Sub: Draft Environmental Impact Report/Environmental Assessment (DEIR/EA) for the Olancha/Cartago Four-Lane Project

The comments below are in response to the draft Environmental Impact Report/Environmental Assessment (DEIR/EA) for the Olancha/Cartago Four-Lane Project, hereinafter referred to as the EIR. This is supposed to be a meaningful process used to assess the consequences of the project prior to decision-making. Unfortunately and as detailed below, this EIR and the process used to date utterly fails to evaluate the likely environmental impacts and does not account for the inter-related socio-economic, cultural and human-health impacts, both beneficial and adverse.

1. PROPOSED PROJECT SCOPE INCORRECTLY IDENTIFIED RESULTING IN INADEQUATE ENVIRONMENTAL AND OTHER IMPACT ANALYSIS

Analysis is required as to how the selection of a bypass will impact the use of the old highway 395. As stated in the EIR, this transportation corridor connects the eastern Sierra region, Inyo and Mono counties to western central Nevada and Southern California (p. 60). The "old road" will continue to be the primary portal to access Death Valley National Park from the west. It will also continue to be used as part of a commonly traveled route to Las Vegas. Additionally, it will remain in usage with locals, tourists, truck drivers, and others who access Crystal Geyser, the Excel Bridge facilities, and the Inyo County Transfer Station (dump). Failing to recognize this means that related environmental, safety, community and other ramifications were not considered.

Most significantly, accepting any other alternative than 1 and 2 will substantially increase the threat to the biological environment because it *permanently doubles* the area of impacted habitat. This fact is completely ignored by the EIR which also ignore the consequence of converting part of 395 to State Route 190 and keeping the remainder as a county road. This impact will be across the board, transcending plants species, animal species, and other areas. More developed land means more potential for harassment which, as noted in the EIR, is a major reason for species decline (p. 140). Moreover, the new island created between these two highways adds additional barriers that block natural wildlife corridors.

2. MISLEADING SUMMARY INFORMATION

Most of the public will not read the entire 411 pages of the EIR but instead rely on the summary information. However, this information is incomplete and in many instances inaccurate. Table S-1 is supposed to be a summary of "Major Potential Impacts from Alternatives" but uses meaningless generalizations and contradicts other parts of the EIR. In adding to the confusion, the constant use of the term "Caltrans preferred alternative" is misleading as Caltrans has yet to officially determine a preference. This has left many stakeholders believing that a response to the EIR was unnecessary since a "preferred alternative" has already been designated. In surveying attendees at the Caltrans public

hearing held in Olancha on September 23, 2015, most resident had the understanding that the "Caltrans preferred alternative" had already been selected. By omitting information and providing misleading and inaccurate summary information, the material necessary for informed decision-making and informed public-participation failed to occur.

a. DIAGRAMS/MAPS

The project is consistently depicted on the far left of maps and diagrams so as to crop out its obvious proximity to designated Golden Trout Wilderness Area and Sierra peak vistas. For example, the Project Location Map (figure 1.2) shows Saline Valley, a several hour drive east from Olancha/Cartago, while the Wilderness Area (located a few hundred yards to the west of alternatives 3, 4, and "Caltrans preferred alternative") is noticeably missing. As a result, this depiction ignores the predominantly natural condition and wilderness characteristics of the proposed bypass locations.

b. TABLE S-1

<u>Inconsistent with Inyo County General Plan</u>

Table S-1 states that alternatives 3, 4, and "Caltrans Preferred Alternative" are "consistent with the Inyo County General Plan..." The California Environmental Quality Act Checklist (Appendix A) also states no impact or conflict with an applicable transportation plan or policy. However, this summary information is contradicted in section 2.1.2 where according to the Inyo County General Plan any expansion of U.S. Highway 395 should avoid bypassing Owens Valley communities.

