greenhouse gas emissions represent a small fraction of California's total emissions. (*See* DEIR at 4.3-48.) Courts have flatly rejected the notion that the incremental impact of a project is not cumulatively considerable because it is so small that it would make only a *de minimis* contribution to the problem as a whole. *See Communities for a Better Environment v. California Resources Agency*, 103 Cal.App.4th 98, 117 (2002); *see also Massachusetts v. EPA*, 127 S.Ct., 1438, 1457 (2007) (U.S. Environmental Protection Agency arguments for not regulating carbon dioxide from vehicles under the Clean Air Act "rests on the erroneous assumption that a small incremental step, because it is incremental, can never be attacked in a federal judicial forum [. . .] Agencies, like legislatures, do not generally resolve A-27

massive problems in one fell regulatory swoop."). An EIR may not use "the magnitude of a current problem to trivialize the project's impacts." *Kings County Farm Bureau v. City of Hanford*, 221 Cal. App. 3d 692, 719 (1990). Rather, "the greater the existing environmental problems are, the lower the threshold should be for treating a project's contribution to cumulative impacts as significant." *Communities for a Better Environment*, 103 Cal. App. 4th at 120. A-27

Consistent with CEQA's treatment of cumulative impacts, lead agencies like the County of Marin, have explicitly determined that the *any* increase in greenhouse gases above existing levels in a significant impact under CEQA. However, a lead agency need not have adopted thresholds to make a determination regarding the significance of global warming impacts. Where there is no universally accepted methodology as to what constitutes a significant impact, a lead agency must still meaningfully attempt to quantify a particular impact and determine whether the impact is significant. *Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners*, 91 Cal.App.4th 1344, 1370-71 (2001). In the case of climate change, there is nothing speculative about the fact that: 1) new sources of greenhouse gases add to existing levels; and 2) the state has determined existing levels are unacceptable and must be reduced within a fixed timeframe. Accordingly, the lack of adopted greenhouse gas thresholds does not shield a lead agency from making a significance determination on global warming impacts. Where, as here, the legislature has determined that California's current greenhouse gas baseline is so high that is requires significant reductions, and the proposed project will exacerbate existing conditions, it is difficult to see how a new source, even a small one, can be insignificant cumulatively. In light of the magnitude and scope of the climate change impacts facing California, the impacts from any project adding additional amounts of greenhouse gases to the environment should be considered cumulatively significant. A-28

Finally, it must be noted that while the DEIR attempts to trivialize the Project's individual greenhouse gas emissions, the significance of Wal-Mart's world wide emissions cannot be understated. Wal-Mart is the largest private purchaser of electricity in the United States and the owner of one of the largest private heavy-duty fleet trucks in the county.[3] Wal-Mart estimates its worldwide carbon dioxide emissions at over 19 million metric tons and the greenhouse gases generated from its supply chain at ten times that amount.[4] In addition, emission from customer trips is estimated at over 15 million tons. Combined, Wal-Mart's generates over 220 million tons of greenhouse gas emissions. The cumulative greenhouse gas emissions of Wal-Mart's operations is almost half that generated by the entire state of California. A cumulative impacts analysis does not have prescribed geographic limitations. *See* Guidelines § 15130. Rather, where feasible, there is a "duty to use reasonable efforts to discover, disclose, and discuss related projects which are under the administrative jurisdictions of other city, state, and federal agencies." *San Franciscans for Reasonable Growth v. City & County of San Francisco*, 151 Cal.App.3d 61, 74 n.13 (1984). Wal-Mart's various operations are all related because the all produce greenhouse gases and are all controlled by Wal-Mart. Moreover, as data on Wal-Mart's worldwide and national emissions is readily available on its own website, is a A-29 A-30

[3] Wal-Mart, Wal-Mart Greenhouse Gas Emissions Fact Sheet, available at www.walmartfacts.com (last visited August 9, 2007) (printout of webpage enclosed).
[4] Wal-Mart, Wal-Mart 2005 Baseline GHG Inventory; Carbon Disclosure Project, CD4 Reponses, available at http://www.cdproject.net/index.asp (last visited August 14, 2007) (printout of webpage enclosed).

simple matter include this information in the DEIR in order to provide an invaluable context to the emissions of the instant Wal-Mart project. A-30

Because the Project's greenhouse gas emissions are clearly significant, the DEIR must move on to the critical step of analyzing alternatives and measures to mitigate or avoid those impacts. As discussed below, there are numerous measures available to greatly reduce the Project's greenhouse gas emissions. A-31

D. The EIR Must Analyze and Adopt Feasible Mitigation Measures to Reduce the Project's Greenhouse Gas Emissions.

Because the Project's greenhouse gas emissions cumulatively contribute to global warming, "the EIR must propose and describe mitigation measures that will minimize the significant environmental effects that the EIR has identified." *Napa Citizens for Honest Gov't v. Napa County Bd. of Supervisors*, 91 Cal.App.4th 342, 360 (2001). CEQA requires that agencies "mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so." Pub. Res. Code § 21002.1(b). Mitigation of a project's significant impacts is one of the "most important" functions of CEQA. *Sierra Club v. Gilroy City Council*, 222 Cal.App.3d 30, 41 (1990). Therefore, it is the "policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which will avoid or substantially lessen the significant environmental effects of such projects." Pub. Res. Code § 21002; *See Laurel Heights I*, 47 Cal.3d at 400-401.

The DEIR should utilize a hierarchy of options to reduce greenhouse gas emissions. Mitigation and avoidance measures should first reduce the Project's energy use and greenhouse gas emissions as much as possible in the first instance and then generate the Project's remaining required energy from carbon-free sources, thereby reducing or eliminating the Project's emissions. *See* Pub. Res. Code § 21100(b)(3) (Mitigation should include measures "to reduce the wasteful, inefficient, and unnecessary consumption of energy."; *see also* Guidelines, App. F (including renewable fuels as potential mitigation measure). Any remaining emissions must then be offset through the purchase of credits from a verifiable and transparent source. *See, e.g., Anderson First Coalition v. City of Anderson*, 130 Cal.App.4th 1173 (2005) (fair-share contributions to defined fee-based mitigation program is adequate mitigation if "part of reasonable plan of actual mitigation that the relevant agency commits itself to implementing."). A-32

There are many feasible options and measures to limit each of the Project's greenhouse gas emission sources. These measures must be discussed explicitly with regard to greenhouse gas emissions. The amount that each measure will reduce emissions must be quantified wherever possible. All feasible measures must be adopted, Guidelines § 15065(c)(3); and must be mandatory and enforceable, not aspirational or voluntary. Guidelines § 15126.4(a)(2). Measures to reduce impacts may not be deferred until some future time or so vague that it is impossible to evaluate their effectiveness. *See* Guidelines § 15126.4(a)(1)(B); *San Franciscans for Reasonable Growth v. City & County of San Francisco*, 151 Cal.App.3d 61, 79 (1984). Available measures include, but are not limited to the following:

Measures Relating to Project Design and Transportation

- Analyze and incorporate alternative project locations and design to achieve urban in-fill, minimize commute distances and times, and locate buildings near existing transportation hubs. This should include a rigorous, good-faith look at alternatives to the "big box commercial" style of development which encourages vehicle trips;

- Analyze and incorporate public transportation improvements as integral Project components to minimize individual vehicle trips as follows:
  - analyze the use of or availability of transportation impact or other fees to provide public transportation improvements;
  - analyze new infrastructure and service to serve the Project such as light rail, bus, and shuttle service, which will utilize alternative fuels and energy sources wherever possible;
  - analyze improvements to overcome barriers to public transportation use, including more frequent service, better coordination of transfers and connecting services, enhancements to safety, comfort, and cleanliness of conveyances, stations, and common areas, the provision of shuttle services, and other services and incentives;

- Analyze and incorporate bicycle and pedestrian access pathways and access; — A-32

- Analyze and incorporate measures to promote ride-sharing and car-sharing to reduce single-occupancy vehicle trips, including:
  - Utilizing fee structures for access and parking to encourage ride and car-sharing and discourage individual vehicle trips;
  - Provide convenient, accessible, and affordable, centrally-located car-share resources, including prioritizing parking spaces for such vehicles;
  - Encourage ride-sharing, van-pooling, and other measures with prioritized parking spaces, adequate and safe loading and unloading zones, etc.;
  - Develop the necessary infrastructure for alternative fuel vehicles, including plug-in hybrid and electric vehicles, such as solar-powered plug-in hybrid and electric vehicle charging stations;

- Analyze and incorporate measures prohibiting the idling of supply trucks and the provision of electric plug-ins for supply trucks during shipments;

Measures Related to Project Construction:

- Utilize recycled, low-carbon, and otherwise climate-friendly building materials such as salvaged and recycled-content materials for building, hard surfaces, and non-plant landscaping materials;

- Minimize, reuse, and recycle construction-related waste;

- Minimize grading, earth-moving, and other energy-intensive construction practices;
- Landscape to preserve natural vegetation and maintain watershed integrity;
- Utilize alternative fuels in construction equipment and require construction equipment to utilize the best available technology to reduce emissions.
    - While Appendix B of the DEIR proposes that "[t]he construction contractor should make use of electric or alternatively fueled equipment or catalyst-equipped diesel powered equipment in lieu of gasoline powered engines where feasible" to mitigate significant impacts from other air pollutants, this measure is impermissibly discretionary and vague. (DEIR Appendix B at 32.) The mitigation measure should be revised to be mandatory and clarify the relative benefits between electric, alternative fuel and catalyst-equipped powered equipment. Because the emissions differential between each type of fuel may be substantial, the DEIR cannot lump each alternative into a single measure.

Measures Relating to Building Design and Project Operation:

- Analyzing and incorporating the U.S. Green Building Council's LEED (Leadership in Energy and Environmental Design) or comparable standards for energy- and resource-efficient building during pre-design, design, construction, operations and management. *See* http://www.usgbc.org and links. A LEED certification manual for new construction is attached to the appendix.
    - In 2003, the State of California commissioned a study of 35 LEED buildings which found that the average extra cost was approximately $5-$6 per square foot (2%) more than average commercial construction costs. However, the range of benefits was approximately $50-70/square foot with increased productivity being the largest benefit. Kats, The Costs and Financial Benefits of Green Building, A Report to California's Sustainable Building Task Force, October 2003 (attached to appendix). — A-32
- Designing buildings for passive heating and cooling, and natural light, including building orientation, proper orientation and placement of windows, overhangs, skylights, etc.;
- Designing buildings for maximum energy efficiency including the maximum possible insulation, use of compact florescent or other low-energy lighting, use of energy efficient appliances, etc.
- Reducing the use of pavement and impermeable surfaces;
- Requiring water re-use systems;

- Maximizing water conservation measures in buildings and landscaping, using drought-tolerant plants in lieu of turf, planting shade trees;

- Ensure that the Project is fully served by full recycling and composting services;

- Ensure that the Project's wastewater and solid waste will be treated in facilities where greenhouse gas emissions are minimized and captured.

Measures Relating to Renewable Energy Generation

- Installing the maximum possible photovoltaic array on the building roofs and/or on the project site to generate all of the electricity required by the Project, and utilizing renewable energy to the extent necessary and feasible to meet the remainder to the Project's energy requirements;

    - In light of the Project site's sunny desert climate and large flat roof of the proposed Super-Center, the Project would appear to be an ideal candidate for a solar-powered roof. Indeed, as Wal-Mart is installing similar solar-powered systems in other stores, there is no legitimate basis to conclude this measure is not feasible for a store proposed in a sunny, desert location.[5] Indeed, SunEdison offers commercial solar energy services to big box realtors like Staples that include all upfront purchase and installation costs. The customer only pays for solar energy produced at prices equal to or below current retail energy rates. *See* http://sunedison.com/commercial-overview.php (printout of webpage enclosed) — A-32

    - Solar power can also be provided in the Project's proposed parking lot; this would also serve as a shade structure for customers' cars. Solar-powered parking lots are now being utilized in California. *See* http://www.greengeek.ca/2006/03/04/solar-panels-turn-parking-lot-into-power-plant/. (printout of webpage enclosed)

    - A Solar-powered parking-lot lighting is another option to analyze. *See* http://www.solarlighting.com/application_parking_lot_lighting.html (printout of webpage enclosed). Because this measure would generate 100% of the energy required for parking lot lighting, it could remove this part of the Project from the electric grid.

- Installing solar water heating systems to generate all of the Project's hot water requirements;

    - Appendix B of the DEIR states that "solar or low-emission water heaters shall be used with combined space/water heater units." (Appendix B at 31.) As presented,

[5] *See* Wal-Mart, Solar Power Pilot Project, available at www.walmartfacts.com (printout of webpage enclosed). The fact that Wal-Mart may consider its solar systems "pilot projects" does not render the measure infeasible under CEQA. Indeed, solar power is a proved technology to reduce dependency on fossil-fuels and the greenhouse gases they generate.

this measure is impermissible vague because it does not clarify the extent to which solar or low-emission water heaters will be used in relation to other types of units. Moreover, while solar units produce no emissions, low-emission water heaters of unspecified design do. A revised DEIR must specify the extent to which solar units will be used to generate the Project's hot water requirements. If it is infeasible for solar heaters to generate all or the vast majority of hot water requirements, which in Yucca Valley, would seem unlikely, the DEIR must explain why.

A-32

- Installing solar or wind powered electric vehicle and plug-in hybrid vehicle charging stations to reduce emissions from vehicle trips.

Offsetting Emissions

- After all measures have been implemented to reduce emissions in the first instance, remaining emissions that cannot be eliminated may be mitigated through offsets. Care should be taken to ensure that offsets purchased are real (additional), permanent, and verified, and all aspects of the offsets should be discussed in the DEIR. To provide offsets in the Project area, mitigation could include an energy-efficient retrofit of existing building stock in the Project area to offset the increased energy demands of the Project.

The DEIR's deficiencies as discussed throughout not only render it legally defective but also represent an enormous missed opportunity to improve land use planning and decision-making and greatly slash the proposed project's greenhouse gas emissions. The EIR's failure to fully address and mitigate greenhouse gas emissions and global warming is ironic given the Wal-Mart corporation's public statements regarding its efforts to reduce this pollution and operate more sustainably. All of the measures listed above must be incorporated unless it is shown, with substantial evidence on the record, that they would be infeasible. Fortunately, these measures are eminently feasible and will result in a vastly improved Project that saves consumers energy costs, promotes local jobs and innovation, and complies with the mandates and aspirations of CEQA.

A-33

II. The DEIR Fails to Adequately Analyze and Mitigate the Project's Impacts to Biological Resources.

A. The Proposed Project Is Subject to the Endangered Species Act.

The project is subject to the Endangered Species Act ("ESA"), and must fully comply with the ESA's provisions. Section 9 of the Endangered Species Act of 1973, and Federal regulations issued pursuant to section 4(d) of the ESA, prohibit take of endangered and threatened species without a special exemption. 16 U.S.C. §1531 *et seq.* Section 7 of the Act requires Federal agencies to consult with the United States Fish and Wildlife Service ("USFWS") should it be determined that their actions may affect federally listed threatened or endangered species or adversely modify critical habitat. Take is defined as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or attempt to engage in any such conduct. Harm is further defined by USFWS to include significant habitat modification or degradation that

A-34

actually kills or injures a listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Harass is defined by USFWS as an action that creates the likelihood of injury to a listed species by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), such incidental taking is not considered to be a prohibited taking under the ESA only if it is in compliance with the Incidental Take Statement.

A-34

B. The DEIR's Analysis of Impact to the Desert Tortoise is Deficient.

The Desert Tortoise (*Gopherus agassizii*) is a threatened species under the Endangered Species Act. The Mojave population of the Desert Tortoise was listed because numbers are declining precipitously in many areas. These declines are mainly attributed to direct and indirect human caused mortality. (USFWS 1994, Boarman 2002, Heaton 2007). Impacts such as the destruction, degradation, and fragmentation of desert tortoise habitat result from urbanization, agricultural development, livestock grazing, and roads. (USFWS 1994, Boarman 2002, Heaton 2007). Human predation, either by direct mortality or removal from habitat, is also a major factor. (USFWS 1994, Boarman 2002). It is estimated that Desert Tortoise populations have declined by up to 59% per year. USFWS 1994. These declines have been attributed to direct take by humans (e.g., collection for pets or food, shooting, killing and injuring with motor vehicles; habitat loss, degradation, and fragmentation (e.g. due to roads, agriculture, residential development). (USFWS 1994, Boarman 2002, Heaton 2007).

A-35

Approval of the tentative project may result in harm and harassment of the Desert Tortoise. Despite that fact that no sign or tortoise were found on the site during previous surveys, the fact remains that they could wander onto the site in the future and take up residence. The habitat, while currently "disturbed", is still capable of supporting desert tortoise, presently and will be destroyed if the project proceeds.

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The project has the potential to reduce the numbers or restrict the range of an endangered species. Therefore impacts to the Desert Tortoise represent a mandatory finding of significance. The project will destroy habitat and also result in additional recognized threats to the Desert Tortoise, including, but not limited to, impacts from: construction activity, diminished air quality, vehicle traffic, habitat loss, attraction of predators, increased fire potential. These impacts must be recognized and evaluated for significance. Therefore, all feasible mitigation measures should be addressed in order to adequately assess the potential for reducing the impact to less than significant.

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Further, the Draft EIR fails to address impacts in relation to the goals of the Desert Tortoise Recovery Plan, Mojave Population ("Recovery Plan"). (See attachments). The Recovery Plan is a crucial document guiding the protection and recovery of the species under the ESA. Failure to assess threats and mitigation as it relates the Recovery Plan is a fatal flaw because the Recovery Plan is the oversight agencies' analysis of what is necessary to conserve and recover the species as required under the ESA.

