Response to Comments on the Draft Environmental Impact Report for the Home Depot Retail Center State Clearinghouse #2005051047

Prepared for:

Town of Yucca Valley
58928 Business Center Drive
Yucca Valley, CA 92284

Contact: Shane Stueckle, Deputy Town Manager

Prepared by:

Michael Brandman Associates
621 E. Carnegie Drive, Suite 100
San Bernardino, CA 92408
909.884.2255

Contact: Christine Jacobs-Donoghue, Project Manager

Michael Brandman Associates

January 24, 2006

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SECTION 1: INTRODUCTION

The Town of Yucca Valley coordinated the preparation of an Environmental Impact Report (EIR) for the Home Depot Retail Center Specific Plan (proposed project), further described in the Draft EIR. The Town released the Draft EIR and held a 45-day public review period on the Draft EIR.

In accordance with Section (§) 15088 of the State of California Environmental Quality Act (CEQA) Guidelines, this document responds to comments received on the Draft EIR.

1.1 - Review of the Draft EIR

The Draft EIR was distributed for a 45-day public review period by the Town of Yucca Valley beginning on November 18, 2005 and ending on January 2, 2006. The Town inadvertently identified the close of the public review period as Monday, January 2, 2006, which was a Town holiday. As a result, the Town accepted written comments on the Draft EIR for the purposes of this document through Friday, January 6, 2006.

The Town used several methods to elicit comments on the Draft EIR.

- Copies of the Draft document were distributed to state agencies through the State Clearinghouse of the Governor's Office of Planning and Research and to local agencies, individuals, and organizations.
- A Notice of Completion and Availability of Draft EIR was published in the local newspaper indicating where copies of the Draft EIR could be obtained or reviewed, including the Community Development Department, Town Hall, the County Library (Yucca Valley Branch), and the Town's website.
- In addition, the Planning Commission held a public workshop on the Draft EIR on December 6, 2005, and a public hearing on the Draft EIR on December 14, 2005, where the public was invited to comment.

1.2 - Incorporation by Reference

This Response to Comments document is part of the Final EIR, which includes the Draft EIR, hereby incorporated by reference, pursuant to § 15132 of the CEQA Guidelines.

The Draft EIR is available for review at the following locations in the Town of Yucca Valley:

- Community Development Department, 58928 Business Center Drive, Yucca Valley, CA 92284;

- Town of Yucca Valley, Town Hall, 57090 Twenty-nine Palms Highway, Yucca Valley, CA 92284;
- San Bernardino County Library, Yucca Valley Branch at 57098 29 Palms Highway;
- The Town's website at http://www.yucca-valley.org/; and
- Electronic copies of the Draft EIR on CD-ROM are available by request to the Community Development Department.

1.3 - Significant New Information and Changes to the Draft EIR

Information contained within this document clarifies or supplements information presented in the EIR. This information does not constitute significant new information as defined in CEQA Guidelines § 15088.5; nor does this information ultimately change the findings made in the EIR. Therefore, this document is not subject to recirculation, nor does it trigger any of the recirculation requirements for the Draft EIR as defined in CEQA Guidelines § 15088.5.

SECTION 2: LIST OF COMMENTORS

Commentors **Author Code**

Public Agencies

Yucca Valley Airport ..... A
Governor's Office of Planning and Research, State Clearinghouse ..... B
California Regional Water Quality Control Board, Colorado River Basin Region C

Organizations and Individuals

Edward Montgomery, Affordable Paralegal ..... D
Roger Johnson ..... E
Shawn M. Kilpatrick ..... F
John Terfehr, Pro Security Systems ..... G
David Flint ..... H
Henry and Deanna Roos I
Cinda McDaniel ..... J
Carolyn Terry ..... K
Melinda Hedley L
Rae Packard, Joshua Tree Tortoise Rescue ..... M
Bill Souder, MBCA, MBPA, Andromeda Astronautical Society, Sky's the Limit, Best Lighting Practice (JNTB) ..... N
Celeste J. Doyle, Kassie Segal, Center for Biological Diversity ..... O
Richard J. Sroda ..... P
Richard J. Sroda ..... Q

SECTION 3: RESPONSE TO COMMENTS

3.1 - Introduction

In accordance with § 15088 of the CEQA Guidelines, the Town of Yucca Valley, as the lead agency for the proposed project, evaluated comments received on the Draft EIR (State Clearinghouse No. 2005051047) for the Home Depot Retail Center and has prepared the following responses to the comments received.

The Draft EIR was distributed for a 45-day public review period by the Town of Yucca Valley on November 18, 2005. The Town used several methods to elicit comments on the Draft EIR. Copies of the Draft document were distributed to state agencies through the State Clearinghouse of the Governor's Office of Planning and Research and to local agencies, individuals, and organizations. A Notice of Completion and Availability of Draft EIR was published in the local newspaper indicating where copies of the Draft EIR could be obtained or reviewed, including the County Library and the Planning Department; and the Town published the Notice of Completion of Draft EIR in the newspaper.

3.2 - Comment Letters and Responses

The comment letters and responses are provided on the following pages. Certain comments may result in changes to the Draft EIR, and if applicable, will be summarized herein with text additions shown in **bold and underline** and text deletions shown in ~~strikethrough~~. All corrections, clarifications, and refinements to the Draft EIR text identified herein are considered part of the Final EIR.

Letter A

Yucca Valley Municipal Airport
Yucca Valley Airport District

P.O. Box 2527 • Yucca Valley, CA 92286
(760) 360-9665

RECEIVED
YUCCA VALLEY
COMM. DEV.

December 27, 2005

Shane R. Stueckle
Deputy Town Manager
58928 Business Center Drive
Yucca Valley, CA 92284

Re: Home Depot Retail Center Request for Comments

Dear Mr. Stueckle,

Thank you for the notification and request or comments concerning this development. We appreciate the opportunity to have input concerning this project.

The Board of Directors of the Yucca Valley Airport District has reviewed the proposed project which falls within the Airport Influence Area. Our primary concern with this development is that the lighting be shielded in such a way that would preclude any adverse impact on pilots approaching or departing the Airport during night operations. 1

Thanks again for your courtesy in this matter.

Sincerely,

Robert G. Young, President
Yucca Valley Airport District

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DEC 29 2005
YUCCA VALLEY
COMM DEV DEPT

3.2.1 - Public Agencies

Yucca Valley Municipal Airport Yucca Valley Airport District

Response to Comment A-1

The Draft EIR evaluated impacts resulting from lighting and identifies mitigation to further reduce impacts from lighting (Draft EIR, p. 3.1-4 to 5). Primary emphasis in the EIR is on compliance with the Town's outdoor lighting ordinance with the purpose of minimizing the impacts of light pollution on the Town's night sky. Light minimization at the project site will also benefit the airport. Mitigation measure A-1 emphasizes fixtures with downward lighting that minimize horizontal light travel. The most effective way of accomplishing this is to use shielded lighting. No uplighting is permitted, and lighting plans are subject to further review through the Town. With consideration of this measure, project lighting would not have any adverse impacts on pilots during night navigation.

Letter B

STATE OF CALIFORNIA

Governor's Office of Planning and Research

State Clearinghouse and Planning Unit

Arnold Schwarzenegger
Governor

Sean Walsh
Director

January 4, 2006

RECEIVED
JAN - 6 2006
YUCCA VALLEY
COMM DEV DEPT

Shane Stueckle
City of Yucca Valley
58928 Business Center Drive
Yucca Valley, CA 92284

Subject: Home Depot Retail Center Specific Plan
SCH#: 2005051047

Dear Shane Stueckle:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on January 3, 2006, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

> "A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation." 1

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Terry Roberts

Terry Roberts
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
TEL (916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Letter B

State Clearinghouse Data Base

SCH# 2005051047
Project Title Home Depot Retail Center Specific Plan
Lead Agency Yucca Valley, City of

Type EIR Draft EIR

Description Project involves development of a retail shopping center including a home improvement center (Home Depot), restaurant or bank, and other retail uses on approximately 18 acres, and includes off-site roadway and infrastructure improvements. The Home Depot store and garden center will be approximately 137,283 square feet (SF) on 13.09 acres. The rest of the project site will be divided as follows: three retail buildings totaling 34,610 SF on 5.21 acres; and a 3,000 SF restaurant or bank on 0.90 acre. Entitlements sought include: (1) a Specific Plan to establish the site planning concept, design and development guidelines, in addition to the administrative procedures needed to achieve an orderly and compatible development of the plan area; (2) a Conditional Use Permit for certain uses are allowed in the commercial designation, but which are subject to condition; and (3) a Parcel Map to subdivide the property into four parcels associated with the location of proposed building pads.

Lead Agency Contact

Name Shane Stueckle
Agency City of Yucca Valley
Phone 760-369-6575 **Fax**
email
Address 58928 Business Center Drive
City Yucca Valley **State** CA **Zip** 92284

Project Location

County San Bernardino
City Yucca Valley
Region
Cross Streets Avalon and Highway 62
Parcel No. 0601-201-37-0000
Township 1N **Range** 6E **Section** 32 **Base**

Proximity to:

Highways SR-62, SR-247
Airports Yucca Valley Airport
Railways
Waterways Covington Wash
Schools High School, Jr. High
Land Use Existing land use: Open Space
Zoning: General Commercial (G-C) and Specific Plan (SP)

Project Issues Aesthetic/Visual; Air Quality; Archaeologic-Historic; Cumulative Effects; Drainage/Absorption; Economics/Jobs; Flood Plain/Flooding; Geologic/Seismic; Growth Inducing; Landuse; Minerals; Noise; Other Issues; Public Services; Septic System; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wildlife

Reviewing Agencies Resources Agency; Regional Water Quality Control Board, Region 7; Department of Parks and Recreation; Native American Heritage Commission; Department of Health Services; Office of Historic Preservation; Department of Fish and Game, Region 6; Department of Water Resources; California Highway Patrol; Caltrans, District 8; Caltrans, Division of Aeronautics

Date Received 11/18/2005 **Start of Review** 11/18/2005 **End of Review** 01/03/2006

Note: Blanks in data fields result from insufficient information provided by lead agency.

Governor's Office of Planning and Research, State Clearinghouse

Response to Comment B-1

This comment indicates that the State Clearinghouse distributed the Draft EIR to applicable state agencies for review, indicates the public review and conveyed the comment letters received in response. The comment identifies a public review period of November 18, 2005 through January 3, 2006. The State Clearinghouse included a letter from the California Regional Quality Control Board included herein as Letter C.

Letter C

California Regional Water Quality Control Board

Colorado River Basin Region

Alan C. Lloyd, Ph.D.
Agency Secretary

73-720 Fred Waring Drive, Suite 100, Palm Desert, California 92260
(760) 346-7491 • Fax (760) 341-6820
http://www.swrcb.ca.gov/rwqcb7

Arnold Schwarzenegger
Governor

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STATE CLEARING HOUSE

Clear
1-3-05
e

December 12, 2005

State Clearinghouse
P. O. Box 3044
Sacramento, CA 95812-3044

RE: REQUEST FOR COMMENTS FROM THE REGIONAL BOARD STAFF ON YUCCA VALLEY HOME DEPOT RETAIL CENTER SEPTIC TANK SYSTEM PROJECT PROPOSAL – DRAFT ENVIRONMENTAL IMPACT REPORT, STATE CLEARINGHOUSE # 2005051047

As per your request for comments on the subject draft environmental impact report for Home Depot Retail Center, Regional Board staff requests that the owner (discharger) be required to submit to this office a report of waste discharge as an application for waste discharge requirements. The project proposal includes not only this retail store, but also a 3,000 square foot restaurant or bank and three retail buildings.

1

It is necessary for staff to determine if waste discharge requirements are needed to regulate the discharge of septic tank effluent from these projects. We have accumulated considerable evidence indicating that septic tanks (especially where there is a high density of systems) have the potential to adversely impact groundwater quality. Please note, an area of high-density septic tank systems in Yucca Valley has resulted in pollution of some of the municipal wells.

Should you have questions concerning the above, please call (760) 776-8940.

Charles Springer
CHARLES SPRINGER
Sanitary Engineering Associate

Cs/hs

Cc: Shane Stueckle, Dep. Town Mgr. Town of Yucca Valley, Yucca Valley

File: Septic Tank Pollution

California Regional Water Quality Control Board, Colorado River Basin Region

Response to Comment C-1

As indicated in the comment letter, the Regional Water Quality Control Board (RWQCB) is requesting a Report of Waste Discharge (ROWD) related to the use of septic systems on the project site. State and County regulations provide guidance on the appropriate sizing, location and building standards for the installation of a septic system. Further, the Town requires, as part of the building permit process, that all new projects, including the proposed project, obtain required permits from the County Department of Environmental Health, and the RWQCB. The RWQCB has discretion to require a ROWD, and at their discretion, require conditions of waste discharge. The ROWD provides the RWQCB with additional information on the septic system including the discharge volume, areas in reserve in the event of pit failure, TDS content in source water, and other information, which provides the RWQCB sufficient information to determine whether they will require conditions of waste discharge. Based on further consultation with the RWQCB, septic systems for large projects within the Town of Yucca Valley will be conditioned for the pre-treatment of wastewater prior to release into the septic system.

Such conditions were recently implemented for an Applebee's Restaurant in the Town, and pretreatment facilities are being installed under the Applebee's parking lot. Should pre-treatment facilities ultimately be required, given the extensive parking area, throughout the project site, there is sufficient room for reserve areas and pre-treatment facilities. Installation of these facilities would be part of the construction described in the Draft EIR. Air quality and construction impacts already anticipated maximum daily construction based on what can be achieved daily. Accordingly, additional construction work does not change the air quality findings. Therefore, the installation of any pre-treatment facilities if required by the RWQCB does not create any new impacts.

Letter D

-----Original Message-----
From: edwardmontgomery@adelphia.net
[mailto:edwardmontgomery@adelphia.net]
Sent: Wednesday, November 23, 2005 6:40 PM
To: Jeannie Lindberg
Subject: [SPAM] - Home Depot EIR Comment - Sender is forged (SPF Fail)

This e-mail message is a reply to a Web page using the
form2mail script. The reply was generated by a web page
at www.yucca-valley.org.

Home Depot EIR Comment

Name: Edward Montgomery
Organization: Affordable Paralegal
Address: P.O. BOX 2394
City: YUCCA VALLEY
State: CALIFORNIA
Zip: 92286
Phone: 760-365-6430
E-mail: edwardmontgomery@adelphia.net

Comments:

Home Depot is a very good thing for our Town. This well bring more jobs, sales tax.
The impact will be a positive one. I hope that the town of yucca valley will aprove the building of the home depot as soon as possible. I see no negative outcome of the presence of this corporation. 1

3.2.1 - Organizations and Individuals

Edward Montgomery, Affordable Paralegal

Response to Comment D-1

The comment asserts the opinion of the author, expressing support for the project and highlighting two benefits of the project (more jobs, and increase sales tax for the Town). The comment does not raise new environmental issues not already thoroughly analyzed in the Draft EIR; therefore, no further response is required *(Twain Harte Homeowners Ass'n v. County of Butte* (1977) 138 Cal.App.3d 664, 679).

Letter E

-----Original Message-----
From: rnijohnson@verizon.net [mailto:rnijohnson@verizon.net]
Sent: Wednesday, November 30, 2005 7:24 PM
To: Jeannie Lindberg
Subject: Home Depot EIR Comment

This e-mail message is a reply to a Web page using the form2mail script. The reply was generated by a web page at yucca-valley.org.

Home Depot EIR Comment

Name: Roger Johnson
Organization:
Address: 58235 Carlyle Drive
City: Yucca Valley
State: CA
Zip: 92284
Phone: (760) 228-5825
E-mail: rnijohnson@verizon.net

Comments:

I am a former mayor of a city in the midwest that has experienced no growth, even population decline, in the past decade. Many cities in the midwest are experiencing the same population decline and would be so excited to have a Home Depot and a Super Wal Mart locate in their cities. I find it difficult to comprehend why a small minority of people in Yucca Valley who oppose growth and competition have such persuasion on the city council. Unfortunately, the majority of us who are anxiously awaiting the building of the Super Wal Mart and the Home Depot aren't voicing loudly and often enough that we want new businesses in our community. Many cities would provide tax breaks and incentives to large businesses such as these to have them locate in their communities. Please do not provide obstacles to or difficulties for growth to our community. All residents and businesses should share in the repair and expansion of the infrastructure of our city and large businesses such as these would be a substantial boost to Yucca Valley. I endorse very heartily the construction of a Super Wal Mart and the Home Depot. Competition is good and healthy for any community and this is what our democracy is renowned for. Please permit these businesses to locate in Yucca Valley. They will be great assets to our town.
Roger Johnson

1

Roger Johnson

Response to Comment E-1

The comment asserts the opinion of the author, expressing support for the project. The comment does not raise new environmental issues not already thoroughly analyzed in the Draft EIR; therefore, no further response is required *(Twain Harte Homeowners Ass'n v. County of Butte* (1977) 138 Cal.App.3d 664, 679).