<u>Inconsistent with BLM Resource Management Plans & Understated Impact of Bypass on Wildlife Habitat</u>

With a major focus of the BLM Bishop and Ridgecrest Field Office Resource Management Plans being the enhancement or maintenance of important wildlife habitats and population, alternatives 3, 4, and "Caltrans Preferred Alternative" do just the opposite. While all alternatives are lumped together on Table S-1 as affecting "Bats, migratory birds, and Owens Valley vole," alternative 4 and "Caltrans Preferred Alternative" impact is much more significant as they are west of the aqueduct which acts a wildlife barrier on land to its east. They also involve the construction of a new four lane maximum width highway with a 100' median between north and south bound lanes on virgin undisturbed land.

This should be contrasted with Alternatives 1 and 2 which have minimal biological impact as they have low quality habitat, low species diversity, low species populations, and mostly fragmented vegetation, i.e. they involve the utilization of previously disturbed lands in heavily used areas. There is no possible way to equate the biological impact of alternative 1 with the high-quality habitat, high species diversity, high species populations, and intact vegetation communities and landforms found in alternative 4 and "Caltrans preferred alternative." This habitat is entirely different and much more critical to maintaining biological diversity.

<u>Bypass Impact on Visual/Aesthetics Understated</u>

The Table ignores the fact that the "Caltrans Preferred Alternative" will create two separate highways, one of which will hug the Wilderness Boundary directly below Olancha peak, the highest in the Sierra Nevada south of Mount Whitney and the southernmost peak on the Sierra Nevada escarpment which is significantly above the tree line. This area easily qualifies for the California Scenic Highway program but in the future will condemn all travelers on State Route 190, northbound travelers on 395, and all Olancha residents with a view of a massive concrete and asphalt superstructure superimposed on the Sierra Nevada vista. Given that there are residential neighborhoods immediately adjacent to Alternative 3 and approximately 500' east and 400' below Alternative 4 and the "Caltrans Preferred Alternative," views of the Sierras will most certainly be partially obstructed by the raised highway, bridges, and other structures.

The Table also fails to mention the removal cottonwood trees in alternatives 3, 4, and "Caltrans preferred alternative," even though it is stated in the other alternatives. Yet in discussing the details of the environmental consequences, it is eventually admitted (outside the summary section) that cottonwood trees will likely be removed in alternative 4 (p.34). As a result, they must also be removed in the "Caltrans preferred alternative" as both alternatives cross Olancha creek (location of the trees) at the same approximate spot. With Cottonwood trees lining the entire path of Olancha Creek, the wider the path cut through the creek the more trees that will have to be removed.

While the EIR puts a large emphasis on the visual impact resulting from the removal of mature cottonwood trees in Alternative 1, the findings of the Eastern Sierra Corridor Enhancement Program US 395 & SR 14 Corridors in Kern, Inyo, and Mono Counties, February 4, 2010, concludes that "tree mitigation may be possible with the existing alternative one" (p. 47). Moreover, unlike the bypass, the removal of these trees "are not permanent impacts" (p.67).

<u>Bypass Impact on Cultural Resources Understated</u>

While the EIR addresses known eligible sights, the likelihood of discovering unknown sights is greater with every alternative except for 1 as they all involve a significantly larger volume of ground disturbing activities necessitated by the construction of a new four lane highway on undisturbed land. As noted in the EIR, "Alternatives 2, 2A, and 3 are partially on the existing U.S. Highway 395 alignment, requiring the acquisition of more acres. Alternative 4 is predominately on a new alignment and would require the acquisition of the greatest number of acres (see table 2-2) … The Caltrans preferred Alternative would require less acreage than Alternative 4, but more than Alternative 3" (p. 33-34).

Bypass Impact on Water Quality Understated and Water Usage Unknown

While Table S-1 shows "no permanent impact" to water quality, the proposed asphalt plant located in Olancha will be using chemicals that pose serious risks to both human health and the environment. While no information is provided as to how the wastewater will be treated, asphalt plants are a common source of well water pollution (see http://water.epa.gov/drink/info/well/whatyoucando.cfm). One example of a common asphalt plant contaminant is polycyclic aromatic compounds (PACs) which are regulated as a PBT category with a reporting threshold of just 100 pounds. All residents get their water from wells in the same vicinity of the proposed plant. Any discharge from storm and wastewater is likely to go directly into local wells and springs. This contamination could also reach the water sources for the Crystal Geyser bottling plant.