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The Draft EIR is deficient because it fails to adequately recognize and address several additional impacts the project would have on the Desert Tortoise population. Desert tortoise are documented to occur east of the project site (CNDDB 2007) and could potentially wander into the WalMart site after construction is completed, putting the animals in harms way. In order to preclude this impact, desert tortoise fencing needs to be installed and maintained around the perimeter of the project (and in conjunction with adjacent projects) to minimize and mitigate the impacts to desert tortoise. Protective fencing will also have benefit on numerous smaller mammals and reptiles by precluding entry into the WalMart site. A-39

Mitigation measure 4.4.3C states that "In order to minimize impacts due to increased numbers of common ravens on desert tortoise, all trash containers shall be securely covered. In addition, to reduce littering, signage should be posted throughout the project site stating fines for trash dumping in open areas". The measure needs improvement to *require* signs stating fines for trash dumping, including in the parking lots. Additionally, measures need to be included to reduce impacts to desert tortoise in adjacent areas from raven predation. Raven roosting and nesting site elimination must also be required on the project site. If nest building is observed, the nest must immediately be removed prior to egg production. A-40

C. Project Impacts to Other Species Are Not Adequately Analyzed.

Impacts to sensitive species and their habitat must also be fully analyzed, avoided, and minimized or mitigated where unavoidable. Species are categorized as sensitive because of their potential to become threatened or endangered in the future. Impacts from human development, urbanization, habitat alteration and fragmentation, are some of the biggest threats to fish and wildlife. As discussed above CEQA requires a mandatory finding of significant impact if a project has the potential to reduce the numbers or restrict the range of an endangered, rare or threatened species. CEQA Guidelines § 15065. Direct mortality of sensitive species is a significant impact to a threatened species and must be analyzed in depth as a significant impact. In order to determine the significance of the impact to sensitive species, the EIR should disclose a quantified analysis of impacts to species populations resulting from project activities. Additionally, the results of numerous individual projects eliminating small habitat fragments are cumulatively considerable. The project cannot rationalize impacts to sensitive species and their habitat as insignificant without analysis and without proposing specific mitigation measures. The Draft EIR must fully mitigate the impacts of habitat destruction. A-41 A-42 A-43 A-44

The Draft EIR fails to include all of the sensitive species that are reported to occur within the general area (CNDDB 2007 - *Yucca Valley North, Yucca Valley South, Joshua Tree North,* and *Joshua Tree South* U.S. Geological Survey (USGS) 7.5-minute quadrangles [covering an approximately 7-mile radius around the project area]). Species that are documented occur but not addressed in the Draft EIR include: A-45

- Pallid San Diego pocket mouse (*Chaetodipus fallax pallidus*) – State Species of Concern
- Hoary bat (*Lasiurus cinereus*) – State Species of Concern
- Western yellow bat (*Lasiurus xanthinus*)
- Cuckoo bee (*Paranomada californica*)
- Latimer's woodland gilia (*Saltugilia latimeri*) – CNPS 1B.2

The Draft EIR fails to clearly justify why six species were considered to be absent from the projects site because of lack of suitable habitat (at pg.4.4-5). For instance, Nelson's bighorn sheep, a State fully protected species within the West Mojave Plan area (CNDDB 2007) are known to occur in the general area, and may use the project site to move from the Little San Bernardino Mountains (located south of the project) to the Sawtooth Mountains (located north of the project). Bighorn sheep are known to cross through human-inhabited areas when moving between ranges and the intermountain areas of the desert floor that bighorn traverse between mountain ranges are as important to the long term viability of populations as are the mountain ranges themselves (Bleich et al. 1990). A-45

On a similar note, the Draft EIR incorrectly states that "existing buildings and roads serve as barriers to regional wildlife movement." Large mammals, birds and some types of seeds have relatively little difficulty in traversing roads, while roads can be barriers to small mammals, reptiles and other types of seeds, depending upon the size of the road (Forman et. al. 2003). This blanket statement downplays the reality that the adjacent roads, while fragmenting the habitat, are not barriers for many species and does not isolate the project site from adjacent open space. A-46

The criteria for determining the probability of a species' occurrence on site is not clearly identified. In fact, sections in the Draft EIR conflict on this issue. For instance, the loggerhead shrike, a State species of concern, is determined to have a low probability of occurrence (at pg. 4.4-5). However, not only was the bird documented on the project site (at pg. 4.4-5) but a Loggerhead shrike nest was found on the site (Appendix F). Additionally, the Draft EIR incorrectly states about the San Diego horned lizard (*Phrynosoma coronatum blainvillii*) "there have been no reported sightings in the project vicinity over the past century" (at pg. 4.4-6). However, collections of this species have been made in the general area in the 1970's (CNDDB 2007). The Draft EIR clearly fails to adequately evaluate the probability of occurrence on the site for these species and therefore fails to evaluate the potential impacts to them. A-47

The Draft EIR fails to adequately analyze impacts to species with habitat on the project site that were not found during surveys. Negative surveys do not mean that the species does not utilize the habitat on the project site; it simply means that the species was not present at the time of the survey. The project will eliminate suitable habitat for sensitive species and contribute to continued habitat fragmentation, and destruction. The elimination of marginal or immature habitat, because it presently does not meet the ideal habitat for sensitive species, will prevent the species from ever using that habitat in the future during dispersal and/or colonization. These impacts must be addressed and mitigated. A-48

Even if it were proper to assume that no rare, threatened or endangered species currently occupy the project area, which it is not, that would not relieve the City from the duty to identify and analyze impacts to these species due to the fact that the project area contains valuable habitat that these species will need in the future in order to adequately recover. In other words, just because habitat is not currently occupied does not mean the habitat is unnecessary or inessential to conservation of the species which includes both survival and recovery of the species. To the contrary, every acre of habitat that is left is critically important to the future recovery of the sensitive species such as the Burrowing Owl. Therefore, without adequate A-49

current surveys to the contrary, the Draft EIR must assume that species associated with the project area are present and that, even if these species are not present, the loss of high quality unoccupied habitat to development may directly, indirectly, and cumulatively impact the conservation of these species. A-49

The Draft EIR fails to address impacts to the California Horned Lark (*Eremophilia alpestris actia*), Loggerhead shrike (*Lanius ludovicianus*) and the Black-tailed jack rabbit (*Lepus californicus deserticola*) and their habitat. These species are all noted to have been observed on site (at pg. 4.4-3 Table 4.4.B) and are listed as state species of special concern. Yet, the Draft EIR fails completely to analyze potential impacts to the species, instead relying on conclusory statements including "due to the relative abundance of these species in other areas, the moderately disturbed nature of the proposed project site, and the expected low numbers of individuals that may be present on-site, and as these species are not being proposed for listing by any state or federal agency, impacts associated with these species are considered less than significant" (at pg. 4.4-14). These statements are unsubstantiated by facts. If the species were abundant in other areas, they would not qualify as State species of concern. Because they are present on the site (and nesting in the case of the loggerhead shrike) the evaluation of the habitat as "moderately disturbed" is irrelevant – the site currently supports the species. No evaluation of the numbers of these sensitive species is given, and an "expected low number of individuals" is unsubstantiated by fact. Lastly the reason for the CEQA process is to reveal impacts of the projects on resources, including impacts on species that may not yet be listed, with the goal of identifying, analyzing, avoiding, minimizing and mitigating those impacts so that Endangered Species Act protection will not be needed for species in the future. To disregard species impacts as less than significant because they are not proposed for listing currently, allows for continued species decline and will result in the eventual need for listing in the future. Therefore, potential impacts to these species must be fully analyzed and avoided, or minimized and mitigated. A-50

The Draft EIR fails to include the translocation plan for the 97 Joshua trees that are proposed for translocation. The project is proposing to eliminate 29% of the Joshua trees that occur on site, and transplant the rest (at pg. 4.4-11). However, the success of the transplantation is based upon the transplantation plan, which is not provided. In order to comply with CEQA, this plan needs to be included for public review, because some strategies for translocation of Joshua trees are more successful than others. A-51

D. The DEIR Fails to Adequately Address Cumulative Biological Impacts.

The Draft EIR cumulative impacts section for Biological Resources fails to address specifically any nearby projects in a meaningful way. While the "Home Depot site" is mentioned in the Biological Resources section, no description about it or any of the other thirty-six projects within the city are described and their impacts are not analyzed cumulatively. The determination that "no significant cumulative impact to biological resources would occur as a result of the project" (at pg. 4.4-17) clearly mistakes the goal of the cumulative impacts analysis, which is to evaluate the *collective impact of all of the nearby projects*, not just the proposed project. CEQA's cumulative impact analysis requirement exists to capture precisely this type of impact that may be individually small but cumulatively significant. *See, e.g., Kings County Farm Bureau v. City of Hanford*, 221 Cal. App. 3d 692, 721 (1990). A-52

The Draft EIR incorrectly identifies that cumulative "impacts are reduced to a less than significant level with implementation of Mitigation Measure 4.4.1A" (at pg. 4.4-17) for non-listed sensitive species. In fact, 4.4.1A is mitigation measure specifically for burrowing owls. A-53

III. The DEIR's Analysis and Mitigation of Storm Water Impacts Is Inadequate.

The DEIR fails to clearly describe elements of the proposed storm water management system, making it impossible to evaluate whether the system will be adequate to avoid any significant impacts. The DEIR does not identify or discuss potentially significant impacts the Project may have on hydrology and water quality. Nor does it identify or discuss cumulative impacts the Project may have in conjunction with the adjacent Home Depot development and other planned developments affecting the Covington Wash. A-54

The DEIR does not specify which measures will be employed to avoid erosion and run-off that would affect off-site properties, washes and ground water. Instead, the DEIR states that "[t]he proposed project intends to use a variety of Best Management Practices for the project site," and identifies menus of measures that *may* be used during construction and operation phases. (DEIR at 4.8.2; Tables 4.8-C, 4.8-D, and 4.8-E.) The DEIR's reliance on unspecified and discretionary mitigation measures violates CEQA. *See, e.g., Federation of Hillside & Canyon Ass'ns v. City of Los Angeles*, 83 Cal.App.4th 1252, 1261 (2000) (EIR inadequate where did not ensure that mitigation measures would actually be implemented). Accordingly, the DEIR must be revised to identify how (or whether) storm water run-off will be treated, and exactly how and where it will be discharged from the Project site. A-55 A-56

The DEIR acknowledges that the Project will result in increased peak flow and pollutant loads in local drainage ways and washes. (DEIR at 4.8-11.) The DEIR identifies sediments, nutrients, heavy metals, organic compounds, trash, debris, oxygen-demanding substances, oil, grease and pathogens as likely pollutants in storm water runoff from the site. The proposed storm water management system relies on a "treatment train" that is limited to trash racks on catch basins, "numerous natural drainage areas" on-site that "would act and function like large vegetated swales," bioengineered planting strips, and infiltration and detention basins. (DEIR at 4.8-11, 4.8-12.) This proposed system is not adequate to the task. A-57

First, the "numerous natural drainage areas" that may exist now, will not exist once the Project is built: All site plans show virtually the whole property graded, and either paved or with a structure on it. (*E.g.*, Figure 4.8.1.) Only a few small areas along Palisade and Avalon Avenues will remain undeveloped, but these are at the highest elevations of the project site, and the DEIR says runoff from these areas is to be captured and directed to a retention basin. (DEIR at 4.8-14 and 4.8-15.) The DEIR identifies "a natural drainage swale located midway along the eastern property line of the project site" as a feature that can accept and filter storm water and urban run-off. (DEIR at 4.8-14.) This feature cannot be relied on to serve any such functions, as it will not exist if the Project is developed as planned: Site maps show the A-58 A-59

entire eastern boundary of the property developed with either pavement or structures. (E.g., Figure 4.8.1.)[6]

A-59

Second, there is no room in the site plan for "bioengineered planting strips" that would be large enough to be effective. If bioengineered planting strips are to be used to filter and treat storm water run-off, it must be clear that the site can accommodate enough such plantings to do the job. From the available record, it appears the site cannot make such accommodations. Except for small, landscaped areas at the ends of parking rows, the site is planned for parking, driveways and structures. (Figure 4.8.1.) Many small, isolated areas are not efficient storm water filters. A revised EIR must identify how much area, if any, will be used for bioengineered planting strips, how much runoff will be diverted to such areas, how it will get there, and how well it will be treated before it infiltrates to the aquifer.

A-60

Third, the "treatment train" outlined in the DEIR is inadequate to filter pollutants from the storm water runoff that will be generated from the Project site. It does not include any oil/water separators or other filtration devices (other than "trash racks" to capture large debris) to capture oils, heavy metals, solvents or other persistent contaminants.

A-61

Finally, during the environmental review process for the adjacent Home Depot Development, the Center raised concerns about the cumulative impacts of that development and the Yucca Valley Retail Center (Walmart) on hydrology, water quality and the Covington Wash. In comments filed on the DEIR for the Home Depot project, the Center asked for information about how and where the storm water run-off from the Home Depot and Walmart sites would join, what the combined volume and quality would be, and how and where it would be discharged to the Covington Wash. (Letter from Center for Biological Diversity to Mr. Shane Stueckle, January 2, 2006.) In response, the Town of Yucca Valley stated that the two projects were separate and each would address on-site runoff separately. The response also stated that

A-62

> [E]ach development project must take responsibility for the storm water run-off consistent with Town requirements. Given that the Home Depot project mitigates for its storm water both at a water quality and hydrologic level, and other development projects must do the same, it is reasonable to conclude that impacts are not cumulatively considerable and do not warrant further evaluation.

(Response to Comments on the DEIR for the Home Depot Retail Center, January 24, 2006 at p. 93.) The DEIR for the Yucca Valley Retail Center also declines to identify or analyze the cumulative impacts these and other developments in this area will have on storm water runoff, water quality, hydrology and the Covington Wash.

A-63

The DEIR for the Yucca Valley Retail Center says that virtually all storm water flows from the site will be directed to a large retention basin at the north end of the property along State Route 62. (DEIR at 4.8-14.) From there, "flows from the project site would be conveyed into an outlet pipe which connects to Home Depot's outflow pipe, where project flows

A-64

[6] This "swale" may be gone already, as the Home Depot project is being built, and the main driveway was graded many weeks ago - the main driveway runs along the east boundary of the WalMart property. Fig. 4.8.1.

would be combined with flows from the Home Depot site. Flows from both the project site and Home Depot site would then be routed to a drainage pipe/structure located at the northeastern corner of the Home Depot property where flows would be transported via conveyance features through the adjacent parcel on the east until reaching the Covington Wash." (DEIR at 4.8-14 to 4.8-15.) A-64

The DEIR states that the Walmart site currently "has a low runoff coefficient, meaning most of the rainfall infiltrates on-site with almost no runoff." (DEIR at 4.8-14.) The DEIR also says that conversion of the site to impermeable surfaces will yield almost no infiltration and all runoff. (*Id.*) The obvious facts are that the Walmart and Home Depot sites generate no storm water runoff in their undeveloped, natural states. Almost all rainfall from both sites will become runoff once they are developed, and the combined, polluted runoff will be directed via unidentified "conveyance features" to the Covington Wash, where it will eventually infiltrate to the aquifer. These combined, contaminated flows will be discharged via unidentified mechanisms, at an unidentified rate, and an unknown total volume. Furthermore, these flows will cross State Route 62 at some point and pick up new contaminants and trash. A-65

A revised EIR must address the cumulative impacts these combined flows will have off-site: It must identify the point and mechanism of the combined discharge, the rate and overall volume, the pollutant load, the "conveyance features" that will carry the flows to the Covington Wash, and whether they will enter or cross SR 62 before or after entering the Covington Wash. A-66

Furthermore, a revised EIR must consider the cumulative impacts on storm water runoff, water quality, hydrology and the Covington Wash the Walmart Project will have in combination with the Home Depot development and other developments being built or planned for the Covington Wash drainage. Specifically, a revised EIR must consider the Century Vintage Homes project of approximately 1400 new homes planned for parcels uphill from the Walmart and Home Depot sites. A revised EIR must also consider the wastewater treatment plant planned for parcels east of the Home Depot site. These new and planned projects will combine to increase the amount, and decrease the quality, of storm water runoff reaching the Covington Wash and infiltrating to the aquifer that is the Town's drinking water supply. Though treated to some extent, the storm water runoff from all these projects will still carry contaminants to the Covington Wash. What effects with this combined and contaminated runoff have? Will these combined flows reach the aquifer faster, and carry more contaminants, than each is separately calculated to do? These cumulative impacts must be considered in a revised EIR. A-67 A-68 A-69

A. Proposed Mitigation to Reduce Project Impacts from Storm Water Runoff.

- Install oil/water separators and other filtration devices where appropriate in the drainage system to remove oils, grease, solvents, heavy metals and other contaminants. (*See, e.g.*, Storm Water Technology Fact Sheet: Hydrodynamic Separators, Environmental Protection Agency, Office of Water (1999).)[7] 70

[7] Other sources of information on methods and mechanisms for reducing the pollutent load of storm water runoff include: *The California Stormwater Best Management Practices Handbook* (found at www.cabmphandbooks.com); *The International Stormwater Best Management Practices Database* (found at www.bmpdatabase.com); *Stormwater*

- Use porous pavement where feasible to reduce the overall amount of impervious surfaces. (*See, e.g.*, Storm Water Technology Fact Sheet: Porous Pavement, Environmental Protection Agency, Office of Water (1999).) A-71

- Design the point of discharge from the combined Home Depot/Walmart drainage systems to disperse the discharge and reduce its energy. (Appendix K to the DEIR contains notes from the drainage system engineers stating that energy dissipaters would be required for the outlet from the Walmart retention pond. (*E.g.*, DEIR, Appendix K at p. 110 of 122.).) A-72

IV. The DEIR's Analysis of the Project's Water Supply Impacts Is Inadequate.

The analysis in the DEIR regarding water supply is inadequate. The DEIR does not address projected water demands versus water supplies, but rather relies on a simplistic calculation that shows the Walmart water demand can be met with water supplies existing as of 2004/2005. (DEIR at 4.16-17.) The DEIR concludes that the project will have no significant impacts, alone or cumulatively, because "water supplies are sufficient to meet demand." (DEIR at 4.16-19.) The analysis is incomplete and incorrect and at the very least, a revised EIR must consider the cumulative impacts this project will have, along with all others planned for Yucca Valley, on water supplies. A-73

The Town of Yucca Valley and its water purveyor, the Hi-Desert Water District, ("HDWD") are dealing with a long-standing water supply problem. Yucca Valley relies on groundwater to meet virtually all its water demands. By the 1970s, the town was drawing down its primary aquifer, the Warren Valley Basin, at a significant rate. In 1977, the basin was adjudicated and a WaterMaster appointed to address the overdraft problem and plan for future water needs. As a result, the HDWD is now importing water from the State Water Project via the Mojave Water Agency ("MWA") to recharge the Warren Valley Basin aquifer. HDWD is entitled to approximately 4,270 acre feet per year from the MWA under a contract that expires in 2021 (or thereabouts). Due to a variety of factors, HDWD receives only a little over 3,000 acre feet per year on average, and the Town consumes the bulk of that, leaving only a few hundred acre feet each year for long-term recharge of the aquifer. (DEIR Table 4.16.B.) The Mojave Water Agency has refused to negotiate an extension, renewal or replacement for HDWD's contract, stating that its "increasing obligations make guarantees for future supply unwise and impractical." (Wheeler, *Hi-Desert Water takes MWA to* Task, Hi-Desert Star, March 8, 2005.) The MWA has invited HDWD to purchase water, to essentially bid on it, on the open market from year to year: an unknown quantity at an unknown price. HDWD itself is concerned that under such a system water may be unaffordable even if it is available. (Wheeler, *HDWD: Water Future Uncertain*, Hi-Desert Star, April 9, 2005.) A-74

This all shows that it is <u>not</u> clear there is enough water to supply this Project over its lifetime, especially when combined with other developments being built or planned for Yucca Valley: A-75

BMP Brochure, The Stormwater Quality Management Committee, Clark County, NV (www.lvstormwater.com); and *Managing Stormwater: Best Management Practices* (www.greenworks.tv).)