Letter F

-----Original Message-----
From: shawnkilpatrick@verizon.net [mailto:shawnkilpatrick@verizon.net]
Sent: Wednesday, November 30, 2005 12:49 PM
To: Jeannie Lindberg
Subject: Home Depot EIR Comment

This e-mail message is a reply to a Web page using the form2mail script. The reply was generated by a web page at www.yucca-valley.org.

Home Depot EIR Comment

Name: Shawn M. Kilpatrick
Organization:
Address: 5383 Wallaby Street
City: Yucca Valley
State: ca
Zip: 92284
Phone: 760-369-3348
E-mail: shawnkilpatrick@verizon.net

Comments:

I have reviewed the Draft E. I. R. for the Home Depot Retail center and find it to be extremly positive. All of my concerns have been addressed. I am inpressed with the fact they will have a paleontologist as well as a biologist on hand to address these types of issues as they come up. 1

The PM-10 mitigation plan appears proper and the protection of native species (plant, tortoise, etc.) is superior to others I have seen. 2

The proposed location is far enough away from it's main competitor that it will not deter my purchasing practices any differently than they are now. I routinely travel to Home Depot or Lowes in the low desert when making large purchases anyway. 3

I reccomend the Town approve and accept the plan as presented and allow it to proceed speedily! 4

Shawn Kilpatrick
5383 Wallaby Street, Y.V.

Shawn M. Kilpatrick

Response to Comment F-1

The comment asserts the opinion of the author, expressing support for the project and highlighting air quality mitigation to reduce PM-10 emissions and the protection of sensitive species. The comment does not raise new environmental issues not already thoroughly analyzed in the Draft EIR; therefore, no further response is required *(Twain Harte Homeowners Ass'n v. County of Butte* (1977) 138 Cal.App.3d 664, 679).

Letter G

-----Original Message-----
From: johnny@pro-security.com [mailto:johnny@pro-security.com]
Sent: Wednesday, November 30, 2005 4:50 PM
To: Jeannie Lindberg
Subject: Home Depot EIR Comment

This e-mail message is a reply to a Web page using the form2mail script. The reply was generated by a web page at www.yucca-valley.org.

Home Depot EIR Comment

Name: John Terfehr
Organization: Pro Security Systems/Resident
Address: 7570 Shafter
City: Yucca Valley
State: CA
Zip: 92284
Phone: 760-578-7718
E-mail: johnny@pro-security.com

Comments:

The draft EIR appears to support the need for this project. Please move forward. 1

John Terfehr, Pro Security Systems

Response to Comment G-1

The comment asserts the opinion of the author, expressing support for the project. The comment does not raise new environmental issues not already thoroughly analyzed in the Draft EIR; therefore, no further response is required *(Twain Harte Homeowners Ass'n v. County of Butte* (1977) 138 Cal.App.3d 664, 679).

Letter H

-----Original Message-----
From: dflint@ci.palm-desert.ca.us [mailto:dflint@ci.palm-desert.ca.us]
Sent: Thursday, December 01, 2005 8:55 AM
To: Jeannie Lindberg
Subject: Home Depot EIR Comment

This e-mail message is a reply to a Web page using the form2mail script. The reply was generated by a web page at www.yucca-valley.org.

Home Depot EIR Comment

Name: David Flint
Organization: Resident- Home Owner
Address: 7320 Lucerne Vista
City: Yucca Valley
State: Ca.
Zip: 92284
Phone: 760-272-6531
E-mail: dflint@ci.palm-desert.ca.us

Comments:

Bravo! As a home owner I think it's wonderful! This will give the extra added boost we need to create a more possitive area economy and support growth in the right direction. 1

David Flint

Response to Comment H-1

The comment asserts the opinion of the author, expressing support for the project and highlighting economic benefits the project will provide for the Town. The comment does not raise new environmental issues not already thoroughly analyzed in the Draft EIR; therefore, no further response is required *(Twain Harte Homeowners Ass'n v. County of Butte* (1977) 138 Cal.App.3d 664, 679).

Letter I

-----Original Message-----
From: www@www.yucca-valley.org [mailto:www@www.yucca-valley.org]
Sent: Thursday, December 01, 2005 10:44 AM
To: Jeannie Lindberg
Subject: Home Depot EIR Comment

This e-mail message is a reply to a Web page using the form2mail script. The reply was generated by a web page at www.yucca-valley.org.

Home Depot EIR Comment

Name: Henry & Deanna Roos
Organization:
Address:
City: Yucca Valley
State:
Zip:
Phone:
E-mail:

Comments:

We would like to see Home Depot come to our area - town. We like to keep our tax dollars at home but we will spend out of town when what we want is in greater quantity, better priced, or better selection is found elsewhere. Since we do most of our improvements ourselves we do buy out of town as we find the product we want at other building supply stores and they will deliver - free. Even if the charge a little more for their product - a tax advantage for their town - the free deliver more than offsets the small price difference. 1

Henry & Deanna Roos

Response to Comment I-1

The comment asserts the opinion of the author, expressing support for the project. The comment does not raise new environmental issues not already thoroughly analyzed in the Draft EIR; therefore, no further response is required *(Twain Harte Homeowners Ass'n v. County of Butte* (1977) 138 Cal.App.3d 664, 679).

Letter J

-----Original Message-----
From: ckm51@aol.com [mailto:ckm51@aol.com]
Sent: Friday, December 02, 2005 8:33 AM
To: Jeannie Lindberg
Subject: Home Depot EIR Comment

This e-mail message is a reply to a Web page using the form2mail script. The reply was generated by a web page at www.yucca-valley.org.

Home Depot EIR Comment

Name: Cinda McDanel
Organization:
Address: 3510 Yucca Mesa Rd
City: Yucca Valley
State: CA
Zip: 92284
Phone: 7604135172
E-mail: ckm51@aol.com

Comments:

I feel that Yucca Valley needs the Home Depot. The town and surroundings are growing rapidly. 1

Cinda McDaniel

Response to Comment J-1

The comment asserts the opinion of the author, expressing support for the project. The comment does not raise new environmental issues not already thoroughly analyzed in the Draft EIR; therefore, no further response is required *(Twain Harte Homeowners Ass'n v. County of Butte* (1977) 138 Cal.App.3d 664, 679).

Letter K

-----Original Message-----
From: www@www.yucca-valley.org [mailto:www@www.yucca-valley.org]
Sent: Sunday, December 04, 2005 6:05 AM
To: Jeannie Lindberg
Subject: Home Depot EIR Comment

This e-mail message is a reply to a Web page using the
form2mail script. The reply was generated by a web page
at www.yucca-valley.org.

Home Depot EIR Comment

Name: Carolyn Terry
Organization:
Address:
City: Yucca Valley
State:
Zip: 92284
Phone:
E-mail:

Comments:

Home Depot will be WELLCOME
After Barr ran two Hardware Stores out,now they are charing exuberant
Prices. If we have spend more than a dollar, we will go to Palm Desert. 1
Barr needs the competition.
Don't let Palm Desert have The tax money.

Carolyn Terry

Response to Comment K-1

The comment asserts the opinion of the author, expressing support for the project and retention of sales tax revenues within the Town. The comment does not raise new environmental issues not already thoroughly analyzed in the Draft EIR; therefore, no further response is required *(Twain Harte Homeowners Ass'n v. County of Butte* (1977) 138 Cal.App.3d 664, 679).

December 14, 2005

Letter L

To: Town of Yucca Valley Community Development Department
58928 Business Center Drive
Yucca Valley, CA 92284

Re: Notice of Completion and Availability of Draft EIR (for the Home Depot Project)

The EIR is a thoroughly comprehensive document and I am very pleased with it.

I would like to propose a couple of recommendations for the project:

1) I am not happy about relocating 235 Joshua Trees but I am glad that most will be transplanted on site. Some mention should be made about using best nursery practices in the transplantation i.e. close attention must be paid to the polar orientation for successful transplant. In the landscape schematic it shows the Joshua Trees all in rows around the perimeter of the site. They do not grow in rows and should not be planted like rows of Palm Trees. Could some be planted in islands in the parking lot? They could even be planted in groups. This would be much more aesthetically pleasing. 1
2) Is there any possibility of recycling the water used to maintain the plants in the nursery? 2
3) Regarding Seismic safety: I would like to strongly urge the Town of Yucca Valley to enforce the recommendations in the document regarding limiting the height to which material may be stored on top of the shelves. 3
4) Road Improvements: Home Depot is not the only business in this center to be served by the traffic light at the entrance to the project. I am requesting that the west bound left turn lane into the site from 62 be expanded to two lanes. I believe the traffic coming into the project from Joshua Tree and 29 Palms, as well as tourists passing through will justify a second lane. Since Cal Trans has stated that there are limitations on the north side of 62 this should be done at the initial installation. 4
5) Are you going to have a plant adoption day at the site when local residents can go in and transplant other native vegetation prior to grading? 5

Thank you,

Melinda Hedley
P.O. Box 1571
Joshua Tree, CA 92252

RECEIVED
DEC 1 7
YUCCA VALLEY
COMM DEV DEPT

Melinda Hedley

Response to Comment L-1

A Joshua Tree Salvage Plan has been prepared and is included in Appendix C of the Draft EIR. This document includes detailed information and requirements for pre-salvage, salvage, storage, and translocation processes to ensure the greatest survival rate (Draft EIR at p. 3.3-10, Appendix C). The Salvage Plan takes into consideration the solar orientation of the Joshua Trees. Per the Salvage Plan, the trees are marked by a qualified biologist to show the orientation prior to removal for salvage. The landscape concept plan (Exhibit 2-8 of the Draft EIR) is designed to show the general location of the plants. The Joshua Trees are not proposed to be planted in rows, but in a more natural grouping. More specific plans will be submitted to the Town for review and approval. Planning staff will review the plans to assure that the aesthetic quality, as well as the health of the transplanted Joshua trees is of the highest quality. Ultimately, the goal of the landscaping plan is to create a landscape that mimics the desert landscape.

Response to Comment L-2

The Home Depot water usage in the nursery will be a very small portion of the total project water usage and is considered minimal so that water recycling based on this use is not considered practical.

Response to Comment L-3

Mitigation measure ER-4 is written to ensure that the shelving, stocking, and stacking practices are designed in such a way to reduce potential injuries to employees and the public (Draft EIR at p. 3.5-10). The height of the materials stored would be part of the stacking considerations, as would bracing and other methods of securing stacked materials in the store.

Response to Comment L-4

It is true that Home Depot is not the only business at this site to be served by the new proposed signalized driveway on SR 62. The traffic study prepared for the project was based on the Town of Yucca Valley's General Plan traffic model data and accounts for background traffic volumes for both Opening Day (2007), and Year 2030 conditions, along with all proposed site traffic (i.e., the Home Depot site traffic, which includes the Home Depot center uses and the adjacent Yucca Valley Retail Center site traffic, including a major retail store, gas station, and fast food restaurant).

The traffic engineer found that in order to accommodate the demand for left turns at this location 95 percent of the time, a single left hand turn lane of 180 feet in length was required. The engineer also found that two turn lanes were not required to handle the number of cars expected to turn left into the project site. In order to be particularly conservative, the turn lane was extended to 280 feet in length. The design assures that 95 percent of the time, the turn lane will be long enough to accommodate all those wishing to turn left into the project in one cycle of the left turn signal. Therefore, the single left hand turn lane is more than sufficient to traffic that will use this entrance and not further left turn lanes are warranted.

Response to Comment L-5

The Town's Native Plant Ordinance includes adoption as part of the plans for native plant preservation. Whether this will be through an adoption day or other means has not been determined. The developer has indicated in the Salvage Plan that was prepared for this project that other native plants, particularly cacti located on the site, would also be salvaged and incorporated into the landscaping (page 2, Salvage Plan).

Letter M

-----Original Message-----
From: tortusldy@juno.com [mailto:tortusldy@juno.com]
Sent: Wednesday, December 14, 2005 8:19 AM
To: Jeannie Lindberg
Subject: Home Depot EIR Comment

This e-mail message is a reply to a Web page using the form2mail script. The reply was generated by a web page at www.yucca-valley.org.

Home Depot EIR Comment

Name: Rae Packard
Organization: Joshua Tree Tortoise Rescue
Address: 8271 Tamarisk Avenue
City: Yucca Valley
State: CA
Zip: 92284
Phone: 760-369-1235
E-mail: tortusldy@juno.com

Comments:

We are very impressed with the Home Depot EIR. Our organization will be monitoring the promises made in the document, specifically the use of tortoise-proof fencing during construction and another biological survey if contruction begins after the end of March. 1

We EXPECT that the Town of Yucca Valley will use this document as the STANDARD to which all incoming business will have to adhere. 2

Rae Packard, Joshua Tree Tortoise Rescue

Response to Comment M-1

The comment asserts the opinion of the author, expressing satisfaction with the Draft EIR and indicating that the organization will monitor the "promises" [mitigation] made in the document, emphasizing tortoise mitigation. The comment does not raise new environmental issues not already thoroughly analyzed in the Draft EIR; therefore, no further response is required *(Twain Harte Homeowners Ass'n v. County of Butte* (1977) 138 Cal.App.3d 664, 679).

Letter N

From: "Jeannie Lindberg" <jlindberg@YUCCA-VALLEY.ORG>
To: "Nicole Criste" <ncriste@Terranovaplanning.com>, <cjacobs@brandman.com>
Date: 12/29/2005 08:13:18
Subject: FW: Home Depot EIR Comment

-----Original Message-----
From: yuccaview@juno.com [mailto:yuccaview@juno.com]
Sent: Wednesday, December 28, 2005 4:38 PM
To: Jeannie Lindberg
Subject: Home Depot EIR Comment

This e-mail message is a reply to a Web page using the form2mail script. The reply was generated by a web page at www.yucca-valley.org.

Home Depot EIR Comment

Name: Bill Souder
Organization: MBCA, MBPA, Andromeda Astronomical Society, Sky's the Limit, Best Lighting Practice (JTNP)
Address: 5022 CANTON ST
City: Yucca Valley
State: CA
Zip: 92284
Phone: 760 369-3814
E-mail: yuccaview@juno.com

Comments:

Two areas of the Draft EIR are inadequate:
1) Plans for protected plants do not include State protected plants which includes more than the town requirements. The Town of Yucca Valley does not take plant protection seriously as experienced by lack of code enforcement response and approval of clear cutting large properties without reason. Joshua tree removal and transplanting is not monitored. Careless removal and improper planting results in a very low survival rate. 1
2) The lighting ordinance is inadequate in that lighting is permitted that actually violates the light trespass part of the ordinance. The lighting impact of Home Depot does not take into account the cumulative light pollution impact of the planned Super WalMart and other housing projects planned in the area. Although fully shielded light fixtures may prevent light trespass on adjacent properties, light reflected from the ground and from vehicle windshields in the parking lot WILL cause light pollution IN TE SKY. The additional sky glow will reduce the number of stars and other astromonical objects visible in the local skies. Dark skies are a natural resource of the Morongo Basin and especially of Joshua Tree National Park. Lower level lighting is recommended and the use of LOW pressure sodium lights, which can be filtered out for astronomical viewing. 2

Bill Souder, MBCA, MBPA, Andromeda Astronautical Society, Sky's the Limit, Best Lighting Practice (JNTB)

Response to Comment N-1

Impacts to sensitive plant species are fully evaluated in the Draft EIR. Table 3.3-1 identifies the sensitive plant species with potential to occur in the area, including those species identified by the California Department of Fish and Game (State) the U.S. Fish and Wildlife Service (Federal) and the California Native Plant Society (Draft EIR p. 3.3-6). The last column of Table 3.3-1 indicates the likelihood of a particular species to be present on the project site. The biological resource survey for the project also included a site survey, which identified the plants located on the site. No sensitive State species have the potential to occur on the project site. No further actions are required.

