

CHAPTER 3.1 AESTHETICS

**Table 3.1-1
 General Plan Consistency Analysis – Aesthetics**

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| Goal |
| V-6: To preserve and protect the scenic qualities of the County. |
| Policy |
| V-6A: Proposed new development shall consider the scenic qualities of the natural resources in the design of the project. |
| Implementation Measures |
| V-6A-1: New development shall be encouraged to avoid extreme topographic modification, and may be required to restore natural contours and vegetation of the land after grading or other land disturbances. |
| V-6A-2: Cluster development with preservation of open space or scenic quality shall be encouraged. |
| V-6A-3: New development shall be encouraged to be designed in a manner which is sensitive to available natural resources. |

Source: Calaveras County General Plan, 1996

The Trinitas proposal is inconsistent with the General Plan Aesthetics goal, policy and implementation measures cited above. Between 2001 and 2007, before securing public input through a CEQA process or acquiring the necessary zoning adjustment to Recreational zoning, the applicants modified the topography and eliminated between 95 and 116 acres of available natural resources by building a golf course illegally on land designated as Natural Resource Land/Agricultural Preserve. They graded and stripped natural vegetation for turf grass, sand traps, cart paths and building pads for a clubhouse and lodge, dug and filled miles of trenches for irrigation pipes and electrical lines, cobbled 3,560 linear feet of creeks, (RDEIR p.3.3-33) and fragmented a previously natural environment historically used for an appropriate agricultural use – cattle grazing. The County cannot approve a tentative subdivision map, a rezone, or a conditional use permit that is not consistent with the general plan. (Gov. Code, secs. 65860, 66473.5, Neighborhood Action Group v. County of Calaveras (1984) 156 Cal.App.3d 1176.)

The arbitrary construction of a golf course in this location significantly harms the “visual character”, “intactness” and “unity” of the area. As defined on page 3.1-2:

“Visual character is described as the elements of form, line, texture and color of an object, combined with that object’s characteristics of dominance, scale, diversity and continuity. Both natural and artificial landscape features compose the character of an area or view. The perception of visual character can vary significantly seasonally and even hourly as weather, light, shadow and the elements that compose the viewshed change.”

“Intactness is the visual integrity of the natural and human-built landscape and its freedom from encroaching elements; this factor can be present in well-kept urban and rural landscapes as well as in natural settings.”

“Unity is the visual coherence and compositional harmony of the landscape considered as a whole; it is frequently attests to the careful design of individual components in the landscape.”

The final EIR should acknowledge and mitigate this significant aesthetic impact.

To effectively analyze the changes to visual character, the public must imagine the scene as it will be with the elements of the proposed project – as described in the Project Description – in place. While the Aesthetics chapter opens on page 3.1-1 with the phrase *“Aesthetic impacts are limited to issues and impacts that can be objectively analyzed ...”*, there is by definition a subjective reality – the “viewer response” – that ultimately determines the significance of the impact. From page 3.1-1:

“The aesthetic value of an area is a measure of its visual character and quality, combined with the viewer response to the area (Federal Highway Administration 1983). The visual quality component can best be described as the overall impression that an individual viewer retains after passing through an area. Viewer response is the psychological reaction of a person to visible changes in the viewshed, and is based on the sensitivity and exposure of the viewer to a given viewshed. Viewer exposure is a function of the number of viewers, the number of views seen, the distance of the viewers, and the viewing duration. Viewer sensitivity relates to the extent of the public’s concern for a particular viewshed. Changes to existing visual character of a setting may result in neutral or beneficial, as well as adverse, effects on overall visual quality, as recognized in the American Society of Landscape Architects/Federal Highway Administration impact assessment methodology applied in the analysis in this Chapter. In this approach, significance of impacts is ultimately determined by the extent and type (adverse, neutral, or beneficial) of change to overall visual quality, in combination with the level of viewer sensitivity.”

P.3.1-2 describes the existing **REGIONAL LANDSCAPE SETTING:**

“The project site is located in the rural foothills of western Calaveras County, mid way between Highways 12 and 26. The landscape is characterized by rolling hills, oak woodlands, and grasslands with some scattered rural residential development. The rural communities of Wallace, Burson, and Valley Springs are located in the nearby vicinity. North, south, east and west of the project site the landscape transitions to one of rural, relatively undeveloped agricultural lands and contains scattered residential properties....”