> Absent some data indicating the volume of ground water used by all such projects, it is impossible to evaluate whether the impacts associated with their use of ground water are significant and whether such impacts will indeed be mitigated by the water conservation efforts upon which the EIR relies.

A-75

Kings County Farm Bureau v. City of Hanford, 221 Cal. App. 3d 692, 728-729 (1990). HDWD does not have an assured supply adequate to meet current or future demands. The cumulative impacts the Yucca Valley Retail Center will on have on water supply in the near and distant future must be identified and addressed in a revised EIR.

V. DEIR Should Be Redrafted and Recirculated.

CEQA requires recirculation of a revised draft EIR "[w]hen significant new information is added to the environmental impact report" after public review and comment on the earlier draft DEIR. Pub. Res. Code § 21092.1. This includes the situation where, as here, "[t]he draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." Guidelines § 15088.5(b)(4). The opportunity for meaningful public review of significant new information is essential "to test, assess, and evaluate the data and make an informed judgment as to the validity of the conclusions to be drawn therefrom." *Sutter Sensible Planning, Inc. v. Sutter County Board of Supervisors*, 122 Cal.App.3d 813, 822 (1981); *City of San Jose v. Great Oaks Water Co.*, 192 Cal.App.3d 1005, 1017 (1987). An agency cannot simply release a draft report "that hedges on important environmental issues while deferring a more detailed analysis to the final [EIR] that is insulated from public review." *Mountain Lion Coalition v. California Fish and Game Comm'n*, 214 Cal.App.3d 1043, 1053 (1989).

A-76

In order to cure the panoply of defects identified in this letter, the County will have to obtain substantial new information to adequately assess the proposed Project's environmental impacts, and to identify effective mitigation capable of alleviating the Project's significant impacts. CEQA requires that the public have a meaningful opportunity to review and comment upon this significant new information in the form of a recirculated draft EIR.

A number of the references cited have been included as exhibits as indicated below. These important references should be considered carefully and included in the administrative record for the project approval process.

A-77

Please do not hesitate to contact Matthew Vespa at (415) 436-9682 x.309 or mvespa@biologicaldiversity.org if you have any questions regarding these comments. Thank you for your time and consideration of our concerns.

Sincerely,

Matthew Vespa
Center for Biological Diversity

Enc: The following references are included in the accompanying CD for your review and inclusion in the administrative record.

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http://www.solarlighting.com/application_parking_lot_lighting.html (solar powered parking lot lighting)

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RESPONSE TO THE DRAFT EIR, COMMENT LETTER A

Center for Biological Diversity

Response to Comment A-1: Through the analysis contained in the Draft Environmental Impact Report prepared for the Yucca Valley Retail Center Specific Plan (DEIR), the Town of Yucca Valley (the Town) recognizes its obligations under the *California Environmental Quality Act* (CEQA) to analyze all potential environmental impacts resulting from the development of the proposed project, to the extent feasible. In that regard and based upon existing statutory and regulatory guidance, the Town prepared a comprehensive analysis of the project's potential to result in a significant global climate change (GCC) impact due to the project's emissions of greenhouse gases. Specifically, Section 4.3 of the DEIR includes:

a) A discussion of existing international, federal, and state statutory and regulatory guidance relating to GCC and regulation of the emissions of greenhouse gases;

b) A comprehensive discussion of the various greenhouse gases regulated by AB 32, their sources, and their effects on the environment and human health;

c) A quantitative inventory of the primary greenhouse gas (GHG) emissions that are projected to result from development and operation of the proposed project; and

d) A discussion of the project attributes and design features specifically incorporated into the project to reduce energy consumption and emission of greenhouse gases and a discussion of the project's consistency with the California Climate Action Team (CAT) Report on emission reduction strategies that may be implemented to meet GHG emission reduction goals identified in AB 32.

To clarify, the Town recognizes that CEQA does require an analysis of all potential environmental impacts that may result from implementation of a project that is the result of a discretionary action. It is true, however, that there is no federal or state statute or regulation that specifically mandates that an analysis of the project's GCC impacts be included in an Environmental Impact Report (EIR) prepared pursuant to CEQA. AB 32, the *California Global Warming Solutions Act of 2006*, does not reference CEQA, nor do either of the Executive Orders recently issued by Governor Schwarzenegger with respect to GHG emissions, Order S-3-05 (addressing GHG emission reduction targets) and S-01-07 (addressing lower fuel emission requirements). Moreover, Appendix G of the *CEQA Guidelines*, which is often used as threshold to determine the significance of a project's impacts, indicates in part, that a project may have a significant environmental impact if the project would violate any existing air quality standard or contribute substantially to an existing or project air quality violation. Although AB 32 requires GHG emissions to be reduced to 1990 levels by 2020 and to 80 percent below 1990 levels by 2050, AB 32 does not require the California Air Resource Board (CARB) to develop a plan to reduce GHG emissions to 1990 levels until January 1, 2009. Though the CARB is diligently moving forward with the development of this plan, until it has published and adopted its 1990 emissions inventory, there is no "air quality standard" by which to judge a project's contribution to GCC under Appendix G. Although there are currently no reported Appellate Court decisions addressing whether CEQA requires an EIR to analyze the impact from emissions of greenhouse gases, several Superior Courts have concluded that CEQA does not require an analysis of a project's impact to global climate change. See *Natural Resources Defense Council v. The Reclamation Board of the Resources Agency*, Case No. 06CS-01228 (Sacramento County Superior Court; April 27, 2007). *American Canyon Community United Pov. Responsible Growth v. City of American Canyon*,

Case No. 26-27462 (Napa County Superior Court, May 27, 2007); *Highland Springs Conference and Training Center v. City of Banning* (Riverside County Superior Court, January 29, 2008). Contrary to Commentor's assertion, the Town has provided a comprehensive analysis of the project's potential global warming impacts, given current statutory and regulatory parameters.

Response to Comment A-2: Please refer to Response to Comment A-1. Section 4.3 of the DEIR contains a comprehensive analysis of the project's potential to result in a significant GCC impact. Page 4.3-8 of the DEIR discusses the potential impact of global warming, which includes a diminished a Sierra snow pack, increasing global temperatures and a corresponding increase in the number of days of ozone pollution levels, increased vulnerability forests to pest infestation, and increased temperatures and increased electricity demand. The DEIR also acknowledges the fact that "the widespread warming of the atmosphere and ocean, together with ice-mass loss, support the conclusion that it is extremely unlikely that GCC in the past fifty (50) years can be explained without external forcing, and very likely that it is not due to natural causes alone."

Response to Comment A-3: Please refer to Response to Comment A-1.

Response to Comment A-4: Please refer to Responses to Comments A-1 and A-2. Pages 4.3-7 through 4.3-14 of the DEIR discuss the history of regulation of GHG emissions in the context of GCC on the international, federal, and state levels. The evolution of statutory and regulatory development in this area reflects an increasing concern over rising atmospheric temperatures and the resulting impacts on the environment. The Town acknowledges that various scholars opine that there is significant social and economic cost that can be directly attributed to global warming and carbon emissions. Although the Commentor is correct that economic and social costs can be used in determining the significance of physical change, as indicated in the analysis included in Section 4.3 of the DEIR, the project's global climate change impacts were determined to be less than significant. The cited economical and social cost of carbon emissions does not alter that conclusion. Accordingly, the Town, through preparation of this DEIR, prepared a comprehensive analysis of the potential for the project to result in emissions of greenhouse gases that may contribute to a significant GCC impact. Moreover, page 4.3-8 of the DEIR acknowledges the recent Supreme Court decision of *Massachusetts v. EPA,* which concluded that carbon dioxide (CO_2) is a pollutant, as that term is defined by the *Federal Clean Air Act.*

Response to Comment A-5: The Town acknowledges that various scholars opine that there is significant social and economic cost that can be directly attributed to global warming and carbon emissions. Although the Commentor is correct that economic and social costs can be used in determining the significance of physical change, as indicated in the analysis included in Section 4.3 of the DEIR, the project's global climate change impacts were determined to be less than significant. The cited economical and social cost of carbon emissions does not alter that conclusion.

Response to Comment A-6: The DEIR does not question the fact that global temperatures are currently rising and that the rising temperatures are the result of increasing levels of CO_2 in the atmosphere. By stating that the science of GCC is "subject to extensive debate and uncertainties" the DEIR is merely acknowledging the fact that the exact relationship between human activities and GCC is far from certain. The DEIR acknowledges that there is a general consensus that climate change is occurring and a consensus that human activities contribute to some degree. However, applicable literature[1] reflects the consensus does not extend much beyond that. In particular, there is no

[1] Michael Zischke; Sarah Owsowitz; Cox, Castle & Nicholson LLP, *Climate Change and the California Environmental Quality Act*, October 10, 2007; Rogner, H.-H., D. Zhou, R. Bradley. P. Crabbe', O. Edenhofer, B.Hare (Australia), L. Kuijpers, M. Yamaguchi, 2007: Introduction. In Climate Change 2007: Mitigation. Contribution of Working Group III to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [B. Metz, O.R. Davidson, P.R.

methodology that can be used to define the baseline climatic conditions that result from normal fluctuations of multiple climatic cycles in any particular region or location. Similarly, there is not a developing methodology to determine the "delta" or increment of change that emissions related to any given land use project may contribute either to the severity or frequency of those fluctuations in any particular region or location.

The International Panel for Climate Change (IPCC) is a group established by the World Meteorological Organization and United Nations Environment Programme in 1988. The role of the IPCC is to assess on a comprehensive, objective, open, and transparent basis the scientific, technical, and socioeconomic information relative to understanding the scientific basis of risk from human-induced climate change, its potential impacts and options for adaptation and mitigation. The IPCC has published numerous reports on potential impacts of climate change to the human environment. These reports provide a comprehensive and up-to-date assessment on the current state of knowledge on climate change. Despite the extensive peer review of reports and literature on the impacts of GCC, the IPCC notes the fact that there is little consensus as to the ultimate impact of human interference with the climate system and its causal connection to global warming trends. Accordingly, the ultimate impact of human activities upon global warming and the resulting environmental impacts resulting from global warming are less than certain.

Response to Comment A-7: Please refer to Response to Comment A-1. Through the analysis contained in the DEIR, the Town recognizes its obligations under CEQA to analyze all potential environmental impacts resulting from the development of the proposed project, to the extent feasible. In that regard, the Town has prepared a comprehensive analysis of the project's potential to result in a significant GCC impact due to the project's emissions of greenhouse gases based upon existing statutory and regulatory guidance. Specifically, Section 4.3 of the DEIR includes:

a) A discussion of existing international, federal, and state statutory and regulatory guidance relating to GCC and regulation of the emissions of greenhouse gases including AB 4420, AB 1493, and AB 32 (DEIR p. 4.3-9);

b) A comprehensive discussion of the various greenhouse gases regulated by AB 32, their sources, and their effects on the environment and human health (DEIR p. 4.3-10 through p. 4.3-14);

c) A quantitative inventory of the primary GHG emissions (e.g., carbon dioxide (CO), methane (CH_4), and nitrous oxide(N_2O)) that are projected to result from development and operation of the proposed project (DEIR p. 4.3-40 through p.4.3-42); and

d) A discussion of the project attributes and design features specifically incorporated into the project to reduce energy consumption and emission of greenhouse gases and a discussion of the project's consistency with the California CAT Report on emission reduction strategies that may be implemented to meet GHG emission reduction goals identified in AB 32 (DEIR p. 4.3-43).

Response to Comment A-8: Please refer to Response to Comment A-1.

Bosch, R. Dave, L.A. Meyer (eds)], Cambridge University Press, Cambridge, United Kingdom and New York, Ny, USA.

Response to Comment A-9: An EIR is required to identify and focus on the significant environmental effects of a proposed project. *CEQA Guidelines,* Section 15151, provides that an EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information that enables them to make a decision that intelligently takes account of environmental consequences. The evaluation of the environmental effects of a project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible. Pursuant to CEQA, the lead agency retains a significant amount of discretion in determining whether to classify an impact described in an EIR as "significant" (*CEQA Guidelines,* Section 15064(b)). Additionally, a lead agency has discretion to use thresholds of significance that vary depending on the nature of the area affected. See *National Parks and Conservation Association v. County of Riverside* (1999) 71 Cal. App. 4th 1341, 1357. Whether or not an impact described in the EIR is classified as significant also necessarily depends on the nature of the area affected by the project. See *Miramar Mobile Community v. City of Oceanside* (2004) 119 Cal. App. 4th 477.

Pursuant to CEQA, the Town's obligation in preparing an EIR is to make a good faith effort at disclosing the potential impacts of the proposed project in sufficient enough detail to inform the public and decision-makers of the implications of approving the project to allow for informed decision-making. Consistent with this requirement, the Town conducted a comprehensive analysis of the potential for the project to result in a significant GCC impact due to the project's emissions of greenhouse gas. However, currently there is no regulatory guidance concerning what levels of GHG emissions will be permitted by future CARB regulations as being in compliance with AB 32. As discussed above, in Response to Comment A-6, there is no accepted methodology that can be used to define the baseline climatic conditions that result from normal fluctuations of multiple climatic cycles in any particular region or location. However, despite no universally accepted methodology for GHG, the analysis (DEIR pg 4.3-40 through 4.3-50) provides, to the extent that available data allows, such quantification of GHG emissions.

A typical individual commercial development project does not generate sufficient GHG emissions to have any significant individual influence on GCC, and hence the issue of GCC in the context of an EIR is largely confined to an analysis of cumulative impacts.[1] As indicated above, there are currently no published CEQA thresholds or approved methods for determining whether a project's potential cumulative contribution to global warming impacts may be considerable. The issue of GHG emissions and climate change are fundamentally different from other areas of air quality impact analysis, which are all linked to some region or area in which the impact is significant. The approval of a new developmental plan or project does not create new drivers—the primary source of a land use project's emissions.

Contrary to the Commentor's assertions, the Town did not avoid its responsibility under CEQA to analyze the project's potential to result in a significant GCC impact but instead chose a threshold of significance that it believed was proper based upon the current scientific and regulatory guidance. Because the CARB has yet to adopt GHG emission limits, the Town concluded that use of a quantitative, numerical threshold of significance was inappropriate and speculative. Instead, as indicated on page 4.3-40, the Town chose to employ a threshold of significance that looked at the project's compliance with the emission reduction measures identified in the California CAT Report to the Governor. The Town believes that focusing the analysis on tangible ways to reduce the project's emissions of greenhouse gases through either project design features and implementation of other mitigation measures is the more appropriate approach at this point in time. This approach to analyzing

[1] Michael Zischke; Sarah Owsowitz; Cox, Castle & Nicholson LLP, *Climate Change and the California Environmental Quality Act*, October 10, 2007.

a project's potential to result in a significant GCC impact is recommended by the Association of Environmental Professionals (AEP) in its white-paper on GCC (AEP, June 29, 2007).

The Draft EIR does provide an inventory of the three primary greenhouse gases regulated by AB 32, CO_2, methane (CH_4), and nitrous oxide (N_2O), the three most prevalent greenhouse gases. Tables 4.3.N, 4.3.O, and 4.3.P located on page 4.3-41 of the DEIR provide a summary of the emissions of these greenhouse gases that will result from vehicular traffic trips generated by the proposed project as well as natural gas combustion. Fossil-fuel consumption in the transportation sector is the single largest source of California's climate change emissions. CO_2 is the most prevalent of all greenhouse gases and fossil-fuel combustion accounts for 98 percent of gross California CO_2 emissions. Other sources of climate change pollutants are from industrial, agriculture and forestry, and electrical power-generating sources. With regard to a single commercial land use project, the overwhelming majority of GHG emissions result from the additional vehicular traffic trips placed on areawide roadways. Moreover, unlike certain construction-related emissions, which only occur during a discrete period of time, emissions from vehicular traffic trips will continue to occur for the life of the project.

Accordingly, the vast majority of GHG emissions resulting from the proposed project will be primarily in the form of vehicle exhaust and in the consumption of natural gas and electricity. Carbon dioxide emissions from vehicles (derived from information contained in the project-specific traffic study) were calculated using URBEMIS2002 assumptions and EMFAC2002 emission factors that are used in URBEMIS2002. The URBEMIS model has assumptions built-in to tailor trip length to a specific land use. Based on the total trip length, the EMFAC2007 Model was utilized to estimate carbon dioxide emissions. Natural gas usage was estimated based on total square footage. The carbon dioxide emissions from natural gas combustion were generated using an EPA AP-42 emission factor (120,000 pounds CO_2/million cubic feet of natural gas) (EPA 1998). Emissions from the generation and consumption of electricity were estimated based on the size of the proposed on-site uses. Utilizing an electrical use factor of 15.5 kWh per square foot of building per year, and a CO generation rate of 0.61 lbs/kWh, the proposed on-site uses would generate approximately 1,102 tons of CO per year. Emissions of methane and nitrous oxide were estimated utilizing a similar methodology. In response to this comment, the discussion of the GHG emissions from the project has been expanded in the Final EIR. When added to emissions from vehicles and natural gas consumption previously identified in the DEIR, CO_2 emissions from the generation and consumption of electricity would increase by approximately 17 percent from that identified in the DEIR. As provided in FEIR Tables 4.3P and 4.3Q, emissions of CH_4 and N_2O associated with the generation and consumption of electricity would total approximately 0.012 and 0.0067 tons per year (respectively), representing increases of approximately 1.1 percent (CH_4) and 1.6 percent (N_2O) from that identified in the DEIR. CO_2 emissions from construction activities would total approximately 13,613 pounds per day (FEIR Table 4.3.L).