Because pristine drinking water is so important to both residents and businesses alike, water quality is closely monitored. Any degradation in water quality will be attributed to Caltrans operations and will likely result in judicial relief in the form of a Temporary Restraining Order. This could immediately halt bypass road construction, a consequence completely avoidable by locating the plant away from the population centers and water sources.

Since all bypasses alternatives involve the most amounts of soil disruption and road construction as compared to widening the existing highway, they will also require the most amount of water. Although the EIR is silent on the matter, millions of gallons will be needed for roads, dust suppression, blade and equipment washing, bridges and other structure construction. New trees will also need to be planted to replace existing trees will require watering until the taproot is established (p. 68). While no sources of operations water is identified, if it involves local extraction, the impact on the local aquifer could be devastating. According to a scientific paper entitled "Multi-century Evaluation of Sierra Nevada Snowpack" published in the peer reviewed Journal of Nature Climate Change on 14 September 2015, Southern Sierra Nevada snowpack is estimated to be at a 1,000-year low. As there are only trace amounts of rainfall typically reported annually in this desert area, extraction of ground water during current extreme drought conditions could deplete local wells and springs because the entire area is hydraulically connected and reliant on Sierra Nevada snowpack.

Noise & Vibration from Material Yard Operations, Bypass Construction, and Highway Usage Understated

Table S-1 shows no impact in Alternative 4 and "No substantial permanent noise impacts" to the "Caltrans Preferred Alternative" from noise and vibration. This does not account for the climb in grade that will result in the heavy laboring of motor vehicle engines and increased traffic noise levels. Nor is the Wilderness Area directly west of these alternatives considered. These are lands on which serenity and quiet are of extraordinary significance and an important public and habitat need. As confirmed by the EIR, this space "has long been a popular area for … sports activities for residents and visitors" (p.43). This is why Caltrans finds it necessary to propose the construction a recreation undercrossing to maintain "access to the mountains to the west" (p. 39). Notwithstanding this fact, the EIR ignores noise impact on this pristine environment.

If a bypass is built, residents of Olancha will be sandwiched between two sets of noisy highways, one to the east and another to the west. Compounding the noise will be the 50 acre asphalt manufacturing and facility at the end of Fall Road bordering the most densely populated area of Olancha. Caltrans plans to remove approximately 765,000 tons of material and will be using loud manufacturing and extraction equipment such as rock crushers, mixing drums, and excavators that will emit noticeable levels of noise, dust, and vibration. As Caltrans has left open the possibility of using this facility after the completion of the project, the impact may be long term.

Bypass Impact on Wetlands Understated

Most of the 765,000 tons of material projected to be removed from the proposed 50 acre Olancha site are associated with the bypass options. This is because the bypasses involve a significantly bigger volume of ground disturbing construction activity as opposed to widening the existing highway (Alternative 1) which is already flat and level. All bypass options will cross the largest sections of Olancha Creek and will require a bridge over the depression. This will require significant fill to be placed on wetlands, adjacent to wetlands, and adjacent to Olancha Creek. Flow from this stream is primarily eastward to wetland areas and towards Owens lake. Although the EIR recognizes this fact and that "[s]prings and seeps can also be found throughout the project area" (p. 83) and also concedes that Alternative 4 will result in the diversion of a spring (p. 34), the true impact of the bypass options are not properly addressed. For example, the location of the spring is not discussed but is likely to be in the "Caltrans Preferred Alternative" project area. This is significant as construction will likely cause the intersection and disruption of surface and subsurface water flows onto and off of the project area.