Taking an “imaginary” trip from SR 26 north along Ospital Road, applying the aesthetics concepts to the project, it does not fit into the existing landscape and quiet peaceful atmosphere of it’s surroundings. Properties to the south of the project are mostly 40 to 50 acres or more, with structures often not even visible from the road. West of Ospital, only two residences can be seen from the road between SR 26 and the intersection with Southworth Road, roughly 4 miles north.

The first impression is of a golf course and a residential area that has the appearance of a small town, with street lights. The Tentative Subdivision Tract Map show lots 1 through 9, each with 2 acres, close to the road. Houses, many 2-story, are a minimum of 2,500 square feet. Houses and street lights will be more visible from the road during winter months, when the oak trees drop their leaves, and at night, when its concentration of lights may be visible for great distances and become distracting as the viewer approaches the project site. The natural tendency to focus on views that stand out from their surroundings may divert drivers' attention from the dangerous road. No other streetlights exist for miles in any direction.

Drivers in either direction on Ospital, but especially those traveling north, may encounter a confounding view at night just past the southern boundary line and main entrance to this residential area: on-site vehicles driving on a section of the proposal's residential road that closely parallels Ospital. Headlights may appear coming at northbound drivers from their right, rather than left side, which could startle a driver unfamiliar with the area into compensating by moving to the wrong side of the road. Mitigations for this visual disturbance are addressed in the traffic chapter, but it need for the mitigations highlights the lack of the project's visual "consistency" with surrounding uses.

Past the Trinitas residential lots, the view will be of the 18,000sf, 2-story Clubhouse with its 2-acre lighted parking lot, restaurant, bar and grill, banquet and event facilities, retail space and olive oil tasting room (page 2-7). Or is it a one-story Clubhouse? The RDEIR is inconsistent in its description and depiction. Page 3.1-3, under "Proposed Facilities and Residences," describes it as "one level." Figure 3.1.1 shows a picture of the clubhouse, and it appears to be two levels with a split bi-level and a tower that reaches above the roofline. The top picture shows three levels, plus tower. The RDEIR text and figures do not agree on the number of levels. If the Clubhouse is one-story, it's footprint on the ground will change from that depicted on the TSTM and Site Plan Map (Figure 2-7). Page 3.1-3 also discloses a "*golf cart rental structure, which will be part of the clubhouse*" but fails to say how large it will be or its precise location relative to the clubhouse and parking lot. It is not shown in Figure 2-7. This is another example of how the unstable project description is interfering with impact analysis. "An accurate, stable, and finite project description is the sine qua non of an informative and legally sufficient EIR." (*County of Inyo v. City of Los Angeles* (3d Dist. 1977) 71 Cal.App.3d 185, 193, [139 Cal.Rptr. 396].)

Driving further north, one encounters the lodge with overnight accommodations – "*22,000 square foot, predominantly one-story, with a portion 2 stories...*" (p.3.1-3) This is a essentially a motel, "*with a maximum of 30 guest rooms for club members and visitors to tasting facilities or on-site events. Rooms would be for transient use only (i.e., stays less than 30 days)...*" (p. 2-7) "Accessory (appurtenant) structures and facilities would include a swimming pool, exercise room, and health spa. ... retail space ... [and] an approximately 3 acre parking lot..." with night lighting.

This is where the "small town view from Ospital turns thoughts to a "mall" scene, no longer rural. The traffic will increase significantly from current levels day and night. The impacts on the night viewer will be significantly different and dangerous, especially for those who arrive for the first time or are unfamiliar with this "roller coaster" portion of Ospital Road. Glare from project lighting and vehicle headlights could hinder motorists passing on the otherwise dark road, or trying to navigate safely into the area where drivers are exiting

onto narrow Ospital Road after socializing and meals. Those who enter the roadway “under the influence” will find the view doubly disorienting.

Page 3.1-7 states “*that the Tentative Subdivision Map does not reflect the design of the lodge accurately. The lodge will be constructed in 3 buildings with 10 units in each building.*” Also: “*...based on their proposed locations within the rolling terrain of the site, this potentially significant impact can be mitigated to less than significant.*” Please explain how the rolling terrain mitigates anything, when this structure is sited on a hilltop clearly visible from Ospital Road and from residences north of the property line on Live Oak.