The Commentor's request that the emissions generated by the manufacture and transport of building materials be provided in the EIR does not consider the number, variety, or multiple sources of building materials required for the project, nor does it provide a reasonable method to quantify the emissions associated with the manufacturing/production process of the varying materials. The Commentor's request to identify emissions associated with outsource activities and contracting does not recognize the national and global supply change for what would be sold on site, or the myriad non-Wal-Mart activities and operations that may be associated with the proposed project. While GHG emissions would be generated from the manufacture/production of building materials, outsourced and/or contracted activities and operations, and/or the production and transport of water, there is no reasonable way to establish the certainty that these activities and operations would occur solely with the operation of this particular retail operation. It is not appropriate for this particular retail project to

take responsibility for identifying the GHG emissions (or resulting environmental effect) of these separate and independent operations. The discussion of the GHG emissions and the resulting (if any) environmental effects associated with these activities is more appropriately reserved for the environmental documentation for the respective activities.

Response to Comment A-10: Please refer to Response to Comment A-9. As stated in the Response to Comment A-9, the discussion of GHG emission sources has been expanded to include emissions generated through the use of electricity, as well as the emissions generated during on-site construction activities. The DEIR (DEIR Section 4.3 Air Quality, Impact 4.3.3) has been revised to include the methodology used to quantify the proposed project's construction-related and operational GHG emissions. The corrections are as follows:

Project Carbon Dioxide Emissions. The project will generate emissions of carbon dioxide primarily in the form of vehicle exhaust and in the consumption of natural gas and electricity ~~for heating~~. Carbon dioxide emissions from vehicles (derived from information contained in the project-specific traffic study) were calculated using URBEMIS2002 assumptions and EMFAC2002 emission factors that are used in URBEMIS2002. The URBEMIS model has assumptions built-in to tailor trip length to a specific land use. Based on the total trip length, the EMFAC2007 Model was utilized to estimate carbon dioxide emissions. Natural gas usage was estimated based on total square footage. The ~~Carbon~~ carbon dioxide emissions from natural gas combustion were generated using an EPA AP-42 emission factor (120,000 pounds CO_2/million cubic feet of natural gas) (EPA 1998). Emissions from the generation and consumption of electricity were estimated based on the size of the proposed on-site uses. Utilizing an electrical use factor of 15.5 kWh per square foot of building per year[1] and a CO generation rate of 0.61 lb/kWh,[2] the proposed uses would generate approximately 1,102 tons of CO per year. The carbon dioxide emissions estimated from the various uses are detailed ~~are shown~~ in Table 4.3.O ~~4.3.N~~. As shown in Table 4.3.O ~~4.3.N~~, the project will emit 0.007 ~~0.006~~ Tg CO_2 Eq. in year 2013, which is 0.0015 ~~0.0013~~ percent of California's total estimated GHG emissions (492 Tg CO_2 Eq.).

~~**Table 4.3-N: Carbon Dioxide Emissions**~~

~~Emission Source~~	~~Carbon Dioxide Emissions~~					
	~~2004-08~~	~~2009~~	~~2010~~	~~2011~~	~~2012~~	~~2013~~
~~Vehicles~~	~~5,826~~	~~5,834~~	~~5,834~~	~~5,834~~	~~5,911~~	~~5,911~~
~~Natural Gas Combustion~~	~~487~~	~~487~~	~~487~~	~~487~~	~~487~~	~~487~~
~~**Total**~~	~~**6,312**~~	~~**6,320**~~	~~**6,320**~~	~~**6,320**~~	~~**6,398**~~	~~**6,398**~~
~~**Total (Tg CO_2 Eq.)**~~	~~**0.006**~~	~~**0.006**~~	~~**0.006**~~	~~**0.006**~~	~~**0.006**~~	~~**0.006**~~
~~Source: LSA 2007a~~						

Table 4.3.O – Carbon Dioxide Emissions

Emission Source	Carbon Dioxide Emissions					
	2004-08	2009	2010	2011	2012	2013
Vehicles	5,826	5,834	5,834	5,834	5,911	5,911
Natural Gas Combustion	487	487	487	487	487	487
Electricity Production/Use	1,102	1,102	1,102	1,102	1,102	1,102
Total	**7,414**	**7,414**	**7,414**	**7,414**	**7,414**	**7,414**

1. www.eia.doe.gov/emeu/cbecs/pba99/mercantile/mercantileconstable.html, site accessed October 16, 2007.
2. www.wri.org/climate/pubs_description.cfm?pid=3756, site accessed October 16, 2007.

Table 4.3.O – Carbon Dioxide Emissions

Emission Source	Carbon Dioxide Emissions					
	2004-08	2009	2010	2011	2012	2013
Total (Tg CO_2 Eq.)	0.007	0.007	0.007	0.007	0.007	0.007

Source: LSA 2007a

Project Methane Emissions. The project will generate some methane gas from vehicle emissions and natural gas combustion. Methane emissions from natural gas combustion were generated using an EPA AP-42 emission factor (2.3 pounds CH4/million cubic feet of natural gas) (EPA 1998). Methane emissions from vehicles were estimated using U.S. EPA emission factors for on-highway vehicles (EPA 2004)[1] and the same assumptions used to estimate criteria pollutants in URBEMIS2002. Based on the electricity usage and a factor of 0.067 pound/MWh, the methane emissions associated with the use of electricity would total 0.012 ton/year. The emissions are shown in Table 4.3.P ~~4.3-O~~. As shown in Table 4.3.O~~4.3-N~~, the project will emit 0.00024 Tg CO_2 Eq. in 2013, which is 0.000005 percent of California's total estimated GHG emissions.

~~**Table 4.3-O: Methane Emissions**~~

~~Emission Source~~	~~Methane Emissions (tons per year)~~					
	~~2004-08~~	~~2009~~	~~2010~~	~~2011~~	~~2012~~	~~2013~~
~~Vehicles~~	~~1.10~~	~~1.10~~	~~1.10~~	~~1.10~~	~~1.10~~	~~1.10~~
~~Natural Gas Combustion~~	~~0.009~~	~~0.009~~	~~0.009~~	~~0.009~~	~~0.009~~	~~0.009~~
~~Total~~	~~1.11~~	~~1.11~~	~~1.11~~	~~1.11~~	~~1.11~~	~~1.11~~
~~Total (Tg CO_2 Eq.)~~	~~0.00002~~	~~0.00002~~	~~0.00002~~	~~0.00002~~	~~0.00002~~	~~0.00002~~
~~Source: LSA 2007a~~						

Table 4.3.P – Methane Emissions

Emission Source	Methane Emissions (tons per year)					
	2004-08	2009	2010	2011	2012	2013
Vehicles	1.10	1.10	1.10	1.10	1.10	1.10
Natural Gas Combustion	0.009	0.009	0.009	0.009	0.009	0.009
Electricity Production/Use	0.012	0.012	0.012	0.012	0.012	0.012
Total	**1.11**	**1.11**	**1.11**	**1.11**	**1.11**	**1.11**
Total (Tg CO_2 Eq.)	**0.000024**	**0.000024**	**0.000024**	**0.000024**	**0.000024**	**0.000024**

Source: LSA 2007a

Project Nitrous Oxide Emissions. The project would generate small amounts of nitrous oxide from vehicle emissions. Emissions from natural gas combustion were generated using an EPA AP-42 emission factor (2.3 pounds N_2O/million cubic feet of natural gas) (EPA 1998). Based on the electricity usage and a factor of 0.0037 pound/MWh, the nitrous oxide emissions associated with the use of electricity would total 0.012 ton/year. Nitrous oxide from vehicles was estimated using U.S. EPA emission factors for on-highway vehicles (EPA 2004) and the same assumptions that were used

[1] *Update of Methane and Nitrous Oxide Emission Factors for On-Highway Vehicles* [Table 28], United States Environmental Protection Agency, November 2004.

to estimate criteria pollutants. The emissions are presented in Table 4.3-Q ~~4.3-P~~. As shown in Table 4.3-Q ~~4.3-P~~, the project will emit 0.0001 Tg CO_2 Eq. in year 2013, which is 0.00003 percent of California's total estimated GHG emissions.

~~**Table 4.3-P: Nitrous Oxide Emissions**~~

~~Emission Source~~	~~Nitrous Oxide Emissions~~					
	~~2004-08~~	~~2009~~	~~2010~~	~~2011~~	~~2012~~	~~2013~~
~~Vehicles~~	~~0.42~~	~~0.42~~	~~0.42~~	~~0.42~~	~~0.42~~	~~0.42~~
~~Natural Gas Combustion~~	~~0.0089~~	~~0.0089~~	~~0.0089~~	~~0.0089~~	~~0.0089~~	~~0.0089~~
~~Total (tons per year)~~	~~0.43~~	~~0.43~~	~~0.43~~	~~0.43~~	~~0.43~~	~~0.43~~
~~Total (Tg CO_2 Eq.)~~	~~0.0001~~	~~0.0001~~	~~0.0001~~	~~0.0001~~	~~0.0001~~	~~0.0001~~
~~Source: LSA 2007a~~						

Table 4.3.Q – Nitrous Oxide Emissions

Emission Source	Nitrous Oxide Emissions					
	2004-08	2009	2010	2011	2012	2013
Vehicles	0.42	0.42	0.42	0.42	0.42	0.42
Natural Gas Combustion	0.0089	0.0089	0.0089	0.0089	0.0089	0.0089
Electricity Production/Use	0.0067	0.0067	0.0067	0.0067	0.0067	0.0067
Total (tons per year)	**0.43**	**0.43**	**0.43**	**0.43**	**0.43**	**0.43**
Total (Tg CO_2 Eq.)	**0.0001**	**0.0001**	**0.0001**	**0.0001**	**0.0001**	**0.0001**

Source: LSA 2007a

The inclusion of a more detailed explanation of methodology utilized to quantify project-specific GHG emissions does not result in a new impact or the inclusion of new data that would significantly alter the level of significance identified in the DEIR; therefore, no recirculation of the DEIR is warranted.

Response to Comment A-11: Please refer to Response to Comment A-9. As previously stated the FEIR will expand the DEIR's reasonable effort to quantify project-related GHG emissions, through the inclusion of GHG emissions resulting from the consumption of electricity and the use of construction equipment.

Response to Comment A-12: As stated previously in the Response to Comment A-10, the methodology has been described and the FEIR will expand the discussion of the methodology utilized to quantify the GHG emissions associated with construction and operation of the proposed project. The inclusion of a more detailed explanation of methodology utilized to quantify project-specific GHG emissions does not result in a new impact or the inclusion of new data that would significantly alter the level of significance identified in the DEIR; therefore, no recirculation of the DEIR is warranted.

Response to Comment A-13: As stated in the Response to Comment A-9, Table 4.3.K has been revised to quantify construction-related CO_2 emissions. When measured against the threshold identified by the Town, the identification of construction-related CO_2 emissions does not alter the significance determination identified in the DEIR. No recirculation of the DEIR is warranted.

Response to Comment A-14: As stated in Table 4.3.H of the DEIR, during operation of the proposed on-site uses, a total of 66 weekly truck trips would frequent the project site. The number of

vehicle trips associated with the proposed project was identified utilizing the trip generation factor cited in Institute of Traffic Engineers (ITE) *Trip Generation, 7th Edition*. These trip generation factors take into account all vehicle trips attributable to specific land uses, including truck delivery trips. Based on the net trips generated by the proposed uses, and considering the planned on-site land uses, the URBEMIS 2002 model (Appendix B of the DEIR) identified the vehicle fleet mix associated with the operation of the proposed project. The URBEMIS model anticipated that 1.5 percent of net project-related vehicle trips would be "light-heavy trucks" (8,501–14,000 pounds); 1.0 percent of net project-related vehicle trips would be "medium-heavy" trucks (14,001–33,000 pounds); and 0.9 percent of net project-related vehicle trips would be "heavy-heavy" trucks (33,001–60,000 pounds). Based on this assumed fleet mix, the daily number of light-heavy, medium-heavy, and heavy-heavy truck trips addressed in the air quality report would total 168, 112, and 101 trips, respectively. The air quality assumptions for truck operations used in the air quality analysis substantially exceed those of actual truck operations identified in Table 4.3.H of the DEIR; therefore, the air quality emissions identified represent a worst-case scenario, which has been mitigated accordingly in the DEIR. No recirculation of the DEIR is warranted.

Response to Comment A-15: As stated in Table 4.3.H of the DEIR, delivery and truck idling characteristics based on operations of similar retail operations, were appropriately included in the air quality analysis. As referenced in the Response to Comment A-13, Table 4.3.K has been revised to quantify construction-related CO_2 emissions. When measured against the threshold identified by the Town, the identification of construction-related CO_2 emissions does not alter the significance determination identified in the DEIR. No recirculation of the DEIR is warranted.

Response to Comment A-16: Assumptions for the URBEMIS model runs are included in Appendix A of the Air Quality Analysis (itself included as Appendix B to the DEIR.) The assumptions clearly detailed in the URBEMIS model include (but are not limited to) fleet mix, size and type of land use, number of vehicle trips, length of vehicle trip, and speed of vehicle trip. As stated in *CEQA Guidelines* §15147, "Placement of highly technical and specialized analysis and data in the body of the EIR should be avoided through the inclusion of supporting information and analyses as appendices to the main body of the EIR." Section 4.3 of the DEIR appropriately summarized the findings of the Air Quality Analysis, which was distributed in its entirety with the DEIR.

Response to Comment A-17: The methodology utilized to identify project-related CO_2 emissions is detailed in the Response to Comment A-9. The DEIR did not rely on the CO_2 output referenced by the Commentor. As detailed in the Response to Comment A-9, the GHG emissions generated by the proposed project have been amended to include emissions resulting from construction activities and the consumption of electricity. During the CEQA process for this project, the air quality models utilized for the project, URBEMIS 2002 and EMFAC2002, were updated to reflect current advancements in air quality modeling and regulations. The operational emissions were recalculated using URBEMIS 2007 to ensure that no new significant air quality impacts would occur. Using the URBEMIS 2007 and EMFAC2007 models resulted in reduced air pollutant emissions from what was originally identified in the DEIR. The URBEMIS 2007 model automatically uses District specified parameters such as temperature and humidity for emissions calculations. These URBEMIS 2007 parameters are 80°F for summer and 60°F for winter. The URBEMIS 2007 model does not state what humidity value was used; however, as previously stated, it is what the local air district (i.e., Mojave Desert Air Quality Management District) has specified. Although the URBEMIS2002 model used in the DEIR utilized a temperature of 50°F and 30 percent relative humidity, the recalculation of the operational emissions using the URBEMIS 2007 model resulted in lower emissions than previously identified. Since the URBEMIS2007 utilizes parameters that the local air district has specified, and

because these parameters are reflective of existing desert conditions, emissions identified in the EIR accurately reflect project area conditions. Therefore, no recirculation of the DEIR is warranted.

Response to Comment A-18: As for the source of natural gas consumption, the DEIR (p. 4.3-40) states, "The project will generate emissions of carbon dioxide primarily in the form of vehicle exhaust and in the consumption of natural gas for heating." The reference utilized to compute GHG emissions is the EPA's AP-42, which details emission factors from a variety of sources. Use of the AP-42 is clearly stated in the DEIR.

Provision of a detailed citation of the AP-42 would not alter the volume of GHG identified with vehicle travel or natural gas generation. As stated in the Responses to Comments A-9 and A-10, a more detailed discussion of the methodology used to identify the proposed project's GHG emissions has been included herein in Response to Comment A-10 and will be provided in the FEIR. The inclusion of a more detailed explanation of methodology utilized to quantify project-specific GHG emissions does not result in a new impact or the inclusion of new data that would significantly alter the level of significance identified in the DEIR; therefore, no recirculation of the DEIR is warranted.

Response to Comment A-19: Please refer to the Responses to Comments A-9 and A-10. The DEIR includes GHG emissions associated with the consumption of natural gas (stationary source) and vehicle trips. The DEIR has been revised to provide carbon-equivalent emissions associated with construction-related activities and the proposed project's consumption of electricity. Tables 4.3.K and 4.3.N through 4.3.P have been revised accordingly. GHG emissions associated construction-related activities amounts to 6.8 tons per day (FEIR p. 4.3-36). While emissions of CO_2, CH_4, and N_2O increased to account for electricity usage, the proposed project would still be consistent with the GHG reduction strategies identified in the CAT report. When measured against the threshold identified by the Town, the identification of GHG emissions does not alter the significance determination identified in the DEIR. No recirculation of the DEIR is warranted.

Response to Comment A-20: As indicated in Response to Comment A-9, the focus of the analysis of the Town's analysis in the DEIR is on whether the proposed project is consistent with the emission reduction strategies identified by the California CAT in its March 2006 Report to Governor Schwarzenegger and the legislature. The analysis of whether the project is consistent with the CAT emission reduction strategies focuses on project design features and methods of reduction of GHG emissions through other feasible measures rather than an analysis of the project's GHG emissions in relation to a quantitative numerical threshold. Accordingly, a full inventory of all GHG emissions resulting from implementation of the proposed project would not have significantly added to the analysis or determination of whether the project would result in a cumulatively significant GCC impact. However, the Draft EIR did include an inventory of the CO_2, CH_4 and N_2O emissions which will result from the additional traffic trips generated by the proposed project as well as natural gas combustion. As indicated in Response to Comment A-10, this inventory has been amended to include electricity consumption emissions. Over the life of the project, emissions from additional vehicular trips as well as natural gas combustion will account for the vast majority of GHG emissions resulting from the proposed project. Additionally, and in response to Commentor's recommendation, Responses to Comments A-9 and A-10 and the Final EIR reflect additional projected-related GHG emissions from other sources. Because the analysis focuses on the project's consistency with the CAT emission reduction strategies, the omission of what Commentor believes is a "full and complete" greenhouse inventory from the DEIR does not make the DEIR insufficient as an informational document nor does it preclude informed decision-making on behalf of the elected officials of the Town of Yucca Valley.

Response to Comment A-21: *Public Resources Code*, Section 21100(b) provides that an EIR shall include a detailed statement setting forth all significant effects on the environment including any significant effects on the environment that cannot be avoided if the project is implemented, and those which would be irreversible if the project is implemented. As to all significant impacts on the environment, the EIR must include a detailed statement of "mitigation measures proposed to minimize the significant effects on the environment, including, but not limited to, measures to reduce the wasteful, inefficient, and unnecessary consumption of energy." As to all effects on the environment deemed to be insignificant, the EIR shall contain a statement briefly indicating the reasons for determining the various effects on the environment of a project are not significant. Accordingly, if the lead agency concludes that inefficient, wasteful, or unnecessary consumption of energy is significant, the EIR must so state in a detailed statement of mitigation measures must be set forth. Conversely, if the agency determines that inefficient or unnecessary consumption of energy is insignificant, it should briefly explain this conclusion. As indicated on Page 3-7 and 3-8 of the DEIR, the lead agency concluded that the project would incorporate numerous state of the art design features that would reduce inefficient and wasteful energy consumption. These include:

a) Installation of sky lights to reduce reliance of electrical energy to light the building;

b) Installation of automatic light dimming systems for parking lot lighting;

c) Installation of high efficiency packaged heating, ventilation and air conditioning units with an efficiency ratio rated between 10.8 and 13.2;

d) The Supercenter will be equipped with an energy management system allowing centralized management of energy usage at the store on a 24-hour a day, 7-day a week basis;

e) Construction utilizing white membrane roof to increase solar reflectivity and reduce cooling requirements;

f) Utilization of a heat capture system to allow for capture of waste heat for reuse in other portions of the project;

g) Use of T8 fluorescent lamps and electronic ballasts; and

h) Use of LED lighting in all internally illuminated building signage.