Additionally, to ensure that the Joshua tree removal, storage, and translocation is done properly, and that the survival rate is maximized, a Joshua tree salvage plan has been developed (Appendix C of the Draft EIR). The salvage plan provides substantial guidance on the proper components for Joshua tree salvage and requires that a qualified biologic oversees the process.

Response to Comment N-2

The Draft EIR evaluated impacts resulting from lighting and identifies mitigation to further reduce impacts from lighting (Draft EIR pp. 3.1-4 to 3.1-5). Mitigation measure A-1 requires that the project owner/applicant consult with the Town on the appropriate lighting fixtures (Draft EIR, p. 3.1-5). The measure also requires that the fixtures be designed in such a way to minimize the horizontal travel of light, and that the light levels be reduced to the minimum level without jeopardizing public safety. The Town will enforce this condition in a manner consistent with its Night Sky Ordinance.

Letter O

CENTER FOR BIOLOGICAL DIVERSITY

CALIFORNIA AND PACIFIC OFFICE

Because Life is Good.

FACSIMILE TRANSMITTAL SHEET

TO: Mr. Shane Stueckle
Deputy Town Manager
Town of Yucca Valley
58928 Business Center Drive
Yucca Valley, CA 92284
Fax: 760-228-0084

FROM: Celeste J. Doyle
Legal Assistant

DATE: January 2, 2006

PAGES (INCLUDING COVER): 27

RE: **Draft Environmental Impact Report for the Home Depot Specific Plan**

NOTES/COMMENTS:

Because the deadline for comments on this matter is today, January 2, 2006, we are faxing these comments to your offices, even though you are closed for the New Years Holiday. We will hand deliver a copy of these comments, along with copies of the cited exhibits, on Tuesday, January 3.

RECEIVED
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YUCCA VALLEY
COMM DEV DEPT

Tucson • Phoenix • San Diego • San Francisco • Joshua Tree • Portland

Celeste J. Doyle, Legal Assistant
PO Box549, Joshua Tree, CA 92252
phone; (760) 366-2232 x 303 fax; (760) 366-2669

Letter O

Because Life is Good.

January 2, 2006

Via electronic mail and hand delivery

Shane Stueckle
Deputy Town Manager
Town of Yucca Valley
58928 Business Center Drive
Yucca Valley, CA 92284

Re: Draft Environmental Impact Report for the Home Depot Specific Plan

Dear Mr. Stueckle:

We are writing on behalf of the Center for Biological Diversity ("Center") in response to your request for comments regarding the above-referenced matter. The Center is a nonprofit, public interest organization dedicated to the protection of native species and their habitats through science, education, policy and environmental law. The Center has a growing membership of over 14,000 people throughout California and the United States.

The Center does not necessarily oppose the project. We recognize and appreciate the fact that Home Depot is a better corporate citizen than most. However, the Draft Environmental Impact Report ("DEIR") is so incomplete and inadequate that we are compelled to file these comments. The deficiencies affect all essential elements of the DEIR, making it so "fundamentally and basically inadequate" that the City Council cannot legally certify it. Cal.Regs. § 15088.5(4). The Center is also concerned about the City's process in this matter. Specifically, we are concerned that the Planning Commission has already taken final action on the DEIR, recommending approval by the Town Council while the public comment period is still open. Such action violates the intent, if not the letter, of public participation requirements under the California Environmental Quality Act ("CEQA"), and land use planning laws and policies. To us, this premature action 1

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reflects an ongoing pattern of disregard and disdain, by at least the Planning Commission, for public comment and participation. 1 (Cont.)

The DEIR is Incomplete

An EIR must describe and analyze all significant environmental effects a proposed project will inflict, and discuss ways to mitigate or avoid those effects. Pub. Res. Code § 21100; 14 Cal. Regs § 15362. The purpose of an EIR "is to inform the public and its responsible official of the environmental consequences of their decisions before they are made." *Laurel Heights Improvement Association v. Regents of the University of California*, 6 Cal. 4th 1112, 1123 (1993) (emphasis in original). An EIR is supposed to provide the public and decision makers with detailed information about the effects a proposed project is likely to have on the environment, ways to mitigate or avoid as many of those effects as possible, and alternatives to the proposed project. Pub. Res. Code § 21061; 14 Cal. Regs § 15002. A legally sufficient EIR (1) discloses all relevant facts so that the public and decision makers may weigh the costs and benefits of a proposed project; (2) provides for increased public awareness of environmental issues; (3) provides for agency accountability; and (4) provides for substantive environmental protection. The DEIR in this case does not accomplish any of these tasks. 2

The DEIR routinely underestimates, dismisses or ignores the scope and severity of impacts that the project will have on the environment. The DEIR does not provide a substantive or meaningful cumulative impacts analysis, and also repeatedly and improperly relies on statutory and other legal requirements as "mitigation" for the project's impacts.

Air Quality

The DEIR largely dismisses direct and cumulative air quality impacts as "insignificant," because emissions caused by the project are expected to be below what the Air Quality District expected from the site, based on its General Plan designation. DEIR at 3.2-13. This is improper and illegal. The fact that pollution might be less than anticipated is a good thing, but it is still pollution and it will still have direct and cumulative effects that will be significant, and that must be analyzed and avoided or mitigated. *Kings County Farm Bureau v. City of Hanford* (5th Dist. 1990) 221 Cal. App. 3d 692 [270 Cal. Rptr. 650]. (A cumulative impacts analysis is legally deficient if it understates the severity and significance of the impacts.) The more severe an existing environmental problem is, the lower the threshold is for any single project's contribution to the problem to be cumulatively significant. *Id.* at 718-721. Local, regional and global air quality are all degraded and are continuing to decline. The Home Depot project will only contribute to these problems. The DEIR must first recognize the scope of the air quality problems and then address the project's contribution to those problems. The DEIR must then consider and adopt mitigation measures that will avoid or reduce the project's direct and cumulative impacts on air quality. 3

Global Warming is one of the Greatest Problems Facing California and the World

Global warming, or climate change, is caused by society's production of greenhouse gases, primarily through the burning of fossil fuels for energy. These gases accumulate in the atmosphere and decrease the amount of solar radiation that is reflected back into space, warming the earth's climate much like the interior of a greenhouse. The three most important greenhouse gases are carbon dioxide, methane, and nitrous oxide. Carbon dioxide accounts for approximately 85% of total emissions, and methane and nitrous oxide together account for almost an additional 14%. Because of the persistence and mixing of these gases in the atmosphere, emissions anywhere in the world impact the climate everywhere equally. Therefore, the impact of greenhouse gas emissions produced in California will impact not only California, but the rest of the world as well.

The Intergovernmental Panel on Climate Change ("IPCC") has concluded that the global average temperature has risen by approximately 0.6° C ± 0.2 C during the 20th Century (IPCC 2001). There is an international scientific consensus that most of the warming observed has been caused by human activities (ACIA 2004; IPCC 2001), and that it is "likely" that it is largely due, specifically, to emissions of greenhouse gases (IPCC 2001). Carbon dioxide emissions, carbon dioxide concentrations, and temperature over the last 1,000 years are correlated (ACIA 2004). Mean temperatures during the 20th century were the highest in 1,000 years (Albritton et al. 2001). Global climate has changed in other ways as well. For example, precipitation has increased by 0.5 to 1% per decade in the 20th century over most mid- and high latitudes of the Northern Hemisphere continents, and to a lesser degree over the tropical land areas in the northern hemisphere (IPCC 2001). 4

Due to a number of positive feedback mechanisms, warming in the Arctic has been and will be greater and more rapid than in the rest of the world (ACIA 2004). Warming in the Arctic is in many ways a harbinger of what is to come in other areas. Changes already observed in some areas of the Arctic dwarf global averages. In extensive areas of the Arctic, air temperature over land has increased by as much as 5° C (9° F) over the 20th century (Anisimov et al. 2001).

Global warming will continue and accelerate if greenhouse gas emissions are not reduced. All climate models predict significant warming in this century, with variation only as to the rate and magnitude of the projected warming (ACIA 2004). Determining the degree of future climate change requires consideration of two major factors: (1) the level of future global emissions of greenhouse gases, and (2) the response of the climate system to these emissions ("climate sensitivity")(ACIA 2004).

Because hard data are not available for events that have not yet occurred, the future level of society's greenhouse gas emissions must be projected. The IPCC has produced a Special Report on Emissions Scenarios ("SRES") (Nakicenovic et al. 2000) that describes a range of possible emissions scenarios based on how societies, economies, and energy technologies may evolve, in order to study a range of possible scenarios (ACIA 2004; Albritton et al. 2001).

Climate models make different assumptions regarding how various aspects of the climate system will respond to increased greenhouse gas concentrations and warming temperatures. These differing assumptions are expressed as climate sensitivity, defined as the equilibrium response of global mean temperature to doubling levels of atmospheric carbon dioxide (Stainforth et al. 2005). The IPCC (2001) used climate sensitivities of 1.3-5.8K for projections of warming from 1990-2100 (Stainforth et al. 2005).

Using the SRES emissions scenarios and the world's leading climate models, the IPCC predicts that the global average temperature will warm between 1.4 and 5.8°C by the end of this century. Warming will be greater in the Arctic, where the annual average temperatures will rise across the entire Arctic, with increases of approximately 3-5° C over the land areas and up to 7° C over the oceans. Winter temperatures are projected to rise even more significantly, with increases of approximately 4-7° C over land areas and approximately 7-10° C over oceans (ACIA 2004). Year-to-year variability is also projected to be greater in the Arctic than in other regions (ACIA 2004).

Warming Projections Likely to be Revised Substantially Upwards

For a number of reasons, IPCC (2001) and ACIA (2004) projections may be significant underestimates of the amount and rate of warming. First, actual worldwide greenhouse gas emissions may be on the high end or above the range of the IPCC scenarios. All scenarios utilized by the IPCC assume that energy use will shift away from fossil fuels to a greater percentage of sustainable energy sources and that worldwide greenhouse gas emissions will begin to decline during this century (IPCC 2001). Yet the most recent energy projections show that if current policies continue, worldwide greenhouse gas emissions will be 52% higher in 2030 than they are today (IEA 2005). 4 (Cont.)

Second, climate sensitivity may be substantially greater than the levels used by IPCC (2001). Results from the recent climateprediction.net experiment indicate that much larger climate sensitivities of up to 11.5K are possible (Stainforth et al. 2005). Chapin et al. (2005) studied the warming amplification caused by the expansion of shrub and tree cover in the Arctic and resulting increase in solar absorption. This amplification could be as much as two to seven times (Chapin et al. 2005), and is not accounted for in the climate models used in IPCC (2001) (Foley 2005).

Recent data on the unexpectedly fast rate of warming in the Arctic also reinforces the likelihood that the IPCC (2001) projections will need to be revised upwards. Overpeck et al. (2005) concluded that the Arctic is on a trajectory towards an ice-free summer state within this century, a state not witnessed in at least the last million years (Overpeck et al. 2005). These scientists conclude that there are few, if any processes or feedbacks within the arctic system that are capable of altering the trajectory toward this ice-free summer state. In September, 2005, scientists reported a new record Arctic sea-ice minimum for the month of September (NSIDC 2005). These scientists called the sea-ice reduction "stunning," and concluded that Arctic sea ice is likely on an accelerating, long-term decline (NSIDC 2005).

A Pattern of Increased Weather Variability and Extremes and Possible Abrupt Changes

Global warming consists of more than just increases in global average temperature. In 2001 the IPCC predicted a 90-99% chance of the following weather changes:

- Higher maximum temperature and more hot days over nearly all land areas;
- Higher minimum temperatures, fewer cold days and frost days over nearly all land areas;
- Reduced diurnal temperature range over most land areas;
- Increase of heat index over land areas;
- More intense precipitation events.

Albritton et al. 2001.

The IPCC also predicted a 66-90% chance of the following:

- Increased summer continental drying and associated risk of drought;
- Increased tropical cyclone (hurricane) peak wind intensities;
- Increased tropical cyclone mean and peak precipitation intensities.

Id. Increased intensity of precipitation events due to global warming has long been predicted by climate models and remains a consistent result of the most advanced modeling efforts (Cubasch and Meehl 2001). In global simulations for future climate, extreme precipitation events over North America are predicted to occur twice as often (Cubasch and Meehl 2001). 4 (Cont.)

Greenlandic ice cores indicate that the climate can change very abruptly. Scientists caution that thresholds may be reached that trigger rapid and extreme climatic changes that are difficult to predict but could be devastating. Examples include the shut down of the North Atlantic thermohaline circulation, which transfers heat from the equatorial regions to the Arctic, which could plunge northern Europe into a new ice age. The more rapid melting of the Greenlandic ice sheet, once thought to be several centuries away, could trigger this impact and also result in global sea level rise of up to six meters, completely eliminating many coastal areas. As in the case of the shift to an ice-free Arctic summer, scientists warn that we may be very close to crossing thresholds of rapid climate change from which there is no return.

The Impacts of Global Warming

The impacts of global warming, once envisioned to be the fate of future generations, are already upon us, bringing profound climactic and ecological changes, great loss of human life, and likely extinction for many of the planet's non-human species. As written recently in the New England Journal of Medicine:

> Since [the release of the Third Assessment Report in] 2001, we've learned substantially more. The pace of atmospheric warming and the accumulation of carbon dioxide are quickening; polar and alpine ice is melting at rates not thought possible several years ago; the deep ocean is heating up, and circumpolar winds are accelerating; and warming in the lower atmosphere is retarding the repair of the protective "ozone shield" in the stratosphere....Given the current rate of carbon dioxide build-up and the projected degree of global warming, we are entering uncharted seas.
>
> As we survey these seas, we can see some of the health effects that may lie ahead if the increase in very extreme weather events continues. Heat waves like the one that hit Chicago in 1995, killing some 750 people and hospitalizing thousands, have become more common. Hot, humid nights, which have become more frequent with global warming, magnify the effects.

(Epstein 2005). In 2002, more than 1,000 people died in a spring heat wave in India (Gelbspan 2004). In the spring of 2003, 1,400 people died in another heat wave in India and Pakistan. Also in 2003, a summer heat wave in Europe killed between 21,000 and 35,000 people (Epstein 2005).

In 1998, Hurricane Mitch dropped six feet of rain on Central America in three days, and was followed by soaring incidences of malaria, dengue fever, cholera, and leptospirosis (Epstein 2005). In 2000, after rain and three cyclones hit Mozambique over a six week period, the incidence of malaria rose by five times (Epstein 2005). In June, 2001, Houston suffered the single most expensive storm in modern history (up until then) when tropical storm Allison dropped thrity-five inches of rain in one week, resulting in $6 billion in damages (Gelbspan 2004). In November, 2001, record flooding killed more than 1,000 people in Algeria (Gelbspan 2004). Also in 2002, more than 12 million people were displaced by severe flooding in South Asia (Gelbspan 2004). 4 (Cont.)

In the Eastern United States, the effect of sea level rise over the last century (primarily from thermal expansion as the oceans warm) has also exacerbated the beach erosion and flooding from modern storms that would have been less damaging in the past (Folland and Karl 2001). In August, 2005, Hurricane Katrina killed hundreds and destroyed New Orleans (Epstein 2005). Katrina was quickly followed by Rita, and then Wilma, putting 2005 on track to setting a new record for hurricane season destruction.

This overall pattern of increasingly violent weather is very clearly linked to global warming. But even more subtle, gradual changes can profoundly damage public health (Epstein 2005). During the past two decades, the prevalence of asthma in the United States has quadrupled, at least in part because of climate-related factors (Epstein 2005). Increased levels of plant pollen and soil fungi may also be involved, as ragweed grown in twice the ambient levels of carbon dioxide produce 60% more pollen (Epstein 2005). High carbon dioxide levels also promote the growth

and spore production of some soil fungi, and diesel particles then help to deliver these aeroallergens deep into human lungs (Epstein 2005).

Widening social inequities and changes in biodiversity caused by global warming have also contributed to the resurgence of many infectious diseases (Epstein 2005). Global warming is credited with the current spread of Lyme disease, as well as malaria, hantavirus, and West Nile virus (Epstein 2005). Floods are also frequently followed by disease clusters, as downpours can drive rodents from burrows, create mosquito-breeding sites, foster fungus growth in houses, and flush pathogens, nutrients, and chemicals into waterways (Epstein 2005). Droughts also weaken trees' defenses against infestations and promote wildfires, which can cause injuries, burns, respiratory illnesses, and deaths (Epstein 2005).