In public comments to the NOP, the consultant was asked to clarify in the RDEIR the status of “*45-foot high tower, with a beacon that should be visible from Highway 26 to Highway 12 and to Valley Springs, showing the way to Trinitas*” described by the applicant in a public access TV program featuring the Trinitas Olive Oil Company. While a similar feature appears on the schematics for the Clubhouse and Lodge, the towers are not addressed in this document. Clearly a beacon light such as described would have a significant adverse aesthetic impact that would be perceived by most local residents as an “encroaching element.” Please clarify both buildings’ features and address the impact of a lighted tower in the Final EIR.

3.1.3 Impacts and Mitigations (p.3.1.7)

Impact #3.1-1: Substantial adverse effect on a scenic vista

Table ES-1, 3.1-1 states that this *potentially significant* impact will become *less than significant* after the following “mitigation”:

*“The design of the Lodge and Clubhouse shall be in substantial compliance to the lodge and clubhouse elevations shown on Figures 3.1-1 and 3.1-2 of this Revised Draft EIR and shall be approved by the Calaveras County Community Development Agency Planning Department at the time a building permit is submitted. **The Final Map shall accurately depict the 3 building design of the lodge structure.**”*

This is not a mitigation, and it withholds information needed by decision-makers and the public, seemingly until after project approval. How can the project’s impact on the visual landscape be accurately determined if the RDEIR doesn’t even provide a consistent description of its most prominent buildings? Please correct this in the Final EIR.

Impact #3.1-3: Substantially Degrade the Existing Visual Character or Quality of the Project Site and its Surroundings

Discussion of this impact states: “*...the clubhouse and lodge facilities have been designed to be located in areas that do not contain any native vegetation that would need to be removed prior to development.*” If there’s nothing to remove at these locations, it’s because a lot of native vegetation has already been removed and not allowed to grow back, in preparation for building. In the fall of 2007, the Lodge site was extensively re-graded and trenched to bring electrical power to the site.¹ This work was conducted after the applicants received a letter from the County Planning Department dated February 9, 2006 reminding

them that:

“If construction of the golf course or related facilities is occurring, it is important for you to understand that a golf course and related facilities (public or private) are not permitted uses under the current zoning for your property. No additional project-related work, including grading; installation of utilities or irrigation; installation of cobbles along the banks of drainages; construction of golf cart paths, bridges, on-site roads, or maintenance structures; landscaping; or any other activities, other than maintenance to maintain the existing level of course development, is allowed until the final decision on the application for a zoning amendment, tentative subdivision tract map, and conditional use permit has been made by the Planning Commission and/or Board of Supervisors.

Use, expansion, or alteration of the golf course or related facilities without a valid permit is a violation of Section 17.04.010 of the County zoning code and may be subject to enforcement action, including fines and other penalties.”²

The RDEIR goes on to say:

“Although the golf course has altered the existing natural state of the property, visibility of the effected areas will be minimal to the surrounding properties and Ospital [sic] Road by the existing tree lines and natural rolling landscape.” And: “views of the site from the existing homes adjacent to the site are limited in nature.” (p. 3.1-8)

This is certainly not true for the owners of property bordering the 7th fairway and green, who can hear and see golfers – and occasionally have to dodge stray golf balls – when they are tending to their livestock or trying to enjoy the free and safe use of their property. A golf course is NOT consistent with either the General Plan land use designation or the visual quality, character, or unity of landscape existing when they purchased their land before the adjacent cattle grazing property was converted illegally into a golf course.

It will certainly not be true for other residents on Live Oak if/when the 22,000sf Lodge is built on the hillside very close to the northern property line. This structure will have a “dominance” and “scale” that by most objective standards would be considered a violation of the “continuity” of the surrounding rural agricultural and residential landscapes.

The “Common Driveway” running along the north property line will also create a significant visual impact on neighbors. It is intended to be the major access drive for all visitors to the Lodge, so vehicles will be coming and going at all hours of the day and night. Likewise, the cars parked in the lighted Lodge parking lot, and the activity of visitors in the parking lot is likely to be seen and heard by residents on Live Oak. Headlights from cars exiting the parking lot at night may shine into their yards and windows. This is a significant and unavoidable impact if the Lodge and its access are approved as shown on the TSTM. The mischaracterization of these impacts and the omission of this information does not reflect a “good faith effort at full disclosure.” (CEQA Guidelines, sec. 15151.) Please address

this in the FEIR.