Moreover, the project will be designed to meet or exceed all design requirements of California Code of Regulations, Title 24. California's Title 24 Building Efficiency Standards are widely regarded as the most stringent energy efficient building standards in the nation. As indicated in *CEQA Guidelines*, Appendix F, the analysis and the EIR should focus on avoiding or reducing inefficient, wasteful, and unnecessary consumption of energy. The EIR considers and concludes, that with implementation of the project design features discussed above, the project will not result in an inefficient, unnecessary, or wasteful use of energy resources.

Response to Comment A-22: CEQA requires an EIR to discuss cumulative impacts if the project's incremental effect, combined with the effect of other projects is cumulatively considerable (*CEQA Guidelines*, § 15130(a)). "This determination is based on an assessment of the project's incremental effects viewed in connection with the effects of past projects, the effects of other current projects and the effects of probable future projects" (*CEQA Guidelines*, § 15064(b)(1)). The Town agrees that GCC is a classic example of an impact created by the cumulative effects of development. The GCC

analysis included in the DEIR, Section 4.3, analyzes the project's potential to result in a significant cumulative impact to GCC.

Response to Comment A-23: Please refer to Responses to Comments A-1 and A-9. Section 4.3 of the DEIR includes a comprehensive analysis of the project's potential to result in a cumulatively significant GCC impact. Beginning on page 4.3-7, the DEIR discusses the statutory and regulatory history of GCC and attempts to regulate the emissions of greenhouse gases on international, federal, and state levels. The DEIR includes a discussion of the identified greenhouse gases regulated by AB 32, their composition, sources, how they impact GCC, and their potential effects on the environment and human health. The DEIR's regulatory discussion includes an in-depth analysis of the effect of AB 32, recently enacted by the State of California and codified in the *California Health and Safety Code* Section 38500, (*et seq.*). AB 32 requires GHG emissions to be reduced to 1990 levels by year 2020 and to 80 percent below 1990 levels by 2050. AB 32 directs the CARB to determine how AB 32 mandates are to be measured, monitored, and regulated. Although AB 32 has given the CARB the task of developing a program to reduce GHG emissions, the enforceable regulatory plans and programs to achieve such reduction are years away from being completed. AB 32 does not require the CARB to develop a plan to reduce GHG emissions to 1990 levels until January 1, 2009, and to adopt GHG emission limits and emission reduction measures until January 1, 2011. Similarly, the OPR is not required to promulgate regulations for the mitigation of GHG emissions pursuant to CEQA until 2010. Accordingly, there are no officially adopted thresholds by which to determine the permissible level of GHG emissions in order to comply with AB 32. In the interim, the Governor directed his Secretary of the California Environmental Protection Agency to coordinate with the Secretary of Business, Transportation and Housing Agency, Secretary to the Department of Food and Agriculture, Secretary to Resources Agency, Chairperson of the Air Resources Board, Chairperson of the Energy Commission and President of the Public Utilities Commission. The Secretary of California Environmental Protection Agency leads the CAT, made up of representatives from the agencies listed above to implement global warming emission reduction programs and report on the progress made toward meeting the statewide greenhouse house targets that were established in Executive Order S-3-05 signed by Governor Schwarzenegger on June 1, 2005. The March 2006 CAT Report identifies numerous emission reduction strategies identified to meet the target emissions levels identified in Executive Order S-3-05 and, as codified, by AB 32. Considering the CARB has yet to identify thresholds of significance for GHG emissions, the Town believes it was appropriate to measure the significance of the project's impacts to GCC based on consistency with the CAT Report. Considering the emission reduction strategies identified in the CAT Report were intended to reduce emissions to levels consistent with AB 32, the project's consistency with the emission reduction strategies is a reasonable indication that the project will not inhibit the State's ability to achieve emission reduction targets of AB 32. In absence of any adopted numerical thresholds, the Town believes that this qualitative consistency analysis is the most appropriate methodology for assessing a project's cumulative contribution to GCC and meets the CEQA mandate for providing a full and complete disclosure of a project's potential impacts to the environment to facilitate public participation and informed decision-making. Beginning on Page 4.3-43 and included in Table 4.3.Q, the DEIR identified the applicable emission reduction strategies from the CAT Report and the project's consistency with those strategies. The DEIR then concludes that the project is consistent with the applicable emission reduction strategies identified in the CAT Report and, therefore, the project will not result in a cumulatively significant GCC impact.

The Commentor claims that this type of consistency analysis is contrary to mandates of CEQA. In particular, the Commentor claims that whether the project is consistent with the CAT emission reduction strategy is not a valid threshold of significance. CEQA encourages each agency to develop its own thresholds of significance by which to determine the significance of any identified environmental impact. *CEQA Guidelines*, Section 15064.7(a), provides:

> "A threshold of significance is an identifiable quantitative, *qualitative* or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant." (emphasis added.)

The Commentor correctly points out that *CEQA Guidelines*, Section 15064.7(b) requires that thresholds of significance adopted for general use must be adopted by ordinance, resolution, rule or regulation of the lead agency. However, CEQA does not preclude the development of a threshold of significance on an individual basis for determining the significance of any environmental impact of a proposed project particularly in light of the lack of established thresholds of significance such as is the case with a project's contribution to GCC. A threshold of significance will be upheld as long as a reasonable basis exists for using those standards. Although ordinances, regulations, or adopted plans that include quantitative identifiable performance standards are usually used as thresholds of significance, in this instance it is reasonable for the Town to determine whether a project will have cumulatively significant GCC impact if the project is consistent with the emission reduction strategies identified in the CAT Report.

Although the Commentor alleges that the Town utilized an invalid methodology in analyzing the project's potential to result in a cumulatively significant impact to GCC impact, the Commentor does not suggest an alternative methodology. Instead, the Commentor appears to assert that the proper threshold for determining the significance of a project's impacts to GCC is a "no net gain" analysis. In other words, if a project adds GHG emissions to the atmosphere, the lead agency must find the impact potentially significant. By its terms, AB 32 requires the CARB to determine what the statewide GHG emission levels was in 1990 and approve a statewide GHG emission limit that is the equivalent to that level, to be achieved by 2020, with a reduction by 80 percent of 1990 levels to be achieved by 2050. Additionally, AB 32 directs CARB to adopt GHG emission limits and emissions reduction measures by January 1, 2011. Until 1990 GHG emission levels are determined, GHG emission limits set, and reduction measures adopted, there is no basis for concluding that a project that results in any GHG emissions must result in a cumulatively significant GCC impact requiring implementation of mitigation measures. After thoroughly considering all of its available options, the Town decided that the consistency analysis was most appropriate given the project, current state of the law, and the Town's obligation to provide information sufficient to allow for public participation and informed decision-making.

Response to Comment A-24: Additional GHG emissions are the inevitable result of new development in California. Just because a development, such as the proposed project, results in additional GHG emissions, does not mean that the project would inhibit the State of California's ability to reach emission reduction targets identified by Governor Schwarzenegger in Executive Order S-3-05 and AB 32. Neither the Executive Order nor AB 32 prohibits new development. Accordingly, new development is not inconsistent with achieving the emission reduction goals of Executive Order S-3-05 and AB 32 because of resulting emissions of greenhouse gases. In fact, many of the emission reduction strategies identified in the CAT Report specifically applied to making new development more energy efficient. These strategies include implementation of building energy efficiency standards, implementation of water conservation programs for new construction and implementation of smart land use strategies. Accordingly, the project's contribution of GHG emissions to the environment does not make it inconsistent with, nor does it inhibit the attainment of the goals of, AB 32. Moreover, the statement that the project provides a 10 percent increase in energy efficiency over the required 2005 Title 24 buildings standards is accurate. With the building efficiencies incorporated into the project, the project will be approximately 10 percent more energy efficient than buildings that simply meet the existing Title 24 building efficiency requirements. This statement was not intended to imply that the project would reduce existing levels of greenhouse gases by 10 percent, but that the

building would be 10 percent more efficient and thereby represents a reduction in greenhouse gases as compared with a similar project that would be merely in compliance with Title 24 building efficiency regulations, which are currently in place. Accordingly, the project will exceed existing regulatory requirements, which is consistent with the CAT Report and AB 32's goal of reducing GHG emissions statewide.

Response to Comment A-25: In December 2004, Governor Schwarzenegger issued Executive Order S-20-04 better known as the California State Green Building Initiative. Accompanying Executive Order S-20-04 was the State of California Green Building Action Plan. The Green Building Initiative and accompanying Green Building Action Plan outline the goals and strategies for making buildings more energy efficient by the year 2015. With regard to new state buildings and major renovations of existing state buildings, the Green Building Initiative requires the buildings to meet the LEED Silver Standard. However, with regard to privately owned commercial buildings, the Green Building Initiative and accompanying Green Building Action Plan "encourage" owners to take aggressive action to reduce electricity usage by retrofitting, building, and operating the most energy and resource efficient buildings. Accordingly, by implementing design features that result in a significant increase in energy efficiency, the project is consistent with the policies and goals of the State Green Building Initiative to increase energy efficiency in newly constructed buildings.

Response to Comment A-26: Contrary to the Commentor's assertion, this project is consistent with the Smart Land Use and Intelligent Transportation Systems' (ITS) goals and policies. Smart Land Use strategies, which decrease emissions of greenhouse gases, include siting commercial, office and industrial uses in close proximity to residential areas and areas served by public transportation. The proposed project is located in proximity to residential areas and is currently served by public transportation systems allowing easy and efficient access by customers who utilize public transportation. The project is located on State Route 62, a major commercial thoroughfare, which is served by the Morongo Basin Transit Authority, with an existing bus stop located on State Route 62 adjacent to the project site. Moreover, as part of the project, the project proponent will construct another bus shelter on Avalon Avenue to allow for additional bus routes and stops in proximity to the project site to further reduce automobile trips and associated emissions. Contrary to the Commentor's assertion, the project site is not on the edge of Town with vacant land immediately north, south, and east of the project site. Home Depot has constructed a new home improvement warehouse and associated retail uses directly adjacent to the project site's eastern boundary. To the south and to the east of the project site, south of Yucca Trail, is the proposed Century Homes Project, which proposes 1,400 single-family homes. When completed, the project, including the Wal-Mart Supercenter, which offers a full line of grocery products with general merchandise, will provide a shopping outlet which will reduce the length of trips made by the residents of this development to other areas of the Town of Yucca Valley to find comparable shopping opportunities. In fact, as reflected in numerous comment letters on the DEIR, the development of this project will provide shopping opportunities for residents of the Town of Yucca Valley, thereby eliminating the need for residents to travel to areas such as Palm Springs to find similar shopping opportunities and significantly reducing mobile air emissions, including emissions of greenhouse gases. Additionally, by combining both general merchandise and grocery sales, Wal-Mart Supercenters typically reduce the number of traffic trips necessary to purchase retail goods and thereby reduce adverse air quality impacts. For instance, utilizing accepted trip-generation rates published by the ITE in the *Trip Generation Manual, Seventh Edition*, a 220,000-square foot Wal-Mart Supercenter generates approximately 10,826 trip ends per day, with 405 vehicles per hour during the a.m. peak hour and 851 per hour during the p.m. peak hour. The ITE 813-Trip Generation Rate for discount superstores recognizes that by combining both groceries and general merchandise retail sales in the same building, many trips are internalized, thereby reducing daily traffic trips. By comparison, a general merchandise discount store and separate supermarket totaling a combined 220,000 square feet would generate 15,097 trip ends per day with 329 vehicles

per hour during the a.m. peak hour and 1,437 vehicles per hour during the p.m. peak hour. Accordingly, contrary to the Commentor's assertion, consolidating the necessities of life into one store in fact reduces mobile air emissions and furthers the goals of AB 32 and the CAT's Report and emission reduction strategies by reducing GHG emissions.

Response to Comment A-27: The Commentor misunderstands the analysis of the project's potential to result in a GCC impact included in Section 4.3 of the DEIR. The analysis does not conclude that the project will have a less than significant cumulative impact on GCC because the project's GHG emissions represent only a small fraction of California's total emissions. Page 4.3-48 of the DEIR indicates that the proposed project would only contribute 0.007 percent of California's 2004 total emissions for CO_2, CH_4, and N_2O. The project's proportional contribution of GHG emissions is included for information purposes only and is not the basis of the determination that the project will have a less than significant cumulative impact on GCC. As stated above in Response to Comment A-9, the DEIR concluded that the project had a less than significant cumulative impact on GCC because the project is consistent with the CAT's Report to the Governor and the emission reduction strategies identified therein.

Response to Comment A-28: Please refer to Response to Comment A-23. The Commentor correctly points out that established thresholds of significance are not a prerequisite to a lead agency's obligation to analyze any particular environmental impact of a proposed project. CEQA obligates a lead agency to do the necessary work to educate itself about different methodologies that are available to analyze a particular impact where uniformly accepted methodologies do not exist. In fulfilling its obligation under CEQA, the Town of Yucca Valley went to significant lengths to discuss the current statutory and regulatory efforts to regulate GHG emissions, discuss the impacts of global warming on the human environment, disclose the GHG emissions that may result from the proposed project, and craft an intelligent discussion of the project's potential impact on GCC and whether the project is consistent with ongoing efforts to reduce GHG emissions in the State of California. It is generally acknowledged that a typical individual project does not generate sufficient GHG emissions to have any significant individual influence on GCC, and hence the issue of global warming in the context of an EIR is largely confined to the analysis of cumulative impacts. The DEIR recognizes the GCC is a serious problem and a discussion of the project's contribution to this problem is necessary to allow for informed decision making on the proposed project. Based on the current lack of data, the Town believes that conducting a quantitative analysis of the project's potential cumulative impact to GCC through development of a numerical threshold of significance would be arbitrary and not supported by any scientific data. Instead, the Town chose to engage in a qualitative analysis of the project's impacts focusing on the project's design and whether it will be developed in the manner that would eliminate inefficient, unnecessary use of energy resources and limit GHG emissions. Because the California CAT has taken the initial step of identifying emission reduction strategies that will enable the State to meet mandates of AB 32, it was appropriate for the project's impacts to be analyzed in light of these strategies. The Town respectfully disagrees that CEQA obligates the Town to adopt a "no net increase" threshold of significance.

Response to Comment A-29: Please refer to Responses to Comments A-23 and A-28. The Commentor correctly points out that established thresholds of significance are not a prerequisite to a lead agency's obligation to analyze any particular environmental impact of a proposed project. CEQA obligates a lead agency to do the necessary work to educate itself about different methodologies that are available to analyze a particular impact where uniformly accepted methodologies do not exist.

Response to Comment A-30: Wal-Mart is the largest corporation in the world and, as such, its operations inevitably result in significant GHG emissions worldwide. However, impacts of Wal-Mart's global operation are not particularly relevant to an analysis of the potential for the proposed

project to result in a significant climate change impact. CEQA requires a lead agency to consider the potential environmental impacts of all discretionary decisions and obligates the agency to either avoid of substantially reduce those impacts through implementation of mitigation measures prior to approving the project. CEQA also obligates a lead agency to consider the potential cumulative impact of any discretionary action in addition to the project's specific impacts. Here, the Town, as CEQA lead agency, through preparation of the DEIR, considered the project's potential to result in a cumulatively significant GCC impact.

Response to Comment A-31: The Town acknowledges that the Commentor disagrees with the significance determination reached by the Town in the DEIR. Please refer to Responses to Comments A-1, A-9, and A-23.

Response to Comment A-32: EIRs are not required to discuss mitigation measures for impacts that the lead agency determines to be less than significant without mitigation. Under Public Resource Code, Section 21100(b)(3) and *CEQA Guidelines*, Section 15126.4(a)(3), discussion of mitigation measures is required only for significant environmental effects. Moreover, a lead agency is not required to adopt every possible mitigation measure for a given impact. As long as any identified impact is reduced to less than significant levels, no additional mitigation needs to be implemented. As reflected in Section 4.3 of the DEIR, the project's potential to result in a cumulatively significant GCC impact is less than significant. Accordingly, the Town is not obligated to adopt the mitigation measures by the Commentor.

Although the Town is not obligated under CEQA to adopt the additional mitigation measures identified by the Commentor to reduce the project's GHG emissions, it should be noted that many of the suggested mitigation measures have already been incorporated into the project as illustrated below.

SUGGESTED MITIGATION	PROJECT DESIGN FEATURE OR MITIGATION MEASURE
1. Include analysis of alternative project locations and alternatives to the "big box commercial" style of development	1. The DEIR analyzed a project including a mix of office (DEIR p. 6-12 through 6-17) as well as smaller retail uses (DEIR p. 6-22 through 6-26). The DEIR also analyzed potential for the development of the proposed project at two off-site locations (DEIR p. 6-17 through 6-22).
2. Incorporate public transportation improvements as project components.	2. The project site is served by the Morongo Basin Transit Authority. The project will include development and installation of an additional bus shelter along Avalon Avenue to facilitate additional public transit opportunities. Moreover, Mitigation Measure 4.3.2A requires the Wal-Mart store to include a Transportation Information Center, which will provide information, in a centrally located place, concerning public transportation opportunities and schedules (DEIR p. 4.3-40).
3. Incorporate bicycle and pedestrian access pathways.	3. Mitigation measure 4.3.2A requires the project to provide secure, adequate and convenient bicycle storage facilities for a minimum of 12 bicycles, which will encourage use of alternate transportation (DEIR p.4.3-40). Development of the project site will include sidewalks along State Route 62, Palisade Drive and Avalon Avenue, linking the project site to neighboring residential neighborhoods.