Shifting weather patterns are jeopardizing water quality and quantity in many countries, where groundwater systems are overdrawn (Epstein 2005). Most mountain ice fields are predicted to disappear during this century, further exacerbating water shortages in many areas of the world (Epstein 2005).

An even greater threat to human health comes from illnesses affecting wildlife, livestock, crops, forests, and marine organisms (Epstein 2005). One recent report found that 60% of resources examined, from fisheries to fresh water, are already in decline or being used in unsustainable ways (Epstein 2005). This is a grim prognosis indeed, as global population continues to rise even as global warming accelerates. 4 (Cont.)

Global warming will also have profound impacts on the earth's biological diversity and threatens many thousands of species. The primary prevention and mitigation of all of these climate impacts is to reduce the nation's energy use and halt the extraction, mining, transport, refining and combustion of fossil fuels (Epstein 2005). Experts believe that a substantial reduction in energy use would have innumerable health and environmental benefits along with stabilizing the climate (Epstein 2005).

The Impacts of Global Warming on California

California is extremely vulnerable to the impacts of global warming. The precise nature of the impacts over the next decades will depend upon whether worldwide total greenhouse gas emissions continue to increase at current rates, or whether the current rate of increase is slowed. Scientists model future impacts based on different emissions scenarios.

Under a low emissions scenario, by the end of this century heatwaves and extreme heat in Los Angeles would quadruple in frequency, and heat-related mortality would increase by two to three times (Hayhoe et al. 2004). Alpine and subalpine forests would be reduced by 50-75%, and the average Sierra snowpack reduced by 30-70% (Hayhoe et al. 2004). Under a higher emissions scenario, heatwaves in Los Angeles would be six to eight times more frequent, with heat-related mortality increasing five to seven times (Hayhoe et al. 2004). Alpine and subalpine forests would

be reduce by 75-90%, and snowpack declines would be as high as 74-90%. Less snowpack means less runoff and streamflow, which, when combined with projected declines in winter precipitation, could fundamentally disrupt California's water supply. (Hayhoe et al. 2004).

The Impacts of Global Warming on Endangered, Threatened, and Rare Species

Global warming is emerging as one of the leading threats to all species worldwide. Thomas et al. (2004) have estimated that up to one third of the species included in a study of 20% of the world's surface area may be committed to extinction because of global warming by the year 2050. This study was based on minimum, mid-range, and maximum warming IPCC (2001) scenarios (Thomas et al. 2004). Under the minimal climate-warming scenario, about 18% of species in the study area would be committed to extinction, while under the mid-range scenario about 24% of species would be committed to extinction, and under the maximum warming scenario about 35% of species would be committed to extinction (Thomas et al. 2004). Reducing greenhouse gas emissions will allow total warming to be kept to the low end of the range, thereby preventing many thousands of species extinctions (Thomas et al. 2004).

The impacts of global warming on species already listed as threatened and endangered have been documented. The endangered Quino checkerspot butterfly (Euphydryas editha quino), which occurs only in southern California and Baja, Mexico, is threatened by the significant warming and drying of its habitat caused by global warming (Parmesan and Galbraith 2004). The drying and warming is causing the species' host plant to die off and dry up prior to the completion of caterpillar growth, resulting in mass starvation of young caterpillars (Parmesan and Galbraith 2004). 4 (Cont.)

Two other listed species of Euphydryas butterflies, the Bay checkerspot and Taylor's checkerspot, are also impacted by global warming (Parmesan and Galbraith 2004). When species cannot shift their ranges northward or to increased elevations in response to climate warming, they will become extinct (Parmesan and Galbraith 2004).

Two species of Caribbean coral, the elkhorn coral (Acropora palmata) and staghorn coral (Acropora cervicornis) have been proposed for listing as threatened species, due to global warming and increased carbon dioxide concentrations. 70 Fed. Reg. 24359. Sustained increased ocean temperatures cause these coral to expel symbiotic algae on which they depend for photosynthesis and energy. This deadly phenomenon is known as "coral bleaching." 70 Fed. Reg. 24362. In addition, increased levels of dissolved carbon dioxide in surface seawater acidifies the oceans and decreases the ability of these corals to calcify. 70 Fed. Reg. 24363.

Other species such as the polar bear are directly threatened with extinction by global warming. Because of this very real and present threat, the Center, the Naturall Resources Defense Council (NRDC), and Greenpeace have jointly submitted a Petition to the U.S. Fish and Wildlife Service to protect polar bears under the Endangered Species Act. Polar bears are completely dependent upon Arctic sea-ice for survival. Polar bears need sea ice as a platform from which to hunt their

primary prey (ringed seals, Phoca hispida), to make seasonal migrations between the sea ice and their terrestrial denning areas, and for other essential behaviors such as mating. The polar bears sea-ice habitat is melting away due to global warming, and the Arctic may be ice-free in the summer well before the end of this century (Overpeck et al. 2005). Habitat loss is the leading cause of species extinction, and polar bears cannot be expected to survive the near complete loss of their sea-ice habitat (Center for Biological Diversity 2005).

Air pollution affects the environment and plants and animals in other ways besides warming the atmosphere and causing climate change. Vehicle emissions are a primary source of excess nitrogen in the environment. Excess nitrogen contributes to major environmental problems including reduced water quality, eutrophication of estuaries, nitrate-induced toxic effects on freshwater biota, changes in plant community composition, disruptions in nutrient cycling, and increased emissions from soil of nitrogenous greenhouse gases (Fenn et al. 2003). Nitrogen emissions and deposition, therefore, impact species listed under the Endangered Species Act in a number of ways.

Nitrogen deposition has contributed to the severe decline of the threatened bay checkerspot butterfly, endemic to the San Francisco Bay Area (Fenn et al. 2003). The bay checkerspot butterfly is restricted to outcrops of serpentine rock which are low in nitrogen and support a diverse native grassland with more than 100 species of forbs and grasses, including the butterfly's host plants (Fenn et al. 2003). Nitrogen deposition in the soil creates a more hospitable environment for non-native grasses that crowd out the butterfly's primary host plant, Plantago erecta (Fenn et al. 2003). Nitrogen deposition and increasing non-native grass invasion has similarly acted in concert with global warming and drought to extirpate the Quino checkerspot butterfly from much of its range in southern California (Fenn et al. 2003). 4 (Cont.)

Nitrogen deposition is also causing Southern California's coastal sage scrub vegetation communities to convert to non-native grasslands, threatening a host of threatened and endangered species, including the California gnatcatcher (Fenn et al. 2003). Nitrogen deposition is a problem in desert ecosystems, as well. Non-native, invasive herbs and grasses are exploding all over the deserts of southern California, pushing out native plants and providing fuel for fires in an ecosystem not adapted to fires. *State of the Parks* National Parks Conservation Association (2005); Lewis, *What's Killing Joshua Tree National Park?* L.A. Weekly, July 9, 2004. The threatened Desert Tortoise is impacted by the increased spread of non-native plants with lower nutritional value (*Id.*, Fenn et al. 2003). Protection and recovery efforts for many threatened and endangered species may not succeed without regional and national policies to reduce air pollution (Fenn et al. 2003).

The DEIR Entirely Ignores the Project's Greenhouse Gas Emissions

The DEIR is inadequate because it ignores global warming and the project's greenhouse gas emissions. A revised DEIR must calculate the project's greenhouse gas emissions, and then avoid, minimize, and mitigate them to the maximum extent feasible. It is entirely feasible to undertake 5

each step in this process. In fact, many of the actions that would effectively avoid, minimize, and mitigate greenhouse gas emissions may also save Home Depot money in the long run.

The greenhouse gas emissions of each component and phase of the project must be calculated. For example, the construction phase would include, but not be limited to: (1) the greenhouse gas emissions of construction vehicles and machinery; (2) the greenhouse gas emissions from manufacturing and transporting the project's building materials; (3) the greenhouse gas emissions of the project's planning and design. The operation phase would include but not be limited to: (1) the greenhouse gas emission from the heating, cooling, and lighting the facility; (2) the greenhouse gas emissions of customer, employee, and delivery vehicle trips to the facility.

The DEIR contains insufficient information for the reader to estimate the project's total greenhouse gas emissions. However, one can estimate the greenhouse gas emissions from the 5,695 daily customer vehicle trips per day. Assuming an average trip length of 10 miles and average fuel efficiency of the vehicles equating to .44 kg/per mile of carbon dioxide emissions (burning one gallon of fuel releases 26 pounds of carbon dioxide into the atmosphere), the project's customer trips alone would produce approximately 26 tons per day, or 730 tons per year, of carbon dioxide pollution. This will clearly have a significant impact.

The good news is that there are many avoidance and mitigation measures available to the project proponent. Adopting these measures will reduce greenhouse emissions from the site, make the project a model of responsible development, and may actually reduce operating costs. Measures to minimize greenhouse gas emissions include: 5 (Cont.)

- Install the maximum possible solar energy array on the building roofs and/or on the project site to generate solar energy for the facility;
- Install electric vehicle charging stations at the facility;
- Construct the most energy-efficient buildings possible, to decrease heating and cooling costs;
- Utilize the combination of construction materials with the lowest carbon footprint;
- Utilize only Energy Star heating, cooling, and lighting devices, and appliances where applicable;
- Ensure that public transportation will serve the site, by constructing bus stops or other facilities and funding the transportation agency if necessary
- After all avoidance and minimization measures have been incorporated, purchase offset credits for the project's lifetime greenhouse gas emissions.

Once all measures to avoid and minimize greenhouse gas emissions have been identified and adopted, the project's remaining greenhouse gas emissions should be calculated, and offsets purchased to mitigate for them. There are many options for purchasing carbon offsets (or credits), including but not limited to the following:

The Chicago Climate Exchange (http://www.chicagoclimatex.com/)
Climate Care (http://www.climatecare.org/)
My Climate (http://www.myclimate.org)
Climate Friendly (http://www.climatefriendly.com/)
The Carbon Neutral Company (http://www.carbonneutral.com/)
The Climate Trust (http://www.climatetrust.org/)

A wealth of resources on calculating, avoiding, and mitigating greenhouse gas emissions is available on the internet. Good options include the David Suzuki Foundation at http://www.davidsuzuki.org/Climate_Change/What_You_Can_Do/carbon_neutral.asp and the World Resources Institute at http://pubs.wri.org/pubs_description.cfm?PubID=3756. 5 (Cont.)

Because the project's greenhouse gas emissions are clearly significant, and because it is feasible to carry out the mitigation steps outlined above, CEQA requires that the mitigation be adopted and implemented. We encourage the project proponent to adopt these measures, also because they demonstrate responsible environmental and community leadership and good business. The project proponent could further demonstrate leadership by purchasing additional greenhouse gas emissions offsets to play an even greater role in combating global warming.

Water Resources

Storm water and Water Quality

The description of the project in the DEIR emphasizes the storm water drainage plan for the site. *E.g.*, DEIR at 2-8; 4-9; App. I. As we understand it, the storm water drainage plan has three basic elements, each one serving a different portion of the project site in a different way.

The first, and the best, element, is the detention basin planned for the rear of the Home Depot building. The detention basin will capture and hold storm water runoff from the Home Depot building and parking and driveway areas south, east and west of the building. It will also capture and hold some runoff from currently undeveloped lands south of the project site. DEIR at 2-8; Appendix I. The storm water will then be released "at a metered rate" into drainage pipe and then into the small wash adjacent to the project site at its northeast corner, and near Highway 62. The DEIR does not show or explain where the discharge will go from there, but it seems that is must simply enter the highway and go wherever the surface drainage patterns on the roadway will take it. DEIR Exhibits 2-2 & 2-10. 6

The second element of the drainage plan is a system of catch basins and underground pipes that will drain storm water from the parking lot and driveways north of the Home Depot building. This water will be discharged directly and immediately from the end of the pipe into the same small wash at the northeast corner of the project site that will receive the discharge from the detention basin. (The underground pipes and discharge facility are the same elements that will carry and release the storm water held in the detention basin.) There is no second detention basin

planned for the system. Runoff that flows into the catch basins will simply pass through the system and be released immediately into the small wash. DEIR Appendix I, Exhibits 2-2 & 2-10.

The DEIR says that all the storm water released via this system will enter the Covington Wash. DEIR at 3.13-1, Appendix I. The Covington Wash is huge and more than capable of carrying the projected volumes of storm water runoff. However, it is located about 1000 feet east of the identified discharge point. DEIR at 3.13-1 & Appendix I, Exhibit 2-2. The small wash that will actually receive all this storm water discharge is not the Covington Wash. The Highway itself, and residential development north of the site, have obscured the trace of this small wash, and maps and diagrams in the record reveal no obvious connection between the it and the Covington Wash, except perhaps along Highway 62.[1] *E.g.*, Exhibit 2-2. The DEIR does not discuss the capacity of the small wash, or how, where or whether it joins the Covington Wash. It is unclear, therefore, from the discussion in the DEIR, the drainage map or the site map, how, whether or where any of the storm water discharged from the site will join or enter the Covington Wash. 6

The DEIR says that, during a storm event, only 27.36 cfs of storm water runoff will be discharged into the small wash, and that this volume is about the same as what naturally occurs there during significant storm events.[2] DEIR at 3.13-3. All other runoff will be captured and detained in the detention basin planned for south of the Home Depot building. *Id.* Although the volume of storm water drained from the site through the drainage system may proximate the volume of natural runoff the site currently produces, it will be discharged from a pipe (a point source) in a concentrated flow instead of sheeting and running off the site in a more dispersed and low-energy fashion, as it does now. At any given moment, the volume of runoff discharged from the drain pipes may be comparable to current runoff volumes, but its energy will be higher because it will be concentrated into a narrow stream. The discharged runoff will have a higher energy and continue flowing for a longer period, because after the storm event, the detention basin will also be drained at a rate of 27.36 cfs. DEIR at 3.13-3, Appendix I.

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[1] If the runoff will enter and travel along Highway 62 on its way to the Covington Wash, the EIR must address the fact that it will pick up and carry pollutants from the highway into the Wash. Even if the small wash currently drains or flows into the highway before reaching the Covington Wash, the Home Depot project will increase the overall volume of runoff following this path, thus increasing the amount of pollution that can be washed from the highway and carried into the Covington Wash, where it will infiltrate into the ground. (The DEIR says that natural runoff from the site enters Covington Wash and "infiltrate[s] into the ground." DEIR at 3.13-1.)

[2] The Center is not persuaded that the uncontrolled outflow of un-retained storm water runoff will not exceed 27.36 cfs. Our doubts are raised by the conflicting information in the DEIR about how storm water from the north portion of the site will be dealt with (see discussion *infra*), and the complete lack of information about storm water runoff from the YVRC. .

Since the DEIR does not explain the size or capacity of the small wash that will accept the discharged runoff, or how or where it joins the Covington Wash, it is impossible to evaluate whether the higher energy and extended duration of the runoff/discharge from the site will have any negative impacts. At a minimum, the revised EIR must more thoroughly explain the volume, energy and path of the runoff that will be discharged from the site. The EIR mus also address and evaluate the possibility of downstream erosion, and flooding and/or sheeting on Highway 62 due to the higher energy and larger overall volume of runoff that will flow from the developed site.[3]

The third element of the drainage plan is revealed only through the drawing that is Exhibit 2-10, which shows the four smaller commercial buildings, and all of the associated parking lots on the north portion of the project site, relying exclusively on surface drainage to address storm water runoff. Although the DEIR says this portion of the site will be served by the system of catch basins and drain pipes (DEIR at 3.13-3), the diagram shows no catch basins in this portion of the site. EIR Exhibit 2-10. Rather, the diagram shows the storm water flow moving across the impervious surfaces, away from any catch basins, and onto Highway 62. *Id.* The diagram further shows this flow moving east along the highway towards the Covington Wash. *Id.* Because it will not enter any of the project's catch basins, this runoff will not pass through any of the oil/water separators that are required as part of the drainage system, or any other treatment device that might be incorporated into the system. The DEIR does not explain how much runoff will be generated by this discrete portion of the overall development, what pollutants it will carry, or what path it will follow to the Covington Wash. The EIR must address these questions, and identify the impacts this un-retained and un-treated runoff will have. The EIR must also identify and adopt measures that will avoid or mitigate any significant impacts this runoff might impose. 6 (Cont.)