Compare the project's TSTM and Site Plan Map Figure 2-7 and conceptual drawings to Figure 2-2 – the aerial Site Vicinity Map Pre-Development (2003), and Figure 2-3 – the same area Post-Development (2006). The 2003 aerial, though more developed than the 1993 aerial image of the property site, still shows a relatively undeveloped area. Comparing 2003 and 2007 images, the rural agricultural “unity” and “character” has been significantly altered.

Photographs of key viewpoints (Figure 3.1-4 and 3.1-5) show sections of the golf course from a distance. Though altered, the current landscape provides some of the visual quality that people have come to enjoy, in that the turf grass does not obstruct distant views and some native terrain remains around it. If the proposed project is approved – including 14 residences, 5 acres of parking lots, clubhouse, lodge, golf cart facility, driving range, 400 sf snack shack in the northeast portion of the course – these landscapes will be further urbanized and additional natural resources lost. These are significant impacts that are avoidable with selection of the “No Project Alternative.”

For one specific, look at Key Viewpoint #2 in Figure 3.1-4. This is the site just off Ospital Road, a high point on which the proposed one or 2-story 18,000sf Clubhouse will be located. It will be well-lit, and include a 2-acre lighted parking lot just to the south. It is hard to imagine the appearance of such a structure not having a significant and unavoidable impact on the rural views of anyone passing by.

The RDEIR tells us on page 3.1-8 that:

“The clubhouse and lodge facilities have been designed to be complementary with onsite and offsite land uses and situated to retain natural vegetation and existing trees....”

Figure 2-7, however, shows the proposed clubhouse and its parking lot overlapping and apparently displacing a significant number of oak trees. Other native oak trees along the golf course can be expected to die within ten years from irrigation-caused over-watering.

*“Construction of the clubhouse, lodge and other golf course ancillary facilities within the Planned Development combining district is subject to approval by the Planning Commission of the site development plans **prior to issuance of a building permit or initiation of a land use.**”* (emphasis added)

Building the golf course was also subject to approval by the Planning Commission and Board of Supervisors. There has been no approval, yet **the land use has already been initiated.** A golf course was built and has been used for play by members of the family as well as guests, since June 2007³. At least one small tournament was held (August 4, 2007), before Supervisors told the applicants to “stop” in October 2007. But play resumed in June 2008 and has continued with some breaks ever since. Golfers in four carts were playing the course as recently as September 28th.⁴

The project site has also held numerous “open houses” with barbecues and tours of the course and provided a location for meetings and mixers for several organizations. While some of these activities have taken place under the banner of Trinitas Olive Oil, the focus has reportedly been marketing and seeking endorsements and support for the Ridge at Trinitas golf resort proposal.⁵ Whereas olive production is a consistent land use for the General Plan designation and existing zoning, the private membership golf course and connected commercial facilities designed to serve it are not.

Page 3.1-8 continues:

*“The Planning Commission shall also find that the project satisfies the requirements of Section 17.50.060 of the County Code. Since the Planned Development combining district is for density transfer purposes only and there is no design review required there will be a **potentially significant** impact to the visual character of the site and its surroundings as a result of the proposed project.”*

County zoning codes did not prevent the applicants from building an illegal golf course. The public has good reason to doubt that the “Performance Standards” in the quoted section of County Code will be followed, or that the Planning Commission will do more than review some Final Maps and new architectural schematics to assure that the project satisfies the requirements set forth. Even if they do, the proposal is not aesthetically consistent with the General Plan NRL/AP land uses around it. This very well might result in a decline in the sale of existing homes to those who seek rural property in the area. Why move in when one might be moving into an area no longer rural, peaceful, and quiet?

On the other hand, those seeking to market a “country club” lifestyle will put great pressure on surrounding landowners to convert from agricultural and open space uses, to subdivide properties for more housing and/or additional commercial enterprises – like a shopping center, gas station, restaurant or fast food franchise, or additional motels – to support the “existing” non-compatible use. The growth inducing nature of golf courses will surely contribute to a cumulative destruction of the rural character of the surrounding area. The review of these growth inducing effects “cannot be postponed until such effects have already manifested themselves through requests for amendment of the general plan and applications for approval of housing developments.” (Stanislaus Audubon Society, Inc. v. County of Stanislaus (1995) 33 Cal.App.4th 144, 158-159.) Please address these significant impacts in the Final EIR.