SUGGESTED MITIGATION	PROJECT DESIGN FEATURE OR MITIGATION MEASURE
4. Incorporate measures to promote ride-sharing and car-sharing.	4. Mitigation Measure 4.3.2A requires the project to provide preferential parking for employee carpools (DEIR p. 4.3-40).
5. Incorporate measures prohibiting the idling of supply trucks.	5. California Code of Regulations Title 13, Section 248.5, prohibits diesel-powered vehicles from allowing the engine to idle for more than five minutes at any location.
6. Utilize low carbon, climate-friendly building materials.	6. The Wal-Mart Supercenter will be built with nearly 100% recycled structural steel. The plastic baseboards and much of the plastic shelving, that will be used in the project is manufactured from recycled material. The concrete used in constructing the Wal-Mart Supercenter contains 10% fly-ash, an industrial byproduct from coal-fire power-generation processes (DEIR p.4.3-44).
7. Landscape to preserve natural vegetation and maintain watershed integrity.	7. The project will incorporate drought-tolerant vegetation and will incorporate, to the extent possible, existing vegetation already on site into the landscape design. The project is required to comply with Town Ordinance 45 and High Desert Water District Ordinance No. 038, regarding utilization of drought-tolerant landscaping (DEIR p.4.16-18).
8. Utilize alternative fuels and construction equipment.	8. Mitigation Measure 4.3.1A requires the construction contractor to select construction equipment with low emission factors. Construction contractors are also required to utilize alternatively-fueled equipment and all construction equipment must be shut off when not in use (DEIR p. 4.3-38).
9. Design buildings for passive heating and cooling and natural light.	9. The Wal-Mart Supercenter will be designed to include installation of skylights taking advantage of natural light and reduce reliance upon electric energy. The Wal-Mart will be equipped with a light-dimming system which dims exterior building and parking lot lighting during late night hours and, gradually as daylight increases. The Wal-Mart will also be constructed with a white-membrane roof, which will increase solar reflectivity and decrease cooling requirements (DEIR p. 4.3-45).
10. Maximize the water conservation measures in building and landscaping.	10. The project is required to comply with Town Ordinance 45, regulating landscape and water conservation requirements for all new developments. The project will use only drought-tolerant landscaping and minimize water usage by installing efficient irrigation systems. The project will also utilize low-flush toilets in its restrooms as well as water-efficient plumbing appliances such as sinks which incorporate automatic shutoff sensors (DEIR p. 4.3-47).

SUGGESTED MITIGATION	PROJECT DESIGN FEATURE OR MITIGATION MEASURE
11. Incorporate recycling programs.	11. Wal-Mart engages in extensive recycling activities, which include recycling of all motor oil, tires and automotive batteries from the Tire, Lube Express operations, cardboard, vegetable oil, single-use cameras, bottles, cans and silver from photo processing (DEIR p. 4.3-44). Moreover, the project will comply with the mandates of the *California Solid Waste Reuse and Recycling Access Act of 1991* (DEIR p. 4.16-3).

Response to Comment A-33. Please refer to Response to Comment A-32. The Commentor exhaustively details mitigation measures the proposed project could incorporate to reduce carbon emissions. As stated in *CEQA Guideline* §15126.4(3), "Mitigation measures are not required for effects which are not found to be significant." The construction and operation of the proposed on-site uses would comply with the GHG reduction strategies identified in the CAT report. As stated previously, when measured against the threshold identified by the Town in the DEIR, no significant impact would occur. In the absence of a Town-identified significant impact, no mitigation is required. The Town recognizes the Commentor's opinion on the necessity of mitigation to offset the perceived GCC effects associated with the proposed project and will consider this issue prior to taking action on the project.

Response to Comment A-34: The general information provided by the Commentor regarding *Endangered Species Act* (FESA) provisions is noted. The Town acknowledges that the project is subject to the FESA. Section 4.4 of the DEIR includes a comprehensive analysis of the project's compliance with the FESA.

Response to Comment A-35: Section 4.4 of the DEIR includes a comprehensive analysis of the project's potential impacts on the desert tortoise (*Gopherus agassizii*), which has been identified as a threatened species pursuant to the FESA. As indicated on page 4.4-5 of the DEIR, the project site contains potential habitat for desert tortoise. However, the DEIR concluded that the desert tortoise does not currently occur on site, nor does it exist in the immediate vicinity of the project site. The DEIR further concluded that there is no evidence desert tortoise had ever occupied the project site. However, despite the fact that there is no evidence of desert tortoise occurring on the project site, in light of the species' status as threatened under the FESA, and to further ensure that the project will not have any adverse impacts on individual desert tortoise which may occur on the project site in the future, however unlikely, the DEIR identified Mitigation Measures 4.4.3A through 4.4.3E. These mitigation measures require completion of focused protocol level surveys prior to ground disturbing activities to confirm the absence of desert tortoise on the project site. Moreover, all construction personnel are required to participate in education programs taught by a qualified biologist that will inform personnel of how to handle, or what to do if, a desert tortoise is encountered during construction activities. If any desert tortoise is encountered, a qualified biologist must be contacted to take appropriate steps to avoid take of that species, which may include ceasing all construction activities. The implementation of these mitigation measures will reduce potential impacts to desert tortoise to less than significant levels.

Response to Comment A-36: Please refer to Response to Comment A-35. Section 4.4 of the DEIR did consider the possibility that individual desert tortoise may take up residence on the project site despite the fact that the biological resources assessment and focus protocol surveys prepared for the proposed project concluded that the project site was significantly disturbed, reducing the potential for

desert tortoise species to reside on site. Accordingly, the DEIR recommended incorporation of Mitigation Measures 4.4.3A–4.4.3E.

Response to Comment A-37: Please refer to Responses to Comments A-35 and A-36. The studies conducted prior to and during the preparation of the DEIR have collectively been determined to be accurate in identifying sensitive biological resources on the site and were sufficient to allow for an adequate evaluation of potential impacts of the project. Since the project site does not contain desert tortoise, the project would not reduce the desert tortoise population. Additionally, the project site is outside the current range of the desert tortoise as mapped in CNDDB and would not restrict the range of an endangered species. Therefore, the analysis provided for in the DEIR adequately addresses impacts to the desert tortoise and identifies all feasible mitigation that would reduce impact to the desert tortoise to a less than significant level.

Response to Comment A-38: Please refer to Responses to Comments A-35 through A-37. The Commentor asserts that "... the Draft EIR fails to address impacts in relation to the goals of the Desert Tortoise Recovery Plan." The ultimate goal of the Desert Tortoise Recovery Plan is to delist the desert tortoise through recovery efforts by way of the development of a Desert Wildlife Management Area (DWMA) within each of the six recovery units. As indicated in the Desert Tortoise Recovery Plan, "... it is recommended that each DWMA within a recovery unit be at least 1,000 square miles in extent so as to contain a viable population of desert tortoises that is relatively resistant to extinction processes" (pg. ii of the Desert Tortoise Recovery Plan). The DEIR states, "... according to the Desert Tortoise Recovery Plan, [although] the project area is within the Western Mojave Recovery Unit ... the project site [itself] is not located in a management area" (DEIR p.4.4-13). Since the project is not located within a DWMA and would not impact the development of a DWMA, the project would not conflict with the goals of the Desert Tortoise Recovery Plan.

Response to Comment A-39: Desert tortoise impacts are analyzed in Section 4.4 of the DEIR. The mitigation measures recommended for impacts to the desert tortoise are reasonable and consistent with the requirements of CDFG and USFWS for the species. With implementation of these measures, impacts would be mitigated to a less than significant level. Contrary to the Commentor's assertions, there is no evidence that additional measures need to be implemented to reduce partial impacts to desert tortoise to less than significant levels.

Response to Comment A-40: Mitigation measure 4.4.3.C shall be revised to read, "... to reduce littering, signage ***shall*** be posted throughout the project site stating fines for trash dumping in open areas." There is no evidence that ongoing efforts to prevent ravens from roosting and nesting on site are necessary to reduce impacts to desert tortoises to a less than significant level. As indicated in Section 4.4 of the DEIR, desert tortoises are not located on site, nor would they be expected on site subsequent to development of the proposed project due to the fact that the entire project site as well as the Home Depot project site immediately adjacent to the east will be covered with impermeable surfaces not conducive to desert tortoise occupancy. In addition, the project site would be surrounded by roadways. Implementation of Mitigation Measure 4.4.3.C is sufficient to reduce impacts from raven predation to less than significant levels.

Response to Comment A-41: The Comment is a recitation of *CEQA Guidelines,* Section 15065 and supplements information already contained in the DEIR. The Town acknowledges that CEQA requires an analysis of whether a project has the potential to result in the reduction of the numbers or restrict the range of endangered, rare, or threatened species.

Response to Comment A-42: The Town agrees that the direct mortality of a sensitive species is a significant impact to a threatened species and must be analyzed in depth in any EIR. As reflected in

Section 4.4 of the DEIR, the proposed project is not anticipated to result in the mortality of any endangered, threatened, or rare species.

Response to Comment A-43: Section 4.4 of the DEIR contains a comprehensive analysis of the project's potential impacts on endangered, threatened, and rare species. The analysis included in Section 4.4 is based on numerous comprehensive biological resources analyses including a biological resources report (LSA, September 2004) contained in Appendix C to the DEIR, a Desert Tortoise focus survey report (LSA, February 2005) contained in Appendix D to the DEIR, a biological reconnaissance survey (MBA, October 2005) included as Appendix F to the DEIR, and a protocol Desert Tortoise survey (Thomas Leslie Corporation, May 2006) included as Appendix E to the DEIR. The analysis included in Section 4.4 discusses the existing setting of the project site and the special status of plant and wildlife species identified on site during reconnaissance surveys. The impact analysis further included a literature review to assist in determining the existence or potential occurrence of sensitive species on or in the vicinity of the project site. The literature reviewed included a search of the CNDDB and the inventory of Rare and Endangered Vascular Plants of California for the *Yucca Valley North, Yucca Valley South, Joshua Tree North*, and *Joshua Tree South* U.S. Geological Survey (USGS) 7.5-minute quadrangles. The analysis also included a review of the draft Western Mojave Multi-Species Habitat Conservation Plan (WMMSHCP), the *California Desert Native Plants Act*, the Town of Yucca Valley Plant Protection and Management Ordinance, and aerial photographs of the project site and vicinity to determine the current existence or potential existence of sensitive plant and wildlife species. Based on this methodology, the DEIR concluded that the proposed project would not result in a significant impact to any endangered, threatened, or rare species through either direct impact to existing population or through habitat modification. To ensure that development of the project would not result in a significant impact to identified species, mitigation measures were required.

Response to Comment A-44: The DEIR states that "...the construction and implementation of the proposed project in conjunction with other planned projects in the Yucca Valley area could have a significant cumulative impact related to the individual loss of plant and wildlife species and habitat." (DEIR p. 4.4-17) However, the DEIR also states that although the proposed project would create a potentially significant impact related to the loss of plant and wildlife species and habitat, such impacts are reduced to a less than significant level with implementation of the mitigation measures identified in Section 4.4 (DEIR p. 4.4-17). Because each cumulative project would be required to mitigate its individual impacts to biological resources and loss of habitat, it is anticipated that on a cumulative level, such impacts to biological resources would be less than significant. The Commentor asserts that the project cannot rationalize impacts to sensitive species and their habitat as insignificant without analysis and without proposing specific mitigation measures. However, contrary to the Commentor's assertion, DEIR Section 4.4 identifies impacts to sensitive species and provides specific mitigation measures for such species (DEIR p. 4.4-13 through p. 4.4-17).

Response to Comment A-45: The Commentor asserts that the Draft EIR fails to include all of the sensitive species that are reported to occur within the general area as indicated in the California Natural Diversity Database (CNDDB). The CNDDB is a computerized inventory of location information on rare animals, plants, and natural communities in California with separate lists for special animals and plants. However, species on this list include all of the taxa the CNDDB is interested in tracking regardless of their legal or protection status. Given this, a species on the list does not have to be listed as a species of concern, threatened species, or endangered species to be included in the CNDDB.

Based on the CNDDB, four of the five species (hoary bat [*Lasiurus cinereus*], western yellow bat [*Lasiurus xanthinus*], cuckoo bee [*Paranomada californica*], and Latimer's woodland gilia [*Saltugilia*

latimeri]) that the Commentor identifies in Comment A-45 are not designated as federally endangered, State endangered, federally threatened, State threatened, or designated as a species of special concern. Because these species are not considered to be sensitive and because none of these species was identified in any of the biological resource surveys conducted, these species were not discussed in the DEIR.

The pallid San Diego pocket mouse (*Chaetodipus fallax pallidus)* is designated as a species of concern and identified by the CNDDB within the Yucca Valley North and Joshua Tree South quadrants. However, the closest recorded occurrence of the pallid San Diego pocket mouse (approximately 1.0 mile west of the project site) was recorded in 1903. The second closest recorded occurrence of the pallid San Diego pocket mouse (approximately 2.6 miles west of the project site) was recorded in 1969. The most recent recorded occurrence of the pallid San Diego pocket mouse was recorded in 2002 approximately 5.5 miles northwest of the project site. In addition, although this species is identified as a species of concern, the California Department of Fish and Game currently has no available data for this particular species such as population size, specific habitat, and ecology. There currently are no protocol surveys or identified mitigation measures from the California Department of Fish and Game for the pallid San Diego pocket mouse. Given that there have been no recent occurrences of the species in the vicinity of the project site, that none of the biological surveys identified the Pallid San Diego pocket mouse on site, and because there do not exist any adopted protocols or species information, the species was considered to be absent from the site and was not discussed in the DEIR.

CEQA Guidelines Section 15147 provides that the information contained in any EIR shall include a summary of technical data and similar relevant information sufficient to permit full assessment of significant environmental impacts by reviewing agencies and members of the public. Although four separate technical studies were prepared analyzing the project's potential impact to endangered, threatened, and rare plant and wildlife species, included as appendices to the DEIR (Appendix C through F), the DEIR contains a summary of this technical information. The DEIR states "... six [non-listed sensitive species] are considered absent from the project site due to lack of suitable habitat" (DEIR p.4.4-5). This conclusion is based on information contained within the Biological Resources Report (p. B-1) conducted for the DEIR and included as Appendix C. Based on information contained within Appendix C, the Little San Bernardino Mountains linanthus (*Linanthus maculatus*) was considered absent because suitable habitat (loose sand on wash margin benches) was not present on site. Orcutt's linanthus (*Linanthus orcuttii*) was absent because suitable habitat (chaparral, pinyon-juniper woodland, forest) was not present on site. The Robinson's monardella (*Monardella robisonii*) was absent because suitable habitat (rocky slopes) was not present on-site. The northern red diamond rattlesnake (*Crotalus ruber*) was absent because suitable habitat (dense vegetation or rocky areas) was not present on site. The California yellow warbler (*Dendroica petechia*) was absent because suitable habitat (riparian areas) was not present on site. The Nelson's bighorn sheep (*Ovis canadensis nelsoni*) was absent because suitable habitat (rocky areas and water) was not present on site. Although the Commentor asserts bighorn sheep are known to cross through human-inhabited areas for moving between ranges and that the Nelson's bighorn sheep may use the project site to move from the Little San Bernardino Mountains to the Saw Tooth Mountains, there is no evidence that the Nelson's bighorn sheep use Yucca Valley or the project site as a wildlife corridor. As indicated in the DEIR, the project is located on the southeast corner of State Route 62 and Avalon Avenue. State Route 62 is a major east-west State Route that accommodates high daily traffic volumes. Accordingly, it is highly unlikely the project site would be used by any species migrating to the south of the project site.

Response to Comment A-46: As stated in *CEQA Guidelines,* Section 15151, "... an evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR

is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate." The project site is bounded by SR-62 and Avalon Avenue on the north and west, respectively. Beyond these roadways, residential and commercial development has occurred. Wildlife traversing the site would need to utilize a "corridor" crossing SR-62, Avalon Avenue, and Paxton Avenue. Key considerations in determining whether an area is suitable to act as a wildlife corridor include:

- Will wildlife encounter the entrance to the corridor?
- Once encountered, will wildlife enter and follow the full length of the corridor?
- Is the condition of the corridor sufficient to satisfy the needs of wildlife using the corridor?
- Are there impediments to wildlife use of the corridor (e.g., domestic animals, noise from traffic, outdoor lighting, on- and off-road use, and other human activity).

As identified in the DEIR, the quality of the project site has been reduced, "...due to a moderate level of disturbance." It is reasonable to conclude that existing buildings and roads serve as barriers to regional wildlife movement as some animals will not cross barriers as wide as a two-lane road due to road aversion and other behavioral modifications. Moreover, State Route 62, the main east-west thoroughfare through the Town of Yucca Valley, currently accommodates high daily vehicular traffic volumes. A large number of traffic trips acts as a further deterrent from any animals using the project site as a wildlife corridor for movement north and south of the project site. Because of the proximity of well traveled roadways, adjacent development, and human activity, the project vicinity does not harbor the prerequisites to be reasonable considered a viable wildlife corridor.

Response to Comment A-47: As reflected on page 4.4-4 of the DEIR, the presence or likelihood of presence of sensitive species is based on criteria such as 1) Direct observation of the species or its sign in the study area of immediate vicinity during surveys conducted for the DEIR or reported and previous biological studies; 2) sighting by other qualified observers; 3) record reported by the natural diversity database published by the California Department of Fish and Game (CDFG); 4) presence or location of specific species lists provided by private groups; and/or 5) the study area lies within known distribution of a given species and contains appropriate habitat. The biological resources report included as Appendix C to the DEIR identifies the loggerhead shrike (*Lanius ludovicianus*) as a non-listed species with a low probability of occurrence on the project site primarily due to the lack of reported occurrences within the vicinity. The subsequent Desert Tortoise Protocol Survey (Thomas Leslie Corporation, May 2006) did reveal the existence of a loggerhead shrike nest not present during prior surveys. Accordingly, the DEIR indicated that there is suitable habitat and that "... the loggerhead shrike was observed on-site during the Desert Tortoise Presence/Absence Survey in May 2006" (DEIR p. 4.4-5). Furthermore, the DEIR discusses impacts to the loggerhead shrike within Impact 4.4.1, Non-listed Sensitive Species, and mitigation measures that would reduce impacts to the loggerhead shrike to a less than significant level (DEIR p. 4.4.-13).

The DEIR correctly states that there have been no reported sightings of the San Diego horned lizard (*Phrynosoma coronatum blainvillei*) in the project vicinity over the past century. As indicated in the DEIR, "... the San Diego horned lizard has been reported once as occurring near the project vicinity ... [and that the] CDFG's Natural Diversity Data Base has no records of this species in the general project vicinity except for one reported observation from the 1890s attributed to a location (Warrens Well) about 1 mile west of the site. This record is suspect due to its nonspecific date, incorrect elevation (the record states an elevation of 2,225 feet, while the elevation at the specified location is approximately 3,220 feet) and location in unlikely habitat outside the known range of the species"

(DEIR p. 4.4-13). Furthermore, the biological surveys conducted for the project yielded no observation of the horned lizard. The Commentor states that "... collections of this species have been made in the ***general area*** in the 1970's"; however, the Commentor does not provide information as to where in the general area that the species has been collected. The DEIR goes into site-specific detail and provides substantial evidence based on facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts as to why it is reasonable to conclude that the horned lizard is not present on site and why implementation of the proposed project would not have any impacts to the horned lizard.