Cumulative Impacts

Finally, the DEIR does not address the cumulative impacts on storm water runoff and water quality this project will have in conjunction with the proposed Yucca Valley Retail Center ("YVRC"). The DEIR does not discuss or describe anything about the storm water runoff that will come from the adjacent YVRC ,even though the projects are being developed together and will share the same primary entrance and other infrastructure improvements. DEIR at 2-7.

Together the YVRC and the Home Depot project will convert almost all the land between Palisades Drive and Highway 62, and between Avalon Avenue and the eastern boundary of the Home Depot site, to impervious surfaces. The wastewater treatment facility planned to be built east of and immediately adjacent to the Home Depot site will add more impervious surfaces to this area. Both the YVRC and wastewater treatment sites are in the same Covington Wash drainage basin as is the Home Depot site. DEIR Appendix I. The YVRC site slopes and drains east and north toward the Home Depot site. Storm water runoff from the YVRC site will join 7

[3] The DEIR says that the project will not create any erosional hazards on or off-site while in operation. DEIR at 3.5-7. Based on concerns raised here, this conclusion may be incorrect and should be re-evaluated in the EIR.

with and increase the volume and energy of flows from the Home Depot project.. Based on the record before us, it is anyone's guess where the confluence will occur, but it will occur: Perhaps in the Home Depot parking lot; perhaps in the small wash at the northeast corner of the project site; or perhaps on Highway 62. Wherever it occurs, it will have combined impacts that must be identified in the EIR, analyzed and mitigated. The DEIR does not discuss how or whether development of the wastewater treatment facility might affect the flow of the Home Depot storm water discharge. Since the site is in between the discharge point for the Home Depot discharge and the Covington Wash, its development might impact the pattern of flow of that discharge. All of these cumulative impacts must be addressed in the revised EIR.

Relevance of NPDES Permit Requirements

The DEIR relies on the fact that no NPDES permit is required for the project operations, and so concludes that the project will have no significant impact on water quality. This is an incorrect analysis. As already discussed regarding air quality, an EIR is legally deficient if it downplays or undervalues the significance of any impacts a project will have. *Kings County Farm Bureau, supra.* Furthermore, it is illegal to rely on an unrelated permitting process to determine the level of significance of an impact, or as the primary mechanism to address or mitigate the identified impact. That an NPDES permit is not required for the point source discharge of largely untreated storm water runoff does not mean there will be no water quality impacts. A revised EIR must identify and analyze those impacts, consider their cumulative effects when combined with other development planned for the area, and discuss ways to avoid or mitigate them.

7 (Cont.)

The Prescribed Mitigation is Inadequate

The mitigation measures discussed in the DEIR are inadequate. Besides requiring oil/water separators at all parking lot catch basins, the measures described at best only a good start.[4] More

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[4] The mitigation measures in the DEIR are legally deficient, especially those that rely on the project owners and operators "implement[ing] other good housekeeping and storage measures" (DEIR at 3.13-7). Also illegal is the provision allowing the City's Community Development Director to change or delete approved and adopted mitigation measures and substitute others that the Director believes "would achieve the same result." CEQA does not allow for such unfettered discretion, which would be exercised away from the public eye, as mitigation:

> "CEQA compels an interactive process of assessment of environmental impacts and responsive project modification which must be genuine. *It must be open to the public,* premised upon a full and meaningful disclosure of the scope, purposes, and effect of a consistently described project, with flexibility to respond to unforeseen insights that emerge from the process.' [Citation omitted.] In short, a project must be open for public discussion and subject to agency modification during the CEQA process."

aggressive and effective mitigation measures are available, feasible and reasonable, and therefore must be adopted. Pub. Res. Code §21061; 14 Cal. Regs. § 15362. We suggest that at least the following mitigation measures be adopted:

- Add at least a second detention basin to hold and allow controlled release of runoff from the north and central portions of the project site.
- Select the Reduced Intensity Alternative, which significantly reduces the amount of impervious surface on the project site, and includes a water quality detention basin near the northwest corner of the property that would capture and treat storm water runoff from the north portion of the project site.
- Design the point of discharge from the drainage system to disperse the volume of discharge and reduce its energy. 7 (Cont.)
- Install facilities (in addition to the oil/water separators) to separate out pollutants before runoff is released to the natural wash off-site. (*See, e.g.*, Storm Water Technology Fact Sheet: Hydrodynamic Separators, Environmental Protection Agency, Office of Water (1999).)[5]
- Use porous pavement where feasible and appropriate to reduce the overall amount of impervious surfaces, thereby reducing the overall amount of storm water runoff. (*See, e.g.*, Storm Water Technology Fact Sheet: Porous Pavement, Environmental Protection Agency, Office of Water (1999).)
- Use at least some of the water captured in the detention basins for landscaping.
- Account for storm water runoff from the YVRC site, and identify mitigation measures that are feasible and that will effectively avoid or mitigate impacts from that runoff. Also require that the Home Depot project incorporate into its site, any element of the YVRC mitigation measures that must be part of or connect to the Home Depot drainage system, or that would pass over, under or otherwise affect the Home Depot site.

Concern Citizens of Costa Mesa, Inc. v. 32nd District Agricultural Association (1986) 42 Cal.3d 929, 936 [231 Cal.Rptr. 748] (emphasis supplied).

[5] Some excellent sources for information on various methods and mechanisms for reducing the pollutant load of storm water runoff include:

- The California Stormwater Best Management Practices Handbook (available on-line at www.cabmphandbooks.com)
- The International Stormwater Best Management Practices Database (www.bmpdatabase.org)
- Stormwater BMP Brochure, The Stormwater Quality Management Committee, Clark County, Nevada (www.lvstormwater.com)
- Managing Stormwater: Best Management Practices (www.greenworks.tv)

Water Supply

The analysis in the DEIR regarding water supply is superficial at best: It is legally deficient at every level. The DEIR does not adequately describe the environmental setting of the project, because it does not describe the status, quantity or quality of current water supplies, the rate of use, the rate of aquifer draw-down, the rates and sources for recharge, current or projected demand, identified sources for future, or additional supplies (if there are any). The DEIR does not identify any impacts associated with the project's water needs. It does say that the Home Depot will use approximately 2,300 gallons of water per day (gpd), including 500 gpd for landscaping. DEIR at 3.12-3. (The DEIR does not clarify whether this projected water demand is for the Home Depot only, or for all uses planned for the site. We assume it applies only to the Home Depot portion of the project.) Nowhere does the DEIR describe or discuss the water demands for the rest of the proposed development or for the 29 other commercial and residential developments identified as being planned for or built in Yucca Valley. DEIR Exhibit 4-1.

Rather than provide any sort of analysis regarding water supply, the DEIR relies on assurances from the local water distributor that it can supply the project. Based on those assurances, the DEIR concludes that the project will have no significant impacts, direct or cumulative, on water supplies. It says that

> based on a review of existing supply and *future anticipated entitlements*, the District has sufficient water supply to serve the project without affecting existing water service. However, the project would need to contribute funding for connection fees and *water acquisition fees*. With implementation of applicable fees, impacts related to groundwater supply or water supply entitlements are considered less than significant. 8

DEIR at 3.12-3 (emphasis supplied). (*See also* DEIR at 4-9, drawing a similar conclusion regarding the cumulative impacts of the project on water supply.) This is outrageous. As the emphasized language shows, the water provider needs "future anticipated entitlements" to meet demand for this project and existing water service. (The statement says nothing about being able to supply future growth.) The DEIR does not explain when these "entitlements" will be required, where they will come from, how they will get to Yucca Valley, how they will be used, or even how much water will be required.

The DEIR reveals in a vague way that Yucca Valley and its water purveyor, the Hi-Desert Water District ("HDWD"), are dealing with a long-standing water supply problem, and that new sources will have to be secured and imported in the future. As is true for most of the Desert region of southern California, 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 ("WVB") 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. DEIR at 3.12-1. Yucca Valley is now importing water from the State Water Project for storage and to recharge the WVB. Additional

water may be acquired from the State Water Project in the future, but that supply is limited and variable year to year, because its source is the Delta of the Sacramento and San Joaquin Rivers, which is fed by the snow pack in the Sierra Nevada Mountains. The State Water Project also faces an ever-increasing demand for its supplies, as all of southern California continues to grow. The Hi-Desert Water District itself is concerned that even if State Water Project water is available in the near and distant future, it may be unaffordable. (Wheeler, April 9, 2005). The HDWD has a contract in place and is entitled to about 4,270 acre feet of water each year. However, that contract will expire in 2021 (or thereabouts) and the District has been unable to secure an extension or any other formal commitment from its supplier for deliveries after that time. (Wheeler, March 8, 2005). The supplier is the Mojave Water Agency (MVA), which is a water wholesaler and the only source in the region for State Water Project water. The MVA is unwilling to give the HDWD any promises beyond the current contract, saying that its "increasing obligations make guarantees for future supply unwise and impractical." *Id.*

This all shows that it is <u>not</u> clear there is enough water for this project over its lifetime. Piled together with the 29 other projects being built or planned for Yucca Valley, there may not be enough water for the project in the short term either. The project will have its own 2,300-gpd impact on the water supply, which the Center believes is significant given current circumstances. However, and more importantly, the project will have a significant, cumulative effect on water supply when considered in light of the 29 other projects pending in Yucca Valley:

> 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.

8 (Cont.)

Kings County Farm Bureau, supra, at 728-729. The DEIR must seriously address impacts the project will have on water supply, both directly and cumulatively. It must identify and describe the current setting, it must explain whether the project can be served from existing entitlements, or whether new sources must be secured, (DEIR at 3.12-3. New sources of water are most certainly needed to accommodate Yucca Valley's future. The need for those new sources is here and now, and the Home Depot project (along with the other 29 identified development projects) will contribute to that need.

Mitigation

Given the dearth of information on water supplies and impacts, we are hard pressed to suggest appropriate mitigation measures. However, fundamental notions of conservation dictate that we can make a resource last longer by using less of it in the first place, and then re-using as much of it as we can. Thus we recommend and request that the project re-use as much water as possible from the detention basin for landscape needs.

Other Resources

Solid Waste

The DEIR says that the project will produce 439 tons of solid waste (trash) each year, excluding cardboard, which will be recycled. DEIR at 3.12-5. It then says that

> [t]he Landers Landfill has solid waste capacity through 2008. Thereafter, solid waste would need to be diverted to another County disposal facility. San Bernardino County has landfill capacity in compliance with State regulations for a minimum of twelve (12) years, including project growth that is based on General Plan densities. Given the available capacity for landfills in the region, impacts to solid waste are considered less than significant.

Id. This reflects an inadequate analysis and presents an incorrect conclusion. At the very least, the EIR must explain where the other landfills are that will accept the project's 439 tons of trash every year after the Landers Landfill closes in 2008, how the project's trash will get there, and any impacts associated with that transport. The EIR must also discuss what will happen to the trash after the County's current landfill capacity is used up twelve years from now.

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We are not suggesting that it is Home Depot's obligation to solve the County's long term solid waste disposal problems. We seek only what CEQA requires: full disclosure and discussion of the direct and cumulative impacts a given project will have on the environment, and a fair analysis of feasible and reasonable ways to avoid or mitigate those impacts. We think such an analysis will show that we, as a society, are quickly burying ourselves in our own waste. We also think such an analysis will spur the City and the Applicant to consider mitigation measures beyond recycling cardboard, such as:

- Retailers operating on the project site should adopt and implement the simple policy of asking customers if they want or need a bag when purchasing items that could easily be carried without a bag. Such a policy would keep plastic and paper bags out of the waste stream (and save money for the retailers).
- Retailers operating on the project site should adopt and implement purchasing policies that favor products with little or no packaging. Home Depot in particular can use its purchasing power to pressure its suppliers to reduce packaging.
- Allow an appropriate entity to install and maintain a recycling facility on the project site.

Night Sky

The Center appreciates that the applicant proposes to use only "night sky-friendly" lighting in its parking lots and on the exterior of its buildings. DEIR at 3.1-5. However, we have two concerns. First, CEQA requires that mitigation measures be mandatory. Therefore, the language 10

of the mitigation measure must be changed to delete the word "should" and replace it with the word "shall" as follows:

"Light from the project ~~should~~ shall not illuminate areas outside the project site."

DEIR at 3.1-5. (Deletion in strikeout, addition underscored.)[6]

10 (Cont.)

Second, the Center is concerned that this mitigation measure does not seem to extend to the developers and operators of the other commercial pads on the site. It must be made to apply to the whole project.

As the Home Depot Corporation knows, it can affect the environment through what it sells as well as through how it builds and operates its stores. We therefore recommend a mitigation measure requiring Home Depot (and any other retailer that operates on the site) to stock and sell only night sky-friendly fixtures. Since there is no legal application anywhere in the Morongo Basin for an outdoor security lamp that illuminates horizontally 360 degrees, such a fixture should not be sold here.[7]

Socioeconomics

The DEIR dismisses the possibility that the Home Depot project could have negative socioeconomic impacts in Yucca Valley or the Morongo Basin. DEIR at 3.10-3. This conclusion comes in spite of the fact that the DEIR recognizes that "new development can cause urban decay by forcing closure of existing businesses." *Id.* A revised EIR must address the potential impacts a new Home Depot will have on the existing Barr Lumber Hardware Stores in Yucca Valley and Twentynine Palms, the Joshua Tree Hardware Store, and the Morongo Hardware Store. 11

Cumulative Impacts

The Cumulative Impacts analysis presented in the DEIR is woefully incomplete. In most instances, it does not even acknowledge that the Home Depot project will contribute to any cumulative impacts. 12

For example, regarding biological resources, the DEIR says that "the project does not contribute to cumulatively considerable biological impacts." DEIR at 4-4 This statement is simply

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[6] The Yucca Valley City Night Sky Ordinance mandates no light trespass anyway. Yucca Valley Ordinance No. 90. Compliance, therefore, is not appropriately viewed as "mitigation."

[7] The Town of Yucca Valley, the City of Twentynine Palms and the County of San Bernardino all have similar night sky ordinances. Yucca Valley Ordinance No. 90; City of Twentynine Palms Development Code § 19.70; San Bernardino County Ordinance No. 3900. All three prohibit exterior fixtures that throw light horizontally and onto adjacent properties. *Id.*

unsupportable. The project itself will eliminate nearly twenty acres of a Joshua Tree/Creosote/ Ephedra plant community, which is listed as a "sensitive" plant community by the State of California. DEIR at 3.3-9. The site currently provides suitable (but apparently unoccupied) habitat for the Desert Tortoise and the coast Horned Lizard. DEIR at 3.3-10. At least the Coast Horned Lizard has a "high potential" of occurring on the site. *Id.* The site also provides nesting and feeding habitat for raptors. *Id.*. These habitat losses by themselves are significant, despite the DEIR's conclusion to the contrary, and must be avoided or mitigated in a revised EIR. However, these losses are even more significant when combined with losses that will be imposed by all the other development projects being built or planned for Yucca Valley. A revised EIR must identify and analyze the cumulative impacts the project will have on listed species and their habitats. 12 (Cont.)

The DEIR also fails to identify, recognize or analyze cumulative impacts regarding almost every other issue, including water supply, energy supply, wastewater, water quality, solid waste, etc. These failings make the DEIR legally deficient under CEQA. *Kings County Farm Bureau, supra.*

Finally, the analysis should include impacts of what Home Depot and the other retailers sell, as well as how they develop and manage the site. (*See, e.g.*, discussions, *supra*, regarding night sky protection and solid waste reduction.)

Alternatives

The alternatives analysis required by CEQA "is the core of the EIR." *Citizens of Goleta Valley v. Board of Supervisors*, (1990) 52 Cal.3d 553, 564 [276 Cal.Rptr. 410]. A complete and fair analysis of reasonable and feasible alternatives that also achieve the project's objectives is a mandatory and crucial element of the CEQA process and the EIR. Such an analysis is essential to achieving CEQA's mandate that adverse environmental impacts be avoided or mitigated whenever possible. Pub. Res. Code §§ 21002, 21100(b)(4); Cal.Regs. §§ 15002(a)(3), 15021(a)(2), 15126(f), 15126.6; *Citizens for Quality Growth v. City of Mount Shasta* (3d Dist. 1988) 198 Cal.App.3d 433, 443-445 [243 Cal.Rptr.727].