Impact #3.1-5: Substantially Degrade the Existing Visual Character or Quality of the Project Site and its Surroundings During Construction

“The project site is visible from the rural residences to the north, south, east and west. During the construction phase of the project, various temporary visual impacts will occur as a result of construction activities related to the constructions of the lodge, clubhouse, and custom homes in the gated subdivision. Views from various vantage points surround the project site would change from oak woodlands and annual grasslands to that of an area occupied by heavy equipment, grading, laborers and

material storage and staging. Though temporary, impacts could continue for an extended period as the custom homes in the gated subdivision are constructed. Since the golf course has already been constructed, there will be no additional construction impacts. Those impacts that occurred in the past as a result of construction of the golf course were temporary in nature and there was limited public visibility.” (p. 3.1-9) (emphasis added)

This characterization of the impacts of construction is totally biased and inadequate, minimizing the actual impacts of work taking place for eight hours or more, six days a week. Neighbors were subjected to the sounds and sight of significant golf course construction equipment and activity for four years. In some locations, daily bulldozer activity woke them up and continued virtually all day for months at a time. Now they are being told that similar “temporary” impacts will occur and may take additional years to complete. Just because an impact is short-term does not automatically make it insignificant. (CEQA Guidelines, sec. 15126.2, subd. (a).) This is a significant impact that is avoidable with selection of Alternative One - the “No Project Alternative.”

The discussion also suggests that the visual impacts of golf course construction were “temporary,” but when the earth-moving equipment was finished, and the cart paths and sand traps laid in and streams cobbled, there is little left that resembles the “natural resources” that the golf course replaced. The view of many natural waterways on-site has been altered, and they have not yet been returned to their natural state, as directed by USFWS.⁶ This is a significant impact that could have been avoided had the applicant waited to build the course until completing the CEQA process and securing all necessary entitlements.

A fundamental "aesthetic" conflict exists between those who view a golf course as beautiful and the natural grasslands and oak woodlands they replaced as "a disaster," between "country club" people and "country" people. Most people who purchase country properties on marginal roads in basically agricultural and rural residential areas, where wells serve all their water needs and public services are slow or nonexistent, do so because they value the natural landscape, the open sky, the peace and quiet, and the wildlife that such settings provide. Some farm or ranch, and rely on what nature provides and their own hard work to maintain an agricultural lifestyle. Those who view an 18-hole golf course as "landscaping" should not be allowed to impose their aesthetic values on those who choose to live on or adjacent to - and appreciate the intrinsic meaning of the words - "Natural Resource Land/Agricultural Preserve." Adjusting the project site zoning to "Recreation" will not make the proposal consistent with the existing General Plan land use designation. The golf course should be relocated near other compatible uses, not allowed to induce other incompatible land uses to develop in the area. A General Plan amendment would be required to approve this proposal.

Impact #3.1-6: Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area

“Discussion/Conclusion: Implementation of the proposed project would result in the introduction of new sources of light and glare from non-residential sources in a

*previously undeveloped area. The golf course will not introduce any new sources of lights or glare; however, if the driving range is used at night there would be light and glare impacts. The 13 new residential home sites as well as the clubhouse and lodge facilities are all within view of Ospital Road and will introduce new sources of lights and glare on the proposed project site. In particular, light and glare effects from night lighting at close distances to residences could be highly disturbing. **Lighted parking lots, roadways, businesses, and residences would introduce new, permanent sources of light. These would create ambient light that existing viewer groups would be able to see radiating above the tree canopy during the night.** However, this type of lighting is considered both common and necessary for recreation areas and residential areas to ensure safety and security on the proposed project site. This is a **potentially significant impact.**” (page 3.1-10)*

Notwithstanding the declaration that Mitigation Measures #3.1-6a through 3.1-6d will render this impact **less than significant**, new permanent light sources will significantly alter the visual “character”, “intactness” and “unity” of the surrounding agricultural landscape. The only existing residential neighborhood with street lights in the greater Wallace/Burson/Valley Springs area is about 5 miles away in Wallace Lake Estates. Artificial lighting will obscure the beauty of the night sky, potentially impacting view of the stars.