Contrary to the Commentor's assertion and based on the preceding discussion, the DEIR has adequately evaluated the probability of occurrence on the site for the species mentioned and evaluates the potential impacts to the indicated species.

Response to Comment A-48: As indicated in *CEQA Guidelines*, Section 15151, "... an EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. ... The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure." The DEIR has identified and discussed those species that were observed on site despite the fact the some of the species were identified as having a low potential to occur. None of the remaining species (Cooper's hawk [*Accipiter cooperii*], Le Conte's thrasher [*Toxostoma lecontei*], ferruginous hawk [*Buteo regalis*], and prairie falcon [*Falco mexicanus*]) were observed during any of the four biological surveys conducted for the project site. The potential of low occurrence combined with no observations of these species on **four separate** biological surveys (conducted over a two-year period at different times of the year) enables the DEIR to conclude that these species would not occur on the project site. The Commentor's claim that, "the project will eliminate suitable habitat for sensitive species" is speculative as the habitat for these remaining species is identified as "potential foraging habitat" with no reported occurrences from the vicinity of the project.

Response to Comment A-49: The DEIR does not "assume" that no rare, threatened, or endangered species currently occupy the project site. Instead, extensive study of the project has been conducted with regard to the preparation of the DEIR to confirm that no rare, threatened, or endangered species occupy the project site. The DEIR identified three threatened/endangered species that may occur on the project site. Two of these species (Parish's daisy [*Erigeron parishii*] and least Bell's vireo [*Vireo bellii pusillus*]) are considered absent due to lack of habitat. The other threatened/endangered species (desert tortoise) was found to "... not currently occur on-site and it does not exist in the vicinity of the project site [based on the focused field survey and the presence/absence survey performed on the proposed project site and in the site vicinity in accordance with USFWS protocol]" (DEIR p.4.4-16). Similarly, as the Desert Tortoise Presence/Absence Survey (Appendix E of the DEIR) states, "... if no DT [Desert Tortoise] sign is found within the survey area (Project Site and the adjacent "Zone of Influence"), no impacts to the DT would occur and no mitigation for loss of unoccupied Desert Tortoise habitat would be required" (pg. 2 of Appendix E). Contrary to the Commentor's assertions, based on this analysis, the DEIR was correct to conclude that no rare, threatened, or endangered species currently occupy the project area. Furthermore, the DEIR does identify and analyze impacts to these species in Impact 4.4.3 (DEIR p.4.4-16). While the Commentor states "... that the project area contains valuable habitat that these species will need," the DEIR concludes, based on technical biological surveys, that the project site does not contain habitat for two of the identified threatened/endangered species and contains only marginally suitable habitat for the desert tortoise (DEIR p.4.4-16). Due to the marginal quality of the habitat to support rare, threatened, or endangered species and due to the location of the project site, immediately bounded by State Route 62 and

Avalon Avenue as well as the Home Depot to the east and Palisade Drive to the south, the DEIR correctly concluded that impacts to the identified species from loss of habitat is less than significant.

Response to Comment A-50: The DEIR contains comprehensive analysis of potential impacts to species of special concern such as loggerhead shrike, San Diego black-tailed jackrabbit (*Lepus californicus bennettii*), and California horned lark (*Eremophila alpestris actia*). Each of these species was observed on site during reconnaissance surveys. The DEIR also states, "... construction within the Specific Plan area is required to comply with the MBTA [Migratory Bird Treaty Act], which protects raptors and other migratory birds during the nesting season. The MBTA governs development activity that may affect nesting activities of the Loggerhead shrike and California horned lark. This is considered a significant impact and mitigation is required" (DEIR p.4.4-14). Through requirements of MBTA, to which the project would be subject, and implementation of Mitigation Measure 4.4.1.C, impacts to these species would be less than significant.

The San Diego black-tailed jack rabbit is listed as a species of special concern by the CDFG while the black-tailed jack rabbit (*Lepus californicus deserticola*) is not considered to be a species of special concern. The DEIR states that three unlisted special-status species were observed on the project site during the Desert Tortoise Presence/Absence Survey conducted in May 2006 which included the San Diego black-tailed jack rabbit. However, on closer inspection of the four biological surveys that were conducted for the project site, it seems that the black-tailed jack rabbit was mistakenly identified as the San Diego black-tailed jack rabbit in the Desert Tortoise Presence/Absence Survey (Appendix E of the DEIR). This is supported by the observation of the black-tailed jack rabbit on site during the Desert Tortoise Focused Survey Report (Appendix D of the DEIR) and the fact that the San Diego black-tailed jack rabbit was not included in the tables identifying sensitive species in the project vicinity for the Biological Reconnaissance Survey (Appendix F of the DEIR) and the Biological Resources Report (Appendix C of the DEIR). Additionally, San Diego black-tailed jackrabbits occur only on the coastal side of the Southern California mountains and have been reported in Baja California through San Diego, Orange, Los Angeles, and Ventura Counties whereas the black-tailed jackrabbit can be found throughout the Morongo Valley/Yucca Valley area. Because of these reasons, it is plausible that the San Diego black-tailed jack rabbit is not present on-site and that the black-tailed jack rabbit, which was observed on site was mistaken for the San Diego black-tailed jack rabbit. Since the black-tailed jack rabbit is not listed as a special-status species, impacts to the black-tailed jack rabbit would be less than significant and would not warrant additional discussion in the DEIR.

Response to Comment A-51: As stated in the EIR, "... a Joshua Tree Salvage Plan will be required as a condition of approval prior to the issuance of a grading permit. The salvage plan will ensure that all suitable candidate trees are incorporated into project landscaping or transplanted off-site, in accordance with the Native Plant Protection and Management Ordinance" (DEIR p.4.4-11). The Joshua Tree Salvage Plan is subject to requirements of the Native Plant Protection and Management Ordinance, Town Ordinance 140, that ensure the successful translocation plan for the Joshua trees (*Yucca brevifolia*), which includes the approval of a plan by the Community Development Department. The ordinance prohibits removal of Joshua trees except under permit issued by the Community Development Director. Prior to the issuance of a native tree or plant removal permit, a plot plan prepared by a qualified expert, must be approved by the Community Development Directory indicating exactly which trees or plants are authorized to be removed or relocated. In the event that it is found to be unreasonable to maintain a Joshua tree in its original place, translocation on site is one option, or the Town has established an adoption program to allow for members of the public to adopt Joshua trees. Included as Appendix G to the DEIR is a Native Plant Survey analyzing and identifying those Joshua trees that will be suitable for relocation. Identified in the Native Plant Survey were a total of 92 Joshua trees and two Mojave yucca (*Yucca schidigera*), which are suitable for translocation. The Native Plant Survey will serve as the basis for development of the translocation

plan that must be approved by the Community Development Director. A requirement that a project comply with applicable laws and regulations will serve as adequate mitigation of environmental impacts pursuant to CEQA. Accordingly, the DEIR concluded that compliance with the Town Ordinance will sufficiently mitigate impacts of project development on native plant species. Contrary to the Commentor's assertions, the Native Plant Protection and Management Ordinance contain sufficient performance standards to allow compliance with said ordinance to be adequate mitigation under CEQA.

Response to Comment A-52: An EIR must discuss cumulative impacts if the project's incremental effects combined with the effects of other projects are "cumulatively considerable" (*CEQA Guidelines,* Section 151309(a)). This determination is based on an assessment of the project's incremental effects in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects (*CEQA Guidelines,* Section 15064(b)(1)). An EIR discussion of cumulative impacts should be guided by standards of practicality and reasonableness. Although a cumulative impacts analysis is required in the EIR, the EIR's discussion of cumulative impacts need not provide the same level and detail as is provided for project-specific effects (*CEQA Guidelines,* Section 15130(b)). A lead agency is not required to provide evidence supporting every fact underlying the EIR's discussion of cumulative impacts nor is an exhaustive analysis required (*Association of Irritated Residents v. County of Madera* (2003) 107 Cal. App. 4th 1383, 1404). An EIR's evaluation of cumulative impacts need not be exhaustive and need only provide such information as is necessary for informed decision-making. Consistent with CEQA's requirements, the DEIR for the project discussed the potential cumulative impacts of the proposed project to biological resources. The cumulative impact analysis was conducted with regard to projects identified on Table 2.A and Figure 2.1 of the DEIR. The cumulative impacts analysis included on page 4.4-17 of the DEIR discusses the fact that the construction and implementation of the proposed project in conjunction with the other planned projects in Yucca Valley could have a significant cumulative impact related to individual loss of plant and wildlife species and habitat. The analysis indicates, as discussed in Section 4.4 of the DEIR, the project site contains marginal habitat for endangered, threatened, and special status species, that no endangered or threatened species were observed on site, and the project site was determined not to support any such species. Finally, with implementation of appropriate mitigation, all impacts to biological resources would be mitigated to less than significant levels. The analysis acknowledges that the project could have a potentially significant cumulative impact to biological resources due to cumulative loss of habitat. However, the analysis indicates that the extensive biological resource analyses and protocol surveys conducted for this project concluded that the project site consists of disturbed habitat not likely to support endangered, threatened, or other sensitive species. Accordingly, implementation of identified mitigation measures would reduce impacts to less than significant levels. The level of detail included in this analysis is sufficient to comply with the mandates of CEQA. The Town is not required to do a separate site-specific biological resource assessment for each cumulative project in connection with preparing the EIR for this project.

The DEIR states that "... the construction and implementation of the proposed project in conjunction with other planned projects in the Yucca Valley area could have a significant cumulative impact related to the individual loss of plant and wildlife species and habitat" (DEIR p.4.4-17); however, the DEIR concludes that the proposed project's contribution to these cumulative impacts would be mitigated to a less than significant level by implementation of mitigation measures identified in the DEIR. While identification of mitigation for other projects' contributions to these cumulative impacts is not required by CEQA, the DEIR infers that the contributions of other projects in the area to cumulative biological resource impacts would be similarly mitigated, as required under state and federal law and as enforced by the appropriate agencies, thereby resulting in a less than significant cumulative impact on biological resources.

Response to Comment A-53: The DEIR has been revised to include all of the mitigation measures identified in Section 4.4 of the DEIR. The correction is as follows:

> "... although the proposed project would create a potentially significant impact related to ~~a non-listed sensitive species~~ the loss of plant and wildlife species and habitat, such impacts are reduced to a less than significant level with implementation of the mitigation measures identified in this section ~~Mitigation Measure 4.4.1A~~" (DEIR p.4.4-17).

Response to Comment A-54: Section 4.8 of the DEIR discussed potential drainage-related impacts resulting from development of the proposed project. As reflected therein, as well as the detailed Hydrologic and Hydraulic Analysis included as Appendix K to the DEIR, development of the proposed project would result in the construction of impermeable surfaces that will alter the natural drainage of the project site. The proposed project includes a system of on-site catch basins, storm drains, and a detention basin on the northern portion of the project site adjacent to SR-62, to capture and treat runoff generated by the proposed project that would otherwise have percolated into the ground or been conveyed by natural drainage courses in a northerly direction and discharged into Covington Wash. The detention basin is designed to detain post-development runoff to rates that presently exist on the project site. The proposed basin will be able to accommodate post-development flows as the detention basin's design volume is 3.6 acre-feet, which exceeds the required minimum storage volume of 1.4 acre-feet (DEIR, page 4.8-19). During operation of the proposed project, off site southeasterly flows are intercepted by proposed inlet structures on the south side of Palisade Drive. The flows are conveyed by pipe to the detention basin. Southwesterly flows are picked up near the southern boundary of the site and channeled through a reinforced concrete pipe storm drain. Once reaching the on-site detention basin, flows from the project site are conveyed into an outlet pipe that connects to Home Depot's outflow pipe, where project flows are combined with the flows from the Home Depot site. Flows from both the project site and Home Depot site are routed to a drainage pipe structure located in the northeast corner of the Home Depot property where flows are transported via conveyance features through the adjacent parcel on the east until reaching Covington Wash (DEIR, page 4.8-14 and 4.8-15). As reflected in Table 4.8.G, construction of the detention basin and drainage features will reduce post-construction flows reaching Covington Wash to less than pre-development levels.

Additionally, as reflected in the Draft Environmental Impact Report prepared for the Home Depot Retail Center, project drainage manages stormwater flows generated on site and intercepts and conveys off-site flows. The combined storage within the detention basins constructed as part of the Home Depot project will be discharged on a metered basis through a buried storm drain system and conveyed to a point near the northeast corner of the site at a rate approaching pre-development flows. With implementation of this system, peak runoff would be approximately 7 CFS less than historic peak. Subsequent to the development of the proposed project, as well as the adjacent Home Depot project, post-development flows entering into the Covington Wash will be less than the flows entering the same drainage facility prior to development. Accordingly, the proposed project will not have a significant cumulative impact on Covington Wash or downstream properties.

Response to Comment A-55: Please refer to Response to Comment A-54. The Commentor asserts that "... the DEIR's reliance on unspecified and discretionary mitigation measures violates CEQA." The DEIR does not rely on unspecified and discretionary mitigation measures as the BMPs listed in the DEIR for the construction and operation of the proposed project are NPDES permit requirements. As stated in the DEIR, "... short-term pollutant discharges from the project site would be mitigated through compliance with the applicable NPDES permitting process. ... Permittees must verify compliance with permit requirements by monitoring ... maintaining records, and filing periodic reports" (DEIR p.4.8-10). Furthermore, "... an NPDES permit would generally specify an acceptable

level of a pollutant or pollutant parameter in a discharge. The permittee may choose which technologies to use to achieve that level. Some permits, however, do contain certain generic best management practices (BMPs)" (DEIR p. 4.8-10). Since the project is subject to NPDES permitting and the resulting requirements, the end result is to prohibit the unauthorized discharge of pollutants from a point source to U.S. waters in violation of the CWA. Since implementation of BMPs is required for a NPDES Construction General Permit, the inclusion of BMPs during the construction and operational phase as part of the proposed project is not considered to be a mitigation measure. As reflected in the DEIR, the project will not have a significant impact on hydrology and water quality due to the discharge of pollutants from the project site as long as the project complies with the performance standards included in the CWA and NPDES permit process including all conditions of the Construction General Permit. The CWA and NPDES permit process provide objective, quantifiable performance standards with which the project must comply. Accordingly, the DEIR appropriately found that the project would result in a less than significant impact.

Response to Comment A-56: Please refer to Responses to Comments A-54 and A-55.

For stormwater treatment, the DEIR states that "flows would be intercepted by proposed inlet structures" (DEIR p. 4.8-14) and that "... the water quality basins are anticipated to function as infiltration basins or extended detention basins" (DEIR p. 4.8-15) before flows are released from the project site. As provided in DEIR Table 4.8.D (DEIR p. 4.8-8), water quality inlets would remove pollutants through separation as flows pass through one or more chambers. This method is generally used for pretreatment before discharging into another type of BMP. Similarly, the proposed extended detention and infiltration basin would detain, help infiltrate, and slowly release urban runoff, which would allow for particles and associated pollutants to settle out. Accordingly, the DEIR identifies how stormwater runoff would be treated. Additionally, the DEIR identifies that "in the few instances wherein basins or vegetated swales cannot be used, other structural BMPs would be employed to achieve treatment." (DEIR p. 4.8-15) In addition, the design and installation of the proposed drainage improvements would be required to adhere to applicable Town and County standards" (DEIR p. 4.8-15). Town standards include the submittal of a hydrology report, which identifies how the proposed development would provide for on-site retention, disposal, or conveyance of generated runoff. The exact type of BMPs implemented may be altered, but must still be sufficient to eliminate un-permitted discharge from the project site in compliance with the CWA.

The DEIR also identifies how and where stormwater runoff will be routed and discharged. This information can be found in the analysis of drainage pattern-related impacts (DEIR p. 4.8-14).

Response to Comment A-57: Please refer to Responses to Comments A-53 through A-56. As the Commentor points out, the DEIR does state that the project would result in increased peak flows and pollutant loads in local drainage ways. The DEIR also states that design features such as trash racks on catch basins, natural drainage areas, and infiltration and detention basins would be incorporated into the proposed project. The DEIR also states, "... in the few instances wherein basins or vegetated swales cannot be used, other structural BMPs would be employed to achieve treatment. In addition, the design and installation of the proposed drainage improvements would be required to adhere to applicable Town and County standards" (p. 4.8-15).

The Town of Yucca Valley has a "no net increase" standard in runoff from new development. The Town also requires new development projects to submit a hydrology report, which identifies how the proposed development would provide for on-site retention, capture, disposal, or conveyance of generated runoff. This report is reviewed and approved by the Town's Public Works Department at the entitlement phase and verified prior to the issuance of the grading permit. Inspections ensure that all BMPs are in place for the post-construction phase. The proposed project would reduce generated

stormwater flows to below or equal to pre-development conditions as indicated in DEIR Table 4.8.G (DEIR p.4.8-15). Because the project would ultimately result in generated flows being below or equal to pre-development conditions, the proposed drainage system is adequate.

Response to Comment A-58: The Town acknowledges that the natural drainage areas that currently exist on site will be permanently altered through development of the project. However, the Commentor is incorrect in representing the undeveloped areas that would remain on site. The proposed project would include areas along Palisade Drive and Avalon Avenue as well as drainage areas along State Route 62 to capture flows from the project site.

Response to Comment A-59: The Commentor states that the DEIR identifies "a natural drainage swale located midway along the eastern property line of the project site as a feature that can accept and filter stormwater and urban run-off." This is an incorrect statement as the DEIR states, "... flows coming from the east half of the project site currently discharge into a natural drainage swale located midway along the eastern property line of the project site"(DEIR p. 4.8-14). The DEIR does not identify this particular drainage swale as remaining with development of the proposed project as there is a description in the next paragraph regarding flows being intercepted by inlet structures and conveyed through pipes to the detention basin along State Route 62. While the Commentor is correct in noting that this feature will not exist if the project is developed as planned, the assertion that that DEIR identifies this feature as remaining with implementation of the project is incorrect.