The Center does not necessarily object to the range of alternatives analyzed in the DEIR. We are more concerned with the off-handed and unjustified rejection of the identified alternatives. In particular, the Center objects that the Reduced Intensity Alternative, which is the "environmentally superior alternative," was rejected for the simple reason that it would "reduc[e] the potential revenues by a small amount." DEIR at 6-15, 6-16. The DEIR does not specify whose revenues would be reduced. Nor does it attempt to qualify or quantify the "small amount" of possible revenue reductions at issue. Also, the DEIR says that the Reduced Intensity Alternative would reduce all sorts of impacts the project would otherwise inflict, including impacts on air quality, traffic, noise, storm water runoff, water quality, and aesthetics.[8] However, 13

[8] The Reduced Intensity Alternative would also reduce impacts on water supply, a benefit of the alternative not addressed in the DEIR. Since the Reduce Intensity Alternative would

without analysis, explanation or support, the DEIR concludes that "none of the reduction in impacts are considered substantial." DEIR at 6-16. The revised EIR must explain and support this conclusion, explain whose revenues will be reduced by what amount, and also fairly evaluate the environmental and financial benefits of the Reduced Intensity Alternative. 13

The Revised EIR must be Recirculated for Public Comment

The DEIR is fundamentally flawed at every level. It does not accurately or completely describe the environmental setting of the project, it downplays, dismisses and fails to even identify or acknowledge potentially significant impacts the project will have by itself and in combination with the YVRC and other developments planned for or being built in and around Yucca Valley. The DEIR also falls short on identifying and adopting appropriate and feasible mitigation measures, and improperly rejects the Reduced Intensity Alternative.

CEQA and the courts require a revised EIR be recirculated in cases like this where "[t]he draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." Cal.Regs. § 15088.5(4); *Mountain Lion Coalition v. California Fish and Game Commission*, (1989) 214 Cal.App.3d 1043 [263 Cal.Rptr. 104]. 14

The rules and the courts also require that an EIR be recirculated when it is revised to address (1) a newly identified significant environmental impact or new mitigation measures proposed to be adopted; (2) an identified adverse environmental effect that would have a more severe negative impact than discussed in the draft EIR; or (3) a feasible project alternative or mitigation measure considerably different from those previously analyzed that would clearly lessen the project's impacts. Cal.Regs. § 15088.5; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1130 [26 Cal.Rptr.2d 231]. All of these circumstances apply in this case. We have identified significant environmental impacts that were not addressed in the DEIR, impacts that will be more severe than described in the DEIR, and mitigation measures that are feasible, effective, and different from measures discussed in the DEIR. A revised EIR must be written and recirculated.

City Procedures and Public Participation

The Center is concerned that newspaper accounts, individual experiences and observations at public meetings reflect an increasingly apparent pattern of hostility and disregard for public comment and participation in Yucca Valley land use decision-making. In this particular case, it is inappropriate and contrary to the notion of a fair and open public decision-making process that 15

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eliminate the restaurant from the project site, and since restaurants are heavy water users, the reduced water demand for the project could be substantial under this alternative. This issue must be analyzed in the revised EIR and taken into account when considering and balancing the environmental and fiscal costs and benefits of this alternative as compared to the project as proposed.

the Planning Commission took action on the DEIR and recommended that the City Council certify it weeks before the public comment period closed. (Wheeler, *Home Depot wins OKs* December 17, 2005). By doing so, the Planning Commission avoided its obligations to the citizens and the Town Council to provide a venue for thorough public discussion; to hear, consider and evaluate all fairly raised issues and opinions; and only then to make a recommendation for action.

The Planning Commission's premature action is also contrary to the basic policy of CEQA that projects significantly affecting the environment be thoroughly and publically debated. Cal. Regs. § 15201. The CEQA public review process is supposed to achieve "the dual purpose of bolstering the public's confidence in the agency's decision and providing the agency with information from a variety of experts and sources." *Schoen v. Department of Forestry and Fire Protection* (1st Dist. 1997) 58 Cal.App.4th 556, 574 [68 Cal.Rptr.2d 343]. By acting before all the comments were received, the Planning Commission acted without complete information. This does not bolster, but only undermines public confidence. 15 (Cont.)

We recommend that the City modify its practices to be more accommodating of public comments and participation. Specifically, the City should acknowledge and respectfully respond to fairly and timely raised concerns and issues. The City should also abandon the practice exercised in this case of making decisions before receiving all relevant comments and information.

Conclusion

The Darft EIR is inadequate and legally deficient. It must be revised to provide a complete description of the environmental setting; to address impacts and mitigation measures not previously identified or not adequately discussed; and to properly address alternatives (especially the environmentally superior alternative) After revision, the EIR must be recirculated. We look forward to seeing a new and complete EIR for the project. Thank you for your consideration. 16

Sincerely,

Celeste J Doyle

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Legal Assistant

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Exhibits (copies of these exhibits submitted on computer disc)

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Celeste J. Doyle, Kassie Segal, Center for Biological Diversity

Response to Comment O-1

The Draft EIR is complete and adequately evaluates the proposed project in compliance with CEQA. The Planning Commission did not take the final action on the project. CEQA Guidelines provide that the public "review period for an EIR does not require a halt in other planning or evaluation activities related to a project. Planning should continue in conjunction with environmental evaluation." CEQA Guidelines § 15203(b). The Planning Commission's hearing and recommendation of approval of the proposed Home Depot project's Draft EIR to the Town Council was simply part of the planning process and satisfied CEQA requirements.

The Planning Commission, after reviewing the project, makes recommendations to the Town council, who will ultimately take final action on the project at a public hearing scheduled for January 26, 2006, which is well after the conclusion of the public comment period. CEQA requires compliance with certain public participation requirements prior to certification and approval of the EIR. CEQA Guidelines §§ 15090(a)(1), 15087. CEQA defines an approval as "the decision by a public agency which commits the agency to a definite course of action in regard to a project intended to be carried out by any person." CEQA Guidelines at § 15352(a). The Draft EIR states that, "[a]s the agency with primary land use authority, the Town of Yucca Valley is the Lead Agency under CEQA for this project," and "[a]pproval of the proposed project requires discretionary action by the Town of Yucca Valley." Home Depot EIR, §§ 1.1.1, 1.1.2. In setting forth the Planning Commission's power to review land use applications, the Yucca Valley Municipal Code provides that "the Town Council takes final action upon the adoption or amendment to the general plan, or any specific plan, and upon any change of zoning district, approval of any tentative tract map and where otherwise required by law." Yucca Valley Municipal Code, § 4.04.050.

In order to help educate the public about the project, and to get public comments, the Planning Commission held a workshop on the proposed project on December 6, 2005, in addition to its public hearing on December 14th. The Planning Commission's hearing produced a recommendation to the Town Council to certify and approve the Draft EIR. Since the lead agency must evaluate and respond to comments received during the comment period (CEQA Guidelines § 15088), any comments received before, during or after the Commission's hearing on the project - like the Center for Biological Diversity's - will be considered by the Town Council. The Planning Commission's hearing within the comment period has not precluded any public participation in violation of CEQA.

The Town of Yucca Valley greatly values the input of the public, and there is no disregard or disdain for public comment and participation. Public comments will continue to be considered by the Town Council, the decision-makers for the proposed project, up until the Town Council takes action on the project. Therefore, there has been no premature action.

Response to Comment O-2

The commenter is providing information regarding the purpose of an EIR from case law, CEQA Guidelines and other sources. The commenter's assertion that the Draft EIR does not accomplish identified tasks, and underestimates, dismisses or ignores the impacts of the proposed project is not supported by facts. The Draft EIR fully evaluates the impacts of the proposed project as required under CEQA, including cumulative impacts, and the mitigation identified is proper. Further, CEQA fully recognizes that changes to the project, standards implemented by the Town, and regulations of other responsible agencies are appropriate ways to mitigate impacts, and should be discussed in the EIR, as they were in this case.

Response to Comment O-3

The comment suggests that the air quality analysis is not appropriate under CEQA. Direct air quality impacts have been fully evaluated in the project level analysis that considers both project construction and operation in Section3.2 of the Draft EIR, pp. 3.2-1 through 3.2-21. This analysis uses methodologies and quantitative thresholds recommended by the Mojave Desert Air Quality Management District (MDAQMD) for determining the significance of air quality impacts under CEQA. The EIR describes the existing air quality conditions, describes and quantifies the potential impacts of the project, identifies mitigation to reduce impacts and comes to a conclusion regarding the significance of impacts. The Draft EIR analysis was complete and thorough.

In evaluating the cumulative impacts of a project under CEQA, one of two methods may be employed, either a list approach which evaluates the combined impacts of multiple projects, or a plan approach that evaluates a project's conformance with an applicable approved/adopted plan that addresses the issue being evaluated. Either approach is considered valid and legal under CEQA, and in the case of air quality impacts, should evaluate impacts on an air basin-wide basis. For evaluation of cumulative air quality impacts, the plan approach is most appropriate because the MDAQMD has evaluated the impacts throughout its basin. As such, the District has evaluated potential impacts, including cumulative impacts, of development consistent with the General Plans of all the jurisdictions within this basin. Since the project is consistent with the Town's General Plan, the project's evaluation has been considered in the District's air quality management plan. The plan approach is used in the EIR to evaluate the cumulative impacts of the proposed project (Draft EIR, pp. 4-3 to 4-4). Consistent with CEQA Guidelines Section 15064(h)(3) this approach is proper and legal under CEQA.

Response to Comment O-4

The commenter is providing information about greenhouse gasses, global warming and implications thereof which are neither confirmed nor disputed by the Town of Yucca Valley. The Draft EIR fully complies with CEQA by thoroughly and accurately analyzing air quality impacts. The EIR's comprehensive air quality analysis quantifies air quality impacts to the greatest extent possible, and

includes analyses of both carbon dioxide and nitrogen impacts from the project. See Response to Comment O-5 below for further discussion.

Response to Comment O-5

The commenter suggests that greenhouse gas emissions, and the project's impacts on global warming should be further analyzed in a revised Draft EIR. The comment suggests a methodology to determine the project's impact, mitigation to reduce the project's impact, and the purchase of carbon credits to further reduce the significance of impacts to global warming.

The purpose of an environmental impact report is to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided (Public Resources Code §21002.1(a)). Agencies may rely upon the questions in the Initial Study checklist (IS checklist) in Appendix G of the CEQA Guidelines in determining what questions and issues to evaluate for a project The IS checklist is considered a starting point and project specific or site-specific conditions may warrant the consideration of additional issues or questions outside the standard IS checklist. The project site is typical and the questions identified in the IS checklist are appropriate to apply in evaluating the project's impacts. The proposed project is a typical commercial development and there are no special project conditions which warrant analysis outside those issues identified in the IS checklist.

When conducting an EIR the IS questions are the foundational basis for identifying thresholds of significance for determining the significance of impacts. The questions may be further qualified to better evaluate an issue in an EIR. Derived from the IS checklist, the thresholds of significance discussion in the air quality section of the Draft EIR indicates that air quality impacts would be considered significant if the project would meet any of the following conditions:

- Conflict with or obstruct implementation of the applicable air quality plan;
- Violate any air quality standard or contribute substantially to an existing or protected air quality violation;
- Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors);
- Expose sensitive receptors to substantial pollutant concentrations; or
- Create objectionable odors affecting a substantial number of people.

As further indicated in the EIR consistent with CEQA, the final determination of whether or not a project is significant is within the purview of the lead agency pursuant to § 15064(b) of the State

CEQA Guidelines. However, the Town is allowed to rely upon the recommendations of an appropriate authority in coming to a significance determination. The MDAQMD is the agency responsible for managing the air quality basin where the project is located, collecting information on air quality conditions, developing plans, policies and regulations for achieving compliance with federal and state air quality requirements. As the local air quality agency with primary authority for air quality compliance in the region, the Town of Yucca Valley is entitled to rely on their expertise in regards to air quality impacts. The EIR uses MDAQMD recommended methodology and quantitative thresholds of significance for project evaluation. The EIR's comprehensive air quality analysis quantifies air quality impacts based on the expert methodology recommended by the MDAQMD, and includes analyses of both carbon dioxide and nitrogen impacts from the project.

Neither the MDAQMD, the State of California, nor the Federal government have established policy regulating air quality specifically related to global warming or greenhouses gasses and no thresholds or guidance have been established in this regard. Lacking local, State and Federal policy or thresholds on the issue of greenhouse gasses and global warming, it is not appropriate for the Town of Yucca Valley to evaluate the proposed project impact on global warming. Based on consultation with the MDAQMD, the MDAQMD concurs that such an evaluation is beyond the appropriate scope for the Town of Yucca Valley under CEQA (Personal communication, Alan DeSalvio, 1/5/06). Therefore, the air quality analysis in the Draft EIR is sufficient to address air quality impacts under CEQA.

The comment identifies suggested measures to reduce greenhouse gas emissions. As no significant impacts have been identified for greenhouse gasses there is no basis for the Town to require mitigation for such emissions. Mitigation has been imposed to reduce criteria air pollutant emissions.

Response to Comment O-6

The storm water system consisting of a detention basin, storm drain inlets and pipes is designed so that storm water is released through an outlet at its natural drainage course as it leaves the project site.

A portion of the storm water, both on-site and off-site flows, will be collected in the detention basin and released at a controlled rate. The balance of the on-site flows will be directly captured by the onsite storm water system without diversion to the detention basin and directly released at the same discharge point. Once released, storm water will follow the natural drainage course based on existing topography towards the Covington Wash at 33.13 cfs, reduced from pre-development conditions by 17 percent (the pre-development condition is 40 cfs (Draft EIR, p. 3.13-2 to 3.13-3). The existing natural drainage course is approximately 180 feet from the Highway and is a tributary to the Covington Wash. Based on the existing topography of this area, the water will drain towards the Covington Wash. Since the volume of water released from the project site is less than the pre-development conditions in terms of volume no offsite hydrology impacts would occur.

The nature of the discharge will be different since the release point for storm water flows will be concentrated at one point rather than following the on-site pre-developed topography. The detailed drainage design will include features to minimize the velocity and energy of released flows, such as energy dissipaters, as required by Town and federal standards. Detailed drainage plans will continue to undergo review by the Town Engineer through the design review process to ensure that drainage meets hydrologic goals. With the implementation of these standards, storm water flows will be less than pre-development conditions and further evaluation of off-site hydrologic impacts is not warranted.

Initially the project applicant proposed releasing a portion of the on-site storm water flows directly to SR-62. Based on environmental, Town Engineer and Caltrans review it was determined that all storm water flows should be captured through an on-site system. The most current hydrologic information in the Draft EIR is the textual information on pages 3.13-2 through 3.13-4, and Appendix I. The Drainage Plan (Exhibit 2-10) in the Draft EIR will be updated in the Final EIR to reflect this discussion more accurately.

Response to Comment O-7

Cumulative Water Quality

The Yucca Valley Retail Center (YVRC) project and the proposed Home Depot Retail Center are not being developed together. Each is considered by the Town of Yucca Valley to be a separate project. As such, the impacts of the proposed Home Depot project are evaluated in this EIR. The design of the YVRC's storm water system is not known at this time, and will be designed as part of that project. The impacts of the Yucca Valley Retail Center on hydrology will be addressed in a separate project specific CEQA evaluation. As indicated in the cumulative impacts discussion for water resources developers are required to decrease onsite runoff for new developments (Draft EIR, p. 4-9). In short, each development project must take responsibility for the storm water runoff 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 are required to do the same, it is reasonable to conclude that impacts are not cumulatively considerable and do not warrant further evaluation.

NPDES Permit Reliance

The fact that the project would have no significant impact on water quality is not based on the fact that an NPDES permit is not required. In fact this is contrary to the discussion in the EIR. As discussed on page 3.13-4 of the Draft EIR, there is potential for storm-water to come into contact with pollutants, and the proposed project would be considered to have significant impacts if best management practices (BMPs) are not implemented. Mitigation measure WR-2 identifies several BMPs that must be implemented in order to achieve less than significant impacts to water quality during the operation of the proposed project (Draft EIR. at p., 3.13-6). Only with implementation of identified mitigation, are impacts to water quality considered less than significant. The Draft EIR

fully evaluates potential water quality impacts by describing the potential impacts, and identifying mitigation to address impacts to water quality (Draft EIR, pp. 3.13-1 through 3.13-7).