It is also going to violate the “right to farm” of the property owners across Ospital Road, who raise both cattle and sheep. The sheep operation is directly across from the project site. Prior construction activities negatively impacted the sheep and spooked the owners’ horses; future construction will do the same. The lights and noise from the resort operations and the increase in night traffic to the project, with headlights aiming across the road as cars exit the parking areas, will interfere with breeding and lambing. (Calaveras County Zoning Code 17.18.015). The 1996 General Plan Implementation Measure IV-2A-1 requires the County to “Enforce ‘right to farm’ provisions of the County Zoning Code.”

“Any legally existing agriculture land use (farming, ranching, orchard, livestock, row crops, food processing) is considered to have a right to enjoy the productive and economic fruits of labors without fear of infringement on this right by encroaching residential or other non-agriculture development on adjoining parcels and lands in the general vicinity. **The right to farm shall take precedence over all other adjoining and nearby land uses.**” (emphasis added) (RDEIR p.3.8-8)

The project as proposed sets up an inevitable conflict between ranch operations and resort operations. These are significant impacts that are avoidable with selection of the “No Project Alternative.” Please acknowledge and mitigate these significant impacts in the Final EIR.

Other considerations:

Finally, it is worth considering the visual impacts under some feasible scenarios, if the project is approved as proposed:

Along with heavy traffic and large crowds comes the potential for problems with trash/litter being strewn along roadsides leading to the project site.

The proposal “limits” events to “up to 1,000 people.” But if the “Recreation” zoning adjustment is granted, events of more than 1,000 can be held, with findings and a conditional use permit. If Trinitas holds PGA tournaments, as the applicant has proposed in golfing magazine articles, the viewer might see parked cars along Ospital Road. PGA tournaments often host 25,000 to 40,000 spectators, which cannot conceivably be accommodated within the 5 acres of on-site parking areas.

Without significant off-site parking and alternative transport to the site by buses, cars would seek to park in any squeezed space along Ospital and Southworth Roads – which in many areas are no more than 16 feet wide and lack shoulders, passing lanes or turn-out lanes, as well as the closest side streets available (Live Oak, Miles to the north Warren to the east). Drivers would have to pass tournament spectators walking along these roads.

Since the proposed project is just two miles from a dangerous curve on north Ospital Road, the vehicles parked on the roadside would invite further dangerous scenes involving walking spectators and traveling vehicles.

- Vehicles left unattended along the road would be in danger of vandalism.
- Area ranchers would have difficulty trying to maneuver livestock trailers along the roadways with parked cars and pedestrians making their way to the golf course. Residents along all the major and minor roads to the project will have a “view” reminiscent of big-city traffic jams.
- Increased traffic, especially at night, will increase the danger of wildlife being killed accidentally on the roadways.
- Vehicular accidents caused by driving under the influence, driving at unsafe speeds or passing slower vehicles in an unsafe manner on narrow shoulderless roads, could result in cars running off the road and breaking ranchers’ fences, leading to livestock running loose on the roads, endangering drivers and passengers, especially at night when the limited viewing distance on the main road will worsen.

These are not simply traffic impacts, they also impact public service *and* the visual quality, character, unity and consistency of the landscape. The Final EIR should note and mitigate this significant aesthetic impact.

- If the local water supply is threatened by drought or over-drafting the aquifer, with no surface or treated water available for irrigation, upkeep on the course will suffer, making the turf grass unsightly, even to golfers.

Recommendation: The “No Project” Alternative is the environmentally superior and the preferable alternative from the standpoint of not allowing further development of a project that is incompatible with the surrounding uses.

¹ For pictures of lodge site grading/trenching, see Cultural Resources (Attachment 3.4-5

² August 9, 2001 letter from the Planning Department (Attachment 3.1-1. For more of the public record on applicant violations, see Violations Exhibit at back of binder)

³ May 2, 2007 Valley Springs News Article “Trinitas moves ahead without county’s OK” (Attachment 3.1-2)

⁴ Pictures of golfers taken from adjacent property and Ospital Road (Attachment 3.1-3, 2 pages)

⁵ Open house flier (Attachment 3.1-4)

⁶ USFWS Peter A. Cross NOP comment letter date-stamped May 28, 2008 (Attachment 3.1-5, 5 pages)