Response to Comment A-60: Please refer to Responses to Comments A-54 through A-56. The proposed extended detention and infiltration basin would have a design volume of 3.6 acre-feet (DEIR p. 4.8-19) and will contain plants and bio-engineered design features that would detain, help infiltrate, and slowly release urban runoff. As indicated in Response to Comment A-56, runoff generated on the project site would be routed to these detention/infiltration basins through pipes. Once deposited into the basins, stormwater would be filtered through various BMPs, including, but not limited to, bio-swales within the basins.

Response to Comment A-61: The Commentor proposes additional mitigation measures that include the installation of oil/water separators and other filtration devices to remove oils, grease, solvents, heavy metals, and other contaminants. As indicated in Response to Comment A-63, "... flows would be intercepted by proposed inlet structures." Such inlet structures (which are also commonly known as trapping catch basins, oil/grit separators, or oil/water separators), consist of one or more chambers that promote sedimentation of coarse materials and separation of free oil from stormwater.

Response to Comment A-62: The Town acknowledges that the Center for Biological Diversity commented on the Home Depot project, and that the Town prepared a written response thereto.

Response to Comment A-63: Please refer to Responses to Comments A-54 through A-56. The Town of Yucca Valley has a standard of a no net increase in runoff from new development. If these standards are met for all new development that would occur within the Town, then cumulative impacts associated with increase in volume would not occur, as no development would incrementally increase runoff. Runoff would be released from each site at pre-development levels. Given that construction and operational BMPs are ***required*** of new development projects within the area, cumulative effects would not be cumulatively considerable. As the Commentor notes in Comment A-62, "... each development project must take responsibility for the stormwater runoff consistent with Town requirements. Given that ... [other developments in this area mitigate for] stormwater both at a water quality and hydrologic level ... it is reasonable to conclude that impacts are not cumulatively considerable and do not warrant further evaluation." Since the proposed project and surrounding

projects are required to reduce flows to pre-development levels and to maintain existing water quality for flows leaving each site, the DEIR correctly identifies that cumulative effects would not be cumulatively considerable.

Response to Comment A-64: The comment is noted.

Response to Comment A-65: The Commentor asserts that, "... combined, contaminated flows will be discharged via unidentified mechanisms, at an unidentified rate, and an unknown total volume (Comment A-64)." As indicated in the DEIR the conveyance mechanism are identified as follows:

> "... southeasterly flows would be intercepted by proposed inlet structures on the south side of the proposed Palisade Drive. Once intercepted, these flows would be conveyed by pipe to the project site's detention basin located alongside State Route 62. Southwesterly flows ... would be picked up at or near the southern boundary of the site and channeled onto the site through a reinforced concrete pipe (RCP) storm drainpipe. Waters from the proposed project would confluence with the off-site flows and be channeled into the on-site detention basin located to the north alongside State Route 62. Reaching the on-site detention basin, flows from the project site would be conveyed into an outlet pipe which connects to Home Depot's outflow pipe, where project flows would be combined with flows from the Home Depot site. Flows from both the project site and Home Depot site would then be routed to a drainage pipe/structure located at the northeastern corner of the Home Depot property where flows would be transported via conveyance features through the adjacent parcel on the east until reaching Covington Wash." (DEIR p. 4.8-14)

The rates of peak flows (in cubic feet per second) of stormwater runoff are provided in Table 4.8.G (DEIR p. 4.8-15) and compare pre-development, post development (without drainage improvements), and post development (with drainage improvements) flows. The DEIR also states that "... the basin would be designed to detain post-development runoff to the pre-development rates that presently exist on the project site. In addition, the proposed basin would be able to accommodate post-development flows as the detention basin's design volume is 3.6 acre-feet, which exceeds the required minimum storage volume of 1.4 acre-feet" (DEIR p. 4.8-19).

The Commentor also states, "... these flows will cross State Route 62 at some point and pick up new contaminants and trash." As indicated in the DEIR and as cited by the Commentor, "... flows from both the project site and Home Depot site would then be routed to a drainage/structure located at the northeastern corner of the Home Depot property where flows would be transported via conveyance features through the adjacent parcel on the east until reaching Covington Wash" (DEIR p. 4.8-14). The DEIR does not assert that flows will cross State Route 62 as project flows are not anticipated to cross State Route 62. State Route 62 adjacent to the project site slopes from the north to the south, which prevents stormwater from crossing. Since flows would not cross State Route 62, the Commentor's assertion that flows would pick up new contaminants and trash is not substantiated.

Response to Comment A-66: Please refer to Responses to Comments A-63 and A-65.

Response to Comment A-67: Please refer to Response to Comment A-63.

Response to Comment A-68: Please refer to Responses to Comments A-63 and A-65. As indicated in Response to Comment A-91, the Town of Yucca Valley implements "no net increase" policy with regard to stormwater runoff from new development. All new projects seeking development approvals from the Town of Yucca Valley must show, through preparation of a detailed hydrologic and hydraulic study, that post-development stormwater flows leaving the project site will be equal to or

less than pre-development flows. Section 4.8 of the DEIR discusses the fact that post-development stormwater flows leaving the project site and being discharged into Covington Wash will be less than the flows generated by the project site and discharged into Covington Wash in its currently undeveloped state. Similarly, as discussed in the EIR prepared for the Home Depot project, post-development discharge rates of stormwater into Covington Wash are less than pre-development flow rates. Similarly, Century Homes project will be required to comply with the same "no net increase" Town standard prior to development. Accordingly, developments of the identified cumulative projects will not result in a cumulative impact to Covington Wash. Similarly, there is no indication that development of the future wastewater treatment plant will increase the amount and decrease the quality of stormwater runoff reaching the Covington Wash. The development of the wastewater treatment plant will be required to implement stormwater drainage features necessary to comply with provisions of the Clean Water Act through the preparation of an SWPPP and implementation of BMPs to limit any impacts to water quality.

Response to Comment A-69: Please refer to Response to Comment A-61.

Response to Comment A-70: Please refer to Response to Comment A-61.

Response to Comment A-71: Permeable paving is appropriate for pedestrian-only areas and for very low-volume, low-speed areas such as overflow parking areas, residential driveways, and alleys. Permeable paving is not ideal for high traffic/high speed areas because it has lower load-bearing capacity than conventional pavement. The Commentor suggests the inclusion of porous pavement and cites the Storm Water Technology Fact Sheet on Porous Pavement (EPA 832-F-99-023, September 1999) developed by the EPA. Although the use of permeable pavement has many advantages in certain situations, the use of porous pavement also has many drawbacks as identified in the Storm Water Technology Fact Sheet on Porous Pavement. Such drawbacks include an increase in the use of water to keep porous pavement free of clogs caused by sand deposits, a risk of contaminating groundwater, and the leaching of fuel and chemicals from vehicles from the pavement into the soil. According to the fact sheet, the use of porous pavement may be restricted in arid regions or regions with high wind erosion rates and areas of sole-source aquifers. The project site would be subject to high traffic from employees and patrons and is located within an arid area that is subject to strong winds carrying sand. Additionally, the proposed project is in an area where the majority of drinking water comes from groundwater aquifers. With these conditions, the use of porous pavement is not feasible and would more than likely result in greater environmental effects than if traditional concrete was utilized. As indicated in Section 4.8 of the DEIR, impacts to hydrology and water quality due to stormwater runoff are less than significant. CEQA does not require a lead agency to adopt mitigation measures for impacts determined to be less than significant.

Response to Comment A-72: Since each development must take responsibility for the stormwater runoff consistent with Town requirements at a water quality and hydrologic level, energy dissipaters would be required as part of the final design for the proposed project.

Response to Comment A-73: Section 4.16 of the DEIR contains a comprehensive analysis of the potential impacts of the proposed project on water supply. As indicated on page 4.16-9 of the DEIR, the High Desert Water District (HDWD) provides water service to the Town of Yucca Valley, as well as a portion to the unincorporated area within the County of San Bernardino. Table 4.16.A shows that the HDWD is currently entitled to 1,628 acre-feet per year of ground water from the Warren Valley Basin Adjudication and 800 acre-feet per year from the Ames Valley Basin as well as a contractual allotment of 4,270 acre-feet per year of imported water from the State Water Project (SWP). As indicated on page 4.16-17 of the DEIR, the HDWD currently purchases 3,000 acre-feet of the 4,270 acre-feet of State Water Project water it is allotted, which is approximately 70.3 percent of the

available capacity. The remaining 29.7 percent (approximately 1,268 acre-feet) of this source is reserved capacity to serve growth in addition to current groundwater supplies. The excess water is recharged in the Warren Valley Water Basin through two circulation ponds. The Mojave Water Agency (MWA) has a state water contract for up to 75,800 acre-feet per year of which 7,257 acre-feet is allocated for the Morongo Basin/Johnson Valley area.

The DEIR calculates the water required for the proposed project. Based on a water consumption factor of 2,000 gallons per acre per day for commercial land uses, water demand for the proposed on-site uses would be approximately 51,020 gallons per day or approximately 56.94 acre-feet per year (DEIR page 4.16-17). The DEIR indicates that the HDWD had 283.2 acre-feet of excess capacity in the 2004–2005 water year. Accordingly, the HDWD has sufficient water resources to supply the proposed project. Additionally, the DEIR states that "... although the proposed project together with all future development will incrementally increase the demand for water within the region, the impact of this increase in water demand has been addressed by the HDWD's Urban Water Management Plan and the MWA's Regional Water Management Plan" (DEIR p. 4.16-19). As stated in the MWA's Regional Water Management Plan (RWMP) Program EIR (PEIR), "...a primary objective of the 2004 RWMP is to accommodate projected future water demand. Through implementation of the 2004 RWMP, MWA acts as a regional resource manager with responsibilities to mitigate the significant cumulative impacts to water supplies identified individually by local cities within the MWA service area. The 2004 RWMP identifies a group of projects and management actions that would achieve a regional water balance. As such, the analysis of the project itself provides a cumulative assessment of the regional groundwater resource" (MWA PEIR p.5-3). Furthermore, "... the cumulative baseline includes the effects associated with implementing local General Plans in addition to the effects of the 2004 RWMP" (MWA PEIR p.5-1).

The project site has been designated and zoned for commercial uses in the existing General Plan and Zoning Map for the Town of Yucca Valley; therefore, the water demand associated with the proposed project has been taken into account through the inclusion of the local General Plan land uses as part of the cumulative baseline conditions. The 2004 RWMP does not identify any significant adverse impacts on water supply in the area; therefore, it can be reasonably assumed that, since the project is consistent with assumptions made as part of the cumulative baseline, this project in coordination with others in the area would not have a significant cumulative impact on water supply, as indicated in the DEIR analysis. The Commentor has not provided any evidence indicating the analysis included in the DEIR is inaccurate or incomplete in any manner.

Response to Comment A-74: Contrary to the Commentor's statements, in addition to the HDWD's contractual rights to SWP water, the HDWD is also currently able to acquire additional surplus SWP supplies from the MWA. This allows the HDWD to purchase annual amounts of SWP water from the MWA for domestic, industrial, municipal, agricultural, recreational, and/or groundwater replenishment purposes. Additionally, the HDWD also has an opportunity to purchase "interruptible" or "Article 21" water from the MWA. Article 21 water is typically available only in wet months, such as December through March, and is only available to SWP contractors who can use the water directly or store it in their own systems, such as in a groundwater basin. It has been estimated that an average of at least 120,000 acre-feet per year of interruptible water will be available for purchase by the SWP contractors in the years 2005 through 2025. Because of the HDWD's ability to store water in the Warren Valley Basin, the HDWD may incorporate future purchases of Article 21 water from the MWA into the HDWD's projected water supply portfolio. However, whether the HDWD plans to follow this course of action is unknown, not directly related to the proposed project, and would be speculative at best.

Response to Comment A-75: Please refer to Responses to Comments A-73 and A-74. Contrary to the Commentor's assertions, an EIR need not demonstrate a definite water supply to be legally adequate. Instead, to satisfy CEQA, an EIR must include substantial evidence demonstrating a reasonable likelihood that identified supplies will be available to serve the project. As discussed above in Response to Comment A-73, the DEIR contains comprehensive analysis of the availability of water to serve the project. The Commentor has provided no evidence indicating that there is not a reasonable likelihood of water being available to serve the project.

Response to Comment A-76: As the Commentor notes, CEQA requires recirculation of a revised draft EIR when significant new information is added to the EIR after public review and comment on the earlier draft EIR. However, as indicated in the response to comments, the DEIR for this particular project does not need to be recirculated as there is no new significant information that was added to the EIR. Information that was used to respond to the comments was to clarify existing information that was contained in the DEIR. As indicated in *CEQA Guidelines,* Section 15204, "... reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. CEQA does not require a lead agency to conduct every test or perform all research, study and experimentation recommended or demanded by commentors. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR." The DEIR through its analysis and response to comments has provided meaningful analysis and a good faith effort at full disclosure of impacts associated with implementation of the project. Additionally, the DEIR does not require additional new and significant information which would call for a recirculation of the environmental document.

Response to Comment A-77: The comment is noted.

Letter B

DEPARTMENT OF PUBLIC HEALTH

COUNTY OF SAN BERNARDINO

☑ 385 North Arrowhead Avenue - San Bernardino, CA 92415-0160 - (909) 884-4056
☐ 1647 East Holt Boulevard - Ontario, CA 91761 - (909) 458-3873
☐ 13911 Park Avenue, Suite 200 - Victorville, CA 92392 - (760) 243-3773
☐ San Bernardino County Vector Control Program
2355 East 6th Street - San Bernardino, CA 92410-5201 - (909) 388-4600

7/13/2007

Nicole Criste
Town of Yucca Valley
58928 Business Center Dr.
Yucca Valley, CA 92284

Subject: Yucca Valley Retail Specific Plan

EHS has received the **Yucca Valley Retail Specific Plan.**

Environmental Health is concerned with the potential impact that additional septic systems will have on the water quality in Yucca Valley. A wastewater treatment plant is a highly desirable option given the current situation with nitrates in the groundwater in areas of Yucca Valley. Cooperatively work with the Colorado RWQCB to design a system that will minimize environmental impacts.

Environmental Health will review percolation reports associated with any onsite wastewater disposal system(s) and plans for any food facilities to ensure conformance with current rules and requirements. Please ensure these items are routed appropriately.

B-1

Thank you for the opportunity to review and comment on the **Yucca Valley Retail Specific Plan.**

Corwin Porter, REHS
Environmental Health Services

RESPONSE TO THE DRAFT EIR, COMMENT LETTER B

County of San Bernardino, Department of Public Health

Response to Comment B-1: As indicated in the DEIR, "...based on discussion between the Town, District, and Colorado Regional Water Quality Control Board (RWQCB), the project will include on-site secondary effluent treatment with nitrogen removal. The on-site treatment system will consist of a package system or underground treatment system which involves several chambers and pumps" (DEIR p.4.16-7). The DEIR also states, "... wastewater flows from the proposed project site would eventually be conveyed to and processed by the Town's Wastewater Treatment Facility" (DEIR p.4.16-8). Since the project would be required to provide on-site secondary effluent treatment with nitrogen removal, which would be required to comply with the waste discharge prohibitions and water quality objectives established by the HDWD, County of San Bernardino Environmental Health Department, and the Colorado RWQCB, potential impacts on water quality would be reduced to a less than significant level (DEIR 4.16-7). The DEIR provides analysis on the potential impact on water quality associated with the proposed project and incorporates input from the RWQCB regarding the type of treatment system that the proposed project would utilize (DEIR 4.16-7).

Jeannie Lindberg

From: eir@yucca-valley.org
Sent: Saturday, July 14, 2007 4:00 PM
To: Jeannie Lindberg
Subject: Super Wal-Mart EIR

Name: Josephine Harty
Organization: None
Address: 54999 Martinez Tr. #8
City: Yucca Valley
State: Ca.
Zip: 92284
Phone:
E-mail: yomajo3@verizon.net
Comments:

I am all for the building of WalMart Super- store.We need to shop here in Yucca, not in Palm Springs. I know it would be a bi C-1

RESPONSE TO THE DRAFT EIR, COMMENT LETTER C

Josephine Harty

Response to Comment C-1: The comment regarding shopping options in Yucca Valley is noted and will be considered during the Town Council's review of the EIR.

Jeannie Lindberg

From: elr@yucca-valley.org
Sent: Sunday, July 15, 2007 4:52 PM
To: Jeannie Lindberg
Subject: Super Wal-Mart EIR

Name: Denise King
Organization:
Address:
City: yucca valley
State: California
Zip:
Phone:
E-mail:
Comments:

As a resident here in Yucca I'm so very happy to hear that a Super Walmart is coming to our area. And with a restaurant as well D-1

RESPONSE TO THE DRAFT EIR, COMMENT LETTER D

Denise King

Response to Comment D-1: The comment is noted and will be considered during the Town Council review of the EIR.

Jeannie Lindberg

From: eir@yucca-valley.org
Sent: Monday, July 16, 2007 12:53 PM
To: Jeannie Lindberg
Subject: Super Wal-Mart EIR

Name: DENNIS WAHL
Organization:
Address: 60386 ONAGA TRAIL
City: JOSHUA TREE
State: California
Zip: 92252-2928
Phone: 760-366-5393
E-mail: dgwahl@roadrunner.com
Comments:

The area desperately needs new businesses, new jobs and new tax revenue. Please expedite the buiding of the new Wal-Mart Super E-1

RESPONSE TO THE DRAFT EIR, COMMENT LETTER E

Dennis Wahl

Response to Comment E-1: The comments regarding jobs, taxes, and construction are noted and will be considered during the Town Council review of the EIR.

Jeannie Lindberg

From: elr@yucca-valley.org
Sent: Monday, July 16, 2007 1:02 PM
To: Jeannie Lindberg
Subject: Super Wal-Mart EIR

Name: Marilyn Hartson
Organization:
Address: 7724 Megan Court
City: Yucca Valley,
State: Ca.
Zip: 92284
Phone: 760-365-3786
E-mail:
Comments:

Dear Council Members,
My husband and I are among many who welcome the new Walmart. We would also like to see Target and T F-1

RESPONSE TO THE DRAFT EIR, COMMENT LETTER F

Marilyn Hartson

Response to Comment F-1: The comment is noted and will be considered during the Town Council review of the EIR.

Jeannie Lindberg

From: eir@yucca-valley.org
Sent: Monday, July 16, 2007 4:46 PM
To: Jeannie Lindberg
Subject: Super Wal-Mart EIR

Name: Gilbert Gutierrez
Organization:
Address:
City: Yucca Valley
State: CA
Zip:
Phone:
E-mail:
Comments:

WOW!
Outstanding, to say the least. This project should have started yesterday. What a blessing! YV residents will see this pr

G-1