Water Resources Mitigation

The assertion that the mitigation measures are inadequate or legally deficient is not supported. Mitigation WR-2 is adequate and legally sufficient. It is wholly appropriate for owners/operators to be responsible for implementing Best Management Practices on the project site during project operation. In addition, the provisions allow the substitution of a particular measure with authorization of the Community Development Director, in the event that a better or more efficient measure is identified which can achieve the same or a better result than the identified measure. Ultimately the measure is designed to reduce impacts based on currently accepted BMPs, and also to be able to utilize future BMPs.

The comment suggests a number of potential additional mitigation measures. The mitigation measures currently identified in the Draft EIR are considered sufficient to reduce impacts to less than significant levels and further mitigation is not warranted. In particular, measures to maintain parking lots (cleaning, oil/water separators) are sufficient to reduce the impact to the quality of storm water runoff to less than significant levels. Therefore, additional mitigation regarding detention basins, pollution separators, and the use of porous pavement as mitigation will not be implemented

The recommendation re usage of detention basin water is not warranted because of the limited period for water storage within the detention basin (a few days following major storm events), and limited need for irrigation on the project site. Hi Desert Water District requirements for landscape plans call for desert species with low water demand requirements. The proposed landscape plan conforms to District requirements so that water usage is minimal and use of storm water is not necessary. In addition, although the primary purpose of the detention basin is controlled discharge, the basin will be earthen bottomed and facilitate groundwater recharge to some extent. Any design standards the Town will recommend consistent with mitigation measure WR-3 can further facilitate groundwater recharge (see Draft EIR pp. 3.13-5, 3.13-7).

As indicated above (see Cumulative Water Quality), the YVRC is a separate project under CEQA and the specific water resources impacts of that project will need to be evaluated in the project specific CEQA document for that project.

The recommendation regarding the point of discharge is largely addressed in the design review process. The detailed drainage design will include features to minimize the velocity and energy of released flows, such as energy dissipaters, as required by Town and federal standards. Detailed drainage plans will continue to undergo review by the Town Engineer through the design review process to ensure that drainage meets hydrologic goals. With the implementation of these standards,

storm water flows will be less than pre-development conditions and further evaluation of off-site hydrologic impacts is not warranted.

The comment asserts the opinion of the author, expressing for the Reduced Intensity Alternative based on a reduction in impervious surfaces and the addition of a water quality detention basin to further water quality. The selection of a particular project alternative is part of the consideration which the Town Council will undertake for this project.

Response to Comment O-8

The water supply analysis presented in the Draft EIR is adequate to determine that the project's impacts on water supply will be less than significant (Draft EIR, pp. 3.12-1 through 3.12-9). Additional analysis and detail can often be provided on a given subject; however, the degree of detail in information and analysis should be commensurate with the potential intensity of the impacts for the given project. An EIR would provide more baseline information and analysis than an Initial Study, and a project that is highly water consumptive would provide more information than a project that uses minimal water. The environmental settings need only to provide sufficient information to provide context for the impacts of the project being evaluated. The State legislature has mandated the preparation of detailed water supply assessments for projects that are highly water consumptive. Such a project would require the extent of the information and analysis suggested by the comment. The project would use up to 2,300 gallons per day of water (all project components). Therefore, the proposed project is not a high consumer of water, does not require a project water supply assessment, and does not warrant this degree of analysis.

As indicated in the Draft EIR, water supply service and basin management are addressed through: 1) limitation on water connections, 2) natural and managed recharge of the groundwater basin; and 3) import of State Water Project water for recharge and alleviation of overdraft conditions. Traditionally, water usage has been controlled by limited water connections to limit water usage to a safe yield. A safe yield is the amount of water which can be safely removed from the basin without jeopardizing the long-term use of the groundwater supply. State Water Project deliveries have furthered recharge efforts within the basin, allowing the District to increase the safe yield and relax the water connection limitations. Based on current and future projected water demand and availability, the District has determined that they will have sufficient water supply to serve the proposed project and cumulative project water needs through at least 2020, an appropriate horizon year for water supply management consistent with State requirements. The Water District serves as the Watermaster for the basin and is responsible for assuring that the safe yield is appropriately identified, monitored and adjusted to maintain the health of the basin for future water usage. Given the District's role and responsibility, it is appropriate for the Town to rely upon their assurance that the project and cumulative projects can be provided water without jeopardizing the safe yield of the water basin. Also see letter from the Water District, attached herein as Attachment A.

Water users in the basin pay connection fees and usage (acquisition) fees. Connection fees offset District expenses in providing a physical connection to the District's water service system. Usage fees are used to manage the continued provision of water supply and can be used to develop facilities, purchase water supply entitlements, manage recharge efforts, etc.

See Response to Comment O-7 on Water Resources Mitigation on the subject of detention basin recharge.

Response to Comment O-9

The Draft EIR analyzes impacts related to solid waste in compliance with CEQA. The CEQA Guidelines state a project will have a significant impact related to solid waste if the project will not be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs, or if the project will not comply with federal, state or local statutes and regulations related to solid waste. In this case, the project will be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste (Draft EIR at p. 3.12-5). The State requires the County to demonstrate ability to serve the solid waste needs of the County for 12 years, which the County has complied with. The County takes into account anticipated growth based on General Plan densities. Because the proposed project is consistent with the Town General Plan, this growth is anticipated, and is included in the Count's anticipated landfill needs. Waste is transported in one of two primary ways: 1) by direct transport of a waste hauler from a collection point to the landfill, or 2) by temporary collection at a transfer station and transport to a landfill. Collection and disposal fees are paid by the customers and are used to offset the transport and disposal costs. In order to clarify this information in the Draft EIR, the text on page 3.12-5 is changed to read as follows:

> Waste Management of the Hi-Desert would provide solid waste collection services for the project site. The Landers Landfill has solid waste capacity through 2008. Thereafter, solid waste would need to be diverted to another County disposal facility. **There are several County landfills with remaining capacity to serve the project area. At this time, it is unknown which landfill or landfills will accept solid waste from the project area, but the four most likely landfills are the Victorville Landfill (anticipated capacity date in 2059), Barstow Landfill (anticipated capacity date in 2012), Mid-Valley Landfill (anticipated cease date 2033).** San Bernardino County has landfill capacity in compliance with State regulations for a minimum of twelve (12) years, including project growth that is based on General Plan densities. Given the available capacity for landfills in the region, impacts to solid waste are considered less than significant." **Waste is transported in one of two primary ways: 1) by direct transport of a waste hauler from a collection point to the landfill, or 2) by temporary collection at a transfer station and transport to a landfill. Collection and disposal fees are paid by the customers and are used to offset the transport and disposal costs.**

Further evaluation for an individual project under CEQA is not warranted. A program level evaluation of County-wide or regional solid waste programs is not appropriate for a project specific evaluation.

The measure regarding retail practices is not appropriate on an individual project basis and there is not a sufficient nexus between a significant project impact to support such mitigation.

Response to Comment O-10

See Response to Comment N-2.

The suggested mitigation measure regarding "only night sky-friendly fixtures" is not supported in the analysis required under CEQA. The proposed project is responsible for mitigating impacts created by the project, but is not responsible for the impacts of other projects in Yucca Valley, including single-family home improvement.

Response to Comment O-11

The Draft EIR fully recognizes that new development can cause urban decay and as result includes an evaluation of the Town's economic health based on retail sales data (Draft EIR, pp. 3.10-2 to 3.10-4). The results indicated that the Town has a healthy and growing retail economy sufficient to support additional retail business, and that the project will not result in urban decay.

Response to Comment O-12

The assertion that the Draft EIR fails to identify, recognize or analyze cumulative impacts is not supported. The Draft EIR fully evaluates each of the issues in Section 4-4 with consideration of project level information in Section 3.1 through 3.13.

As described in the EIR, the project would contribute to the incremental removal of native vegetation. As further identified in the EIR, and consistent with project surveys, desert tortoise and San Diego horned lizard are not present on the project site. The Town implements a Native Plan Protection Ordinance, which will be required of this project. The project includes a Joshua Tree Relocation Plan which will result in the preservation of 71 percent of the Joshua trees on site or through adoption. The Plan also includes provisions for the preservation of other native vegetation, including cacti, on the site. The project will therefore, preserve biological resources, either on or off site. The Town's standards assure that the most native vegetation is preserved in all yards, whether the proposed project's or single family homes. The preservation of native vegetation in turn leads to the preservation of native birds, mammals and reptiles, whose habitat is maintained. Therefore, cumulative impacts, as described in the EIR, are not significant.

The recommendation that the Draft EIR should analyze impacts of items sold is beyond the scope or obligation of any EIR. The proposed project is responsible for mitigating impacts created by the

project, but is not responsible for the impacts of other projects in Yucca Valley, including single-family home improvement.

Response to Comment O-13

The comment that the Draft EIR has rejected the project alternatives in an off-handed or unjustified manner is not supported by facts and is contrary to the purpose of the alternatives analysis as presented in the Draft EIR. The alternatives analysis presents information on the impacts of the various alternatives in comparison to the proposed project. Similarly, the analysis also discusses the comparative merits of each alternative in contrast to the proposed project and the identified project objectives. The Draft EIR does not reject any of the alternatives, rather it identifies the environmentally super alternative, as required by CEQA, and presents sufficient information to allow the decision makers, in this case the Town Council, to determine whether an alternative to the proposed project should be adopted.

Consideration of project objectives is key information required by CEQA, and needed by decision makers to come to an educated decision regarding the proposed project and the merits of project alternatives.

A fiscal analysis was not required by the Town, nor under CEQA, in order to consider the comparative merits of the project. As indicated in the Draft EIR, the Reduced Intensity Alternative would result in a minor decrease in socioeconomic benefits, primarily sales tax revenue resulting from the elimination of the restaurant or bank (Draft EIR, pp. 6-14, 6-15). To further clarify the implications, all the revenues associated with operation of a bank or restaurant on the project site would not be realized including: 1) retail tax revenues accrued to the Town; 2) real estate return (property owner) and assessed tax value (County, Town); 3) any profits associated with operation (business owner); and 4) jobs associated with the facility (individuals, Town).

Table 6-1 in the EIR provides a detailed, issue by issue comparison of each alternative to the proposed project including aesthetics, air quality, biological resources, cultural resources, earth resources, hazards and hazardous materials, land use and planning, noise, public services, socioeconomics, traffic and circulation, utilities and water resources (Draft EIR, pp. 6-4 through 6-10). Beginning on page 6-11 of the Draft EIR a summary entitled "Evaluation of Impacts" is presented for each alternative, summarizing the key positive and/or negative environmental consequences of each alternative based on the tabular analysis. Based on the evaluation, and the discussion on pages 6-14 and 6-15, the Draft EIR concludes that, except for the air quality reductions, none of the reductions in impacts is considered substantial. For instance, the alternative would involve the same development footprint as the proposed project, so impacts to biological and cultural resources would be the same. Traffic volumes would be reduced by 17 percent but most intersection impacts would still occur. The Reduced Intensity Alternative would result in reduced water usage related to a reduction in utility usage, as recognized in Table 6-1 (Draft EIR, pp. 6-10). On this basis

and in conjunction with other information presented in this section of the EIR, the conclusion made in the document is supported.

Response to Comment O-14

Contrary to the assertions of the commenter, the Draft EIR is not fundamentally flawed. The commenter has failed to sufficiently support her assertions. The Draft EIR fully evaluates the potential significant impacts of the proposed project as required under CEQA, and as explained in the previous responses (see Response to Comments O-1 through O-13). As previously stated the mitigation is proper and feasible, and the analysis conduced is appropriate for the project under consideration.

The information submitted by the commenter and the responses herein do not constitute significant new information as defined in CEQA Guidelines § 15088.5. Therefore, this document or the Draft EIR is not subject to recirculation. The mere recommendation of a new mitigation measure does not constitute substantial evidence under CEQA. Suggested mitigation measures would not clearly lessen the environmental impacts of the proposed project. In addition, no new significant environmental effects would result from the addition or modification of mitigation measures identified herein. No new significant environmental effects appropriate for CEQA review of the proposed project have been identified. None of the criteria for requiring recirculation of the Draft EIR have been met.

Response to Comment O-15

The Town of Yucca Valley welcomes all comments, both written and oral, that are related to the substantive content of the EIR and/ or the merits of the proposed project. See Response to Comment O-1 for further information.

Response to Comment O-16

The comment that the Draft EIR is inadequate and legally deficient is unfounded, as discussed above. Therefore, a revised Draft EIR is not required. Also, see Response to Comments O-1 through O-15.

Letter P

From: SrodaYuccaValley@aol.com [mailto:SrodaYuccaValley@aol.com]
Sent: Tuesday, January 03, 2006 8:43 AM
To: Shane Stueckle
Cc: colonelpcook@verizon.net; LsPlmSpngs@aol.com
Subject: Public comments on EIR must be extended

Shane Stueckle,

The CD-ROM you gave me has no mention of any ending of the public comment session.

I believe you cannot end public comments on a holiday weekend as stated on your website. When the council extends it, the public should be noticed of the extension via the media.

The public must also be allowed to comment in a public session of council, which is usually recorded in most places by a court stenographer. 1

Would you please inform me when this public session will be held?

Linda and I have finally read the 300 page EIR report and there are very serious issues which have not been addressed.

We believe residents should be given every opportunity to challenge these issues which have been glossed over in the draft report.
Thank you.

Richard J. Sroda
Yucca Valley, CA

CC: "Willis, Geoffrey" <geoffrey.willis@sdma.com>

Richard J. Stroda

Response to Comment P-1

As indicated in the published Notice of Availability and Completion of Draft EIR for the project, the prescribed 45-day public review period began on November 18, 2005 through January 2, 2005; however. The Town inadvertently identified the close of the public review period as Monday, January 2, 2006, which was a Town holiday. As a result, the Town accepted written comments on the Draft EIR for the purposes of this document through Friday, January 6, 2006. The Town of Yucca Valley will prepare a written response to all parties that submit substantive comments on the Draft EIR during the prescribed public review period. In addition, written and oral comments on the Draft EIR will be considered by the Town until the Town Council takes action on the project; however, the Town will not publish a written response for comments received outside the public review period.

All parties are invited to comment on the EIR and the proposed project when the Town Council considers the EIR and the proposed project currently scheduled for January 26, 2006 at 7:00 PM. It is standard practice for the Town to audio- and video- tape these meetings. Tapes are used to prepare the meeting minutes that summarize the actions taken. Since these minutes are not transcribed verbatim, a stenographer is not warranted. This is consistent with the practice of local agencies throughout California. If needed by the Town, the video tape can be prepared into a written transcript.

Letter Q

From: SrodaYuccaValley@aol.com [mailto:SrodaYuccaValley@aol.com]
Sent: Thursday, January 05, 2006 6:43 PM
To: Shane Stueckle; Jaime Anderson
Cc: colonelpcook@verizon.net
Subject: Saving our Desert

Please see the attached three page 11 point Microsoft Word document in answer to the Town's Home Depot draft EIR.

We believe this statement shows that the ruin of our air and Joshua Trees and the additional noise, traffic and pollution cannot be mitigated whether building a home depot or any other big box store.

Please confirm receipt of this document and forward copies to all 26 agencies receiving copies of your original EIR draft.

I look forward to receiving your written comments and if you have any questions, I would welcome them.

Thank you.

Richard J. Sroda

Yucca Valley, CA

Letter Q

Shane Steuckle
Town of Yucca Valley
Draft EIR (SCH #2005051047)
Home Depot
South side of 29 Palms Hwy (SR62)
Between Avalon and Indio
18.36 acres

137,283 sq feet home improvement retail	13.28 acres
20,000 plus 7,150 sq feet retail buildings	3.07 acres
7,460 sq feet retail buildings	1.01 acres
3,000 sq foot restaurant	1.0 acres

From: Richard J. Sroda
P. O. Box 1659
Yucca Valley, CA 92284 – 1659

Thursday, January 05, 2006

The following areas need to be corrected in the final EIR.

1/ BIAS The Town **staff considered only firms recommended by the applicant** and **did not consider** any unbiased outside firms. Therefore, because the **firm selected had previously done paid work for Home Depot**, who is the applicant, the **EIR is biased** and unfair to the residents of Yucca Valley. 1

CORRECTION The **selection process for the firm has to be re-done**, with weighted consideration given to firms who have no previous paid connection, and have never done work for Home Depot, and are **unbiased in their Draft EIR**.

2/ JOSHUA TREES **Sixty-nine Joshua Trees will not survive** according to the draft. They range **from 5 to 23 feet in height** and average 12 feet. Previous studies show that **the 166 Joshua Trees** the draft calls "salvageable", **will not survive** unless extraordinary precautions are taken. The draft calls for a trench to be dug and the trees replanted in this temporary storage area. This is not acceptable. **The shock to these Joshua Trees ending up in a trench will make their survival odds insurmountable. Ten additional** sensitive plant and wildlife species **have been documented** within the general area of the construction site. 2

CORRECTION The applicant must make sure **all Joshua Trees are adopted** before construction can be started. This means **the applicant must**

pay for relocation and transplantation of all Joshua Trees, with residents of Yucca Valley, given first preference. 2 (Cont.)

3/ HEALTH ISSUES The **project is unable to meet air quality standards** during the construction period. Construction will take at least 5 months and seriously affect the health of residents who have prior lung and health problems and live in the area because of our clean air. The draft states that the **increased ROG gases** will **cause "adverse health effects to people associated with air pollutant emissions**...the health effects are coughing, sneezing, headaches, weakness, laryngitis and bronchitis...these health effects ...constitute air quality impacts imposed upon people living in the area.." 3

CORRECTION The project **must meet all air quality standards** not only during construction, but after construction is completed. Construction levels of NOx, Sox, CO, ROG and PM10 must be monitored at the site and be held to current levels. If this cannot be done, construction must be halted. For example, estimated levels of **PM10 must be reduced by 75%** to meet current air quality.

4/ ENDANGERED SPECIES The area is **habitat for the Coast horned lizard and the desert tortoise.** The species have been seen in the area previously. A one-day walking visual inspection was conducted.

CORRECTION **Several inspections** over a **longer time period** need to be conducted when the tortoises and lizards are most likely to be seen. If the slightest sign of these fragile creatures is seen, construction must be postponed or cancelled. 4

5/ NATIVE AMERICAN SACRED SITES The Town has not conducted a SB18 consultation.

CORRECTION Professional consultation with Native American Tribal Governments in addition to conducting a SB18. 5

6/ FOSSIL RECOVERY It is likely **fossils will be found and detected** and **significant buried fossils** resources will be found and impacted.

CORRECTION Monitors must be **equipped to recover fossils** and not destroy or damage them. Construction **must be halted** if they are discovered. 6

7/ NOISE ISSUES The project will **add another 5,695 additional vehicle trips daily**. There are also estimates that **25-30 trucks a day and night will roar through** the area delivering supplies for store after completion. There **is** 7

no hourly limitation on operating hours and the project is expected to **operate 24 hours a day**

7 (Cont.)

CORRECTION Noise levels **must not exceed present noise** in the area. Noise must be **monitored daily** and **construction halted if it interferes with residents health or lifestyles.** A phone number must be posted prominently facing all streets so residents can call in complaints to a hotline and complaints will be investigated. All **current noise levels must not be exceeded after the project is complete.**

8/ DUST ISSUES . The draft EIR states that **"additional mitigation is required** to reduce air quality impacts to less than significant."

CORRECTION A **covered fence must surround** the construction site. If the quality of the air does not meet or exceed current air quality, construction must be halted and/or deliveries stopped (if the store has already been completed). 8

Monitoring must be done by an outside independent party **and a phone number posted** facing all streets, that can be easily read by passing traffic, with a **complaint number** to call.

9/ HIGHWAY IMPROVEMENTS No request has been made of the applicant to pay for part of the highway improvements, as is normal in the area. 9

CORRECTION The **Town of Yucca Valley** should ask the applicant to pay for **part of the cost of highway improvements** needed for their project.

10/ LEGAL FEES We believe, unless substantial changes are made, the **Town of Yucca Valley will incur legal fees** defending this flawed draft. 10

CORRECTION The Town should state in writing, that **the applicant would reimburse the Town** for all legal fees defending this EIR.

11/ FINANCIAL PENALTIES No financial penalties for the applicant are stated as **enforcement measures.**

CORRECTION **Significant daily financial penalties** must be levied on the applicant if violations of approved EIR occur. The Town of Yucca Valley can decide the daily fines with public impute in a noticed hearing. 11

Note: All 26 agencies, which received copies of the draft EIR should receive a copy of this,

furnished to them by the Town of Yucca Valley.
They should also receive a copy from the Town of any written comments in response to statements of these problem areas.

Richard J. Stroda

Response to Comment Q-1

The Town of Yucca Valley determined that an EIR would be required for the proposed project and solicited competitive proposals from environmental consulting firms to prepare an EIR on behalf of the Town of Yucca Valley. A request for proposal (RFP) was released on February 28, 2005 and the Town subsequently selected Michael Brandman Associates (MBA) and their subconsultant team.

The comment that this EIR is biased and unfair to the residents of Yucca Valley is unfounded. MBA acts as an extension of Town staff and takes their direction from the Town in preparing the EIR. MBA has a responsibility and professional incentive to proceed in an even-handed, unbiased manner, and has no vested interest in the ultimate decision of the Town Council in approving or disapproving the project. There is no incentive for MBA to conduct biased work as it would jeopardize MBA's professional reputation, which has been built upon excellence and quality as evidenced by over 20 years in the environmental and regulatory field, and a number of award winning environmental documents recognized for their excellence (AEP, APA).

Town staff has provided guidance to MBA throughout the EIR process and have fully reviewed the Draft EIR and other applicable documentation. Ultimately, the Town's elected official must determine whether the Draft EIR reflects the independent judgement of the local agency.

Response to Comment Q-2

A Joshua tree salvage plan has been drafted by a native plant biologist in order to ensure that the proposed project is consistent with the Town of Yucca Valley Ordinance Number 140. This document is available in the Appendix C of the Draft EIR. The plan has been drafted in order to ensure the maximum survivability of trees based upon applicable criteria. The plan includes information and instructions to be followed for pre-salvage, salvage, storage, and translocation. Additionally, as described in the plan, a knowledgeable biologist will be assigned to the project to ensure that the proper procedures are followed. There is no reason to expect that a significant number of trees will not survive the translocation process as the commenter asserts. Additionally, the project landscape plan calls for the use of all salvageable Joshua trees. The Town of Yucca Valley Ordinance No. 140 does not stipulate that the applicant pay for the relocation or transplantation of the Joshua trees as the commenter requests. As proposed, the project is fully consistent with Ordinance No. 140.

Although there are ten sensitive plant and wildlife species recorded in the project vicinity, no sensitive plant or wildlife species were observed during any of the biological surveys (Appendix C).

Response to Comment Q-3

Under CEQA a project would have a significant impact to air quality if the volume of emissions exceeds project level thresholds established by the local air quality agency. These thresholds are used to evaluate a project's emissions output against a numerical threshold, not against the current levels as

suggested by the commenter. If a project emission exceeds a threshold, the emissions are considered substantial and therefore result in a significant impact.

As indicated in the Draft EIR, with implementation of mitigation measures AQ-1 through AQ-8 construction emissions will exceed air quality thresholds for ROG and NOx (Draft EIR, pp. 3.2-18 to 3.2-19). The Town Council will, in its consideration of the project EIR, determine whether additional mitigation measures should be implemented, or whether the benefits of the proposed project outweigh the temporary impacts associated with construction of the project. Since ROG and NOx have implications to health effects, these implications cannot be ruled out and health effects may result. Emission estimates are based on a worst-case construction day with multiple construction activities taking place. Air quality monitoring is not useful in mitigating air construction emission since impacts are evaluated based on total emission released and monitoring is not likely to measure all releases, and would not serve any purpose here.

CEQA does not require the mitigation of all significant impacts for a project. Under CEQA, the decision-making body can approve a project with an identified significant impact to the environmental if they adopt a Statement of Overriding Considerations which indicates why the benefits of the project outweigh the significant impacts of the environment. Such a Statement is required for this project if the Town chooses to approve the proposed project without the implementation of further mitigation measures.

Post-construction operational impacts are less than significant.

Response to Comment Q-4

The desert tortoise is a federal and state listed threatened species. A focused survey was conducted according to standard protocols set forth by the U.S. Fish and Wildlife Service (USFWS). This survey is considered sufficient by the USFWS to determine presence/absence of this species within a project site. The desert tortoise or a sign of the desert tortoise was not observed within the project site or buffer area during the focused survey. However, to further minimize the potential for any impacts to this species, the EIR includes mitigation measures B-3 through B-8. These mitigation measures include minimizing the total project footprint, performing a pre-construction clearance survey, pre-construction training for construction personnel, requiring a qualified biologist to be contacted if a desert tortoise is encountered, and requiring trash to be secured and littering to be minimized to reduce the attraction of ravens (DEIR at pp., 3.3-13 and 3.3-14). If a desert tortoise is encountered during the pre-construction survey or during construction, additional actions will be required as stipulated by mitigation measures B-4 and B-8.

The coast horned lizard is a California Species of Concern and is not afforded legal protection under the state or federal Endangered Species Act. Biologists conducted surveys on the project site over a total of four days (general biological survey: May 16th, focused desert tortoise survey: May 30th,

Joshua tree surveys: May 24th and 25th, and June 7th). The coast horned lizard was not observed during any of these surveys. Additionally, a preconstruction clearance survey is required for desert tortoise. This survey will provide another opportunity for observance of coast horned lizard if it is present within the project site.

Based on this information, sufficient surveys have been conducted and the identified mitigation provides sufficient protection for desert tortoise and coast horned lizard during construction. Therefore, no further correction as suggested by the comment is needed.

Response to Comment Q-5

A professional consultation with applicable tribes has been conducted. In addition, California Senate Bill 18 (SB-18) requires local governments to consult with the appropriate tribes identified by the Native American Heritage Commission (NAHC) prior to the adoption or amendment of a general plan or specific plan proposed on or after March 1, 2005 (OPR 2005). The Town is complying with SB-18 having initiated consultation with Native American tribes in June of 2005. While the SB-18 process is conducted in tandem with the EIR process it is not part of CEQA and not necessarily documented in the Draft EIR.

Response to Comment Q-6

Mitigation measure CR-2 requires that "paleontological monitors be equipped to salvage fossils…" (Draft EIR at p., 3.4-6). Additionally, the same measure states that "monitors must be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens" (Ibid.). This measure fulfills the suggestion made by the commenter.

Response to Comment Q-7

A project specific noise analysis was conducted to determine the operational noise for the proposed project and is available in Appendix F of the Draft EIR. The comment suggests that future noise should not exceed present noise levels; however, that is not the standard for significance under CEQA. CEQA Guidelines indicate that a project will have a significant effect on the environment if it will substantially increase the ambient noise level for adjoining areas (Draft EIR at p. 3.8-4). The Town General Plan Noise Element states that "in community noise assessments, changes in noise levels greater than 3 dBA are often identified as significant, while changes less than 1 dBA will not be discernable to the human ear." Using the Town's standards, for project operation, it was determined that an increase in noise levels of 3 dBA CNEL or greater from the project if the existing noise levels remain below the Town's noise standard (65 dBA CNEL) would be significant, and increases of 2 dBA CNEL where the existing noise levels exceed the Town's noise standard would be significant.

Though three intersections will exceed the Town's noise standard, project generated increases in noise levels will be approximately 0.4 dBA CNEL or less (Draft EIR Tables 3.8-4 and 3.8-5).

Therefore, the proposed project will not have a significant impact related to operational noise and requires no further mitigation.

For construction, incidental noise in excess of Town standards is anticipated, but is limited to less than significant levels by imposition of the Town's noise ordinance which limits construction hours.

The Town is responsible for overseeing compliance with noise mitigation and should be contacted regarding any complaints.

Response to Comment Q-8

It is unclear where the Draft EIR states that "additional mitigation is required to reduce air quality impacts to less than significant", as the commenter asserts. Dust is evaluated in the Draft EIR in the form of PM-10 and the EIR identifies numerous dust control measure which serve to reduce PM-10 levels to less than significant. A dust control fence will be used during project construction. Monitoring is not appropriate (see Response to Comment Q-3).

The Town is responsible for overseeing compliance with mitigation and should be contacted regarding any complaints.

Response to Comment Q-9

The project will directly implement eleven offsite improvements to SR-62, Avalon Avenue, Palisade Drive (Draft EIR, pp. 3.11-5 and 3.11-6). In addition, the project will pay fair share funding to the Town to fund improvements to area intersections on which the project will have an impact, in conjunction with funding from other area projects. This payment will be made to the Town prior to the issuance of building permits (Draft EIR at p., 3.11-16).

Response to Comment Q-10

The commenter has not supported their suggestion the Draft EIR is flawed. The Draft EIR has fully evaluated the potential impacts of the proposed project as required under CEQA. The Town regularly includes, in the conditions of approval for all projects, a requirement that the applicant hold the Town harmless in the case of legal challenge. This standard condition of approval will ensure that any costs associated with legal challenge are not at the Town's expense.

Response to Comment Q-11

The purpose of mitigation is to reduce the potentially significant impacts of the project. In most instances, mitigation is directly related to permits the applicant needs to move forward with the project. The Town also requires that bonds be supplied by the applicant to ensure that all improvements are completed to the Town's satisfaction. These bonds provide the Town with assurance that all improvements are adequately completed. The bonds cannot be released to the applicant without approval of the Town. The Town does not find that further financial penalties are warranted to achieve environmental compliance.

Sources:

EPA 2005	United States Environmental Protection Agency, *Global Warming Uncertainties*, Accessed from internet on 9Jan2006 at http://yosemite.epa.gov/oar/globalwarming.nsf/content/climateuncertainties.html
NAS 2001	National Academy of Sciences, *Climate Change Science an Analysis of Some Key Questions*, 2001. Accessed from the internet on 9Jan2006 from http://yosemite.epa.gov/oar/globalwarming.nsf/UniqueKeyLookup/SHSU5BUTQ4/$File/nas_ccsci_01.pdf
OPR 2005	Governor's Office of Planning and Research, *State of California Tribal Consultation Guidelines Supplement to General Plan Guideline*, November 14, 2005. Available online at http://www.opr.ca.gov/SB182004.html.

Attachment A
Water District Letter

HI-DESERT WATER DISTRICT

Serving you today...

...Planning for tomorrow!

January 23, 2006

Shane Stueckle, Deputy Town Manager
Town of Yucca Valley
57090 29 Palms Hwy.
Yucca Valley, CA 92284

Re: Response to Center for Biological Diversity – Draft EIR for Home Depot Specific Plan

Dear Mr. Stueckle:

We have been asked to provide comments related to correspondence you received from the Center for Biological Diversity regarding the above referenced project. In reviewing the correspondence, the Center's primary concern is whether sufficient water resources exist to provide service to Home Depot under present conditions and on a long-term basis.

The Hi-Desert Water utilizes a water supply and demand projection table. Within that projection, and under current conditions, it is estimated the Hi-Desert Water District is able to cumulatively increase demand an additional 1,500 acre-feet, before the Warren Valley Groundwater Basin reverts to an overdraft condition. Based on an average growth factor of 2%, the overdraft condition could occur in the year 2020.

The District's primary supplemental water source is State Project water, which is provided by the Mojave Water Agency (MWA). The agreement currently in place with MWA guarantees a yearly allotment of 4,270 AF per year. While this agreement is due to expire in the year 2020, the availability and reliability of State water becomes somewhat uncertain. However, MWA has begun to address this issue to assure agencies within their service boundary retain a secure and reliable water source beyond 2020.

As previously indicated, the District's water supply and demand projections are based on a steady 2% growth factor. It is important to note that safe guards are in place in the event this growth factor exceeds estimates or drought conditions occur. Those safe guards include a policy to immediately institute growth restrictions in the event the groundwater reserve reaches a pre-determined level. For example, if basin reserves drop to a level where existing demands for a five-year period cannot be provided for, then a 2% growth limitation is immediately implemented. Furthermore, should basin reserves drop beyond

55439 29 Palms Hwy. / Yucca Valley, CA 92284-2503 / 760.365.8333 / fax 760.365.0599 / info@hdwd.com / www.hdwd.com

that level, further growth restrictions are implemented, potentially resulting in a no-growth scenario should reserves drop below a three year demand cycle.

In addition to the District purchasing State Project water, an agreement is in place with MWA to accept additional supplemental water as conjunctive use water. By doing so, the reserves in the groundwater basin are increased, above and beyond normal deliveries thus providing a cushion for these peak growth and drought conditions previously mentioned.

In conclusion, it is the District's position that sufficient water resources exist to serve the Home Depot project.

Should you have any questions or need further information, please contact me at 760.365.8333.

Sincerely,

Pat Grady
Asst. to the General Manager/IS Manager