Moreover, Table S-1 states that Alternatives 3 and 4 have a Wetlands Impact of .41 acres each. However, the "Caltrans Preferred Alternative" has an impact of only .12 acres even though it is a combination of Alternatives 3 and 4. It is noteworthy that on Table 2-26, the total impact to Waters of the U.S for the "Caltrans Preferred Alternative" is shown as 1.27 acres whereas Alternative 1 is shown at .66 acres.

Bypass Impact on Endangered, Threatened, and Protected Species Understated

Most alarming is the biological impact to threatened, endangered, and protected species. While Table S-1 again lumps all the alternatives in the same category in determining a likely adverse impact to the Desert Tortoise, the EIR later admits that almost all observations have been limited to the Alternative 4 route (p. 140) which should include areas in the "Caltrans preferred alternative." As noted above, the aqueduct acts as a barrier. Moreover, desert tortoises are unlikely to pass through commercial and residential neighborhoods where there are pets and other distractions and significantly less creosote, saltbush and Joshua tree woodland which is tortoise habitat.

In addition to the Desert Tortoise and the Mojave Ground Squirrel, the Golden Eagle will also be impacted but not as depicted in Table S-1. As indicated later in the EIR, these birds avoid areas where there is "human disturbance" (p. 129). The existing route corridor is currently populated with "residential, agricultural, commercial, and industrial properties" (p. 33). As such, impact will likely only

exist under Alternatives 3, 4 or the Caltrans Preferred Alternative as it involves virgin undisturbed land with large Cottonwood trees along Olancha Creek.

Elevation is another issue that is glossed over. The EIR only states that the project will be built between 3,600 – 4,000' above sea level. Specific elevations are not identified but Alternative 1 is much lower than Alternative 4 and the "Caltrans Preferred Alternative" which will be built, in part, above grade and at some locations will likely exceed 4,000' sea level. This is significant as Sierra Nevada Bighorn sheep can range near this elevation (See http://www.dfg.ca.gov/snbs/SheepFacts.html and research conclusions from O.A. Schwartz and V.C Bleich). As a result, the EIR's conclusion that the habitat for the Bighorn sheep is "not present" (p. 139) is dangerously optimistic.

Alternative 4 and "Caltrans Preferred Alternative" will disturb the largest section of Olancha Creek. This disturbed area will span more than 300 linear feet of creek side. Olancha Creek is part of the Golden Trout wilderness area which is ignored in this EIR and directly borders the proposed route. It is also a traditional fishing area. Although current drought conditions have impacted the Creek's water flow, it is still a well-known fishing destination as noted by numerous fishing web sites such as myfishmaps.com and hookandbullet.com. Moreover, a review of older California State Fish and Game Commission reports document that historically Olancha Creek has had fish populations in the thousands.

c. CALIFORNIA ENVIRONMENTAL QUALITY ACT CHECKLIST INACUURATE

As a summary score card for environmental quality compliance, the CEQA checklist (Appendix A) incorrectly identifies the project impact on aesthetics, air quality, biological and cultural resources, hydrology and water quality, noise, transportation/traffic and greenhouse gas emissions. For example, "No Impact" was found in the area of substantial light or glare affecting nighttime views. Currently, the area west of Olancha has no light pollution leaving a nearly perfectly dark night sky brimming with stars, constellations and a great view of the Milky Way. All bypass options will permanently alter this situation with a constant stream of lower and upper beam vehicle headlamps, auxiliary headlamps, driving lamps, running lamps and other vehicle roadway illumination lamps. Moreover, as this area boarders wilderness lands, the lighting will have a profound and lasting disruption of biological processes in nature. Also, all bypass options will further spread light pollution as the old highway will remain in use.

Another example of inaccurate information on the checklist is the "No Impact" determination on scenic vistas. Also, the identification of any greenhouse gas emissions is entirely avoided on the grounds that it is "too speculative."

3. SAFETY CONCERNS MISREPRESENTED AND IMPROPERLY ADDRESSED

The EIR states that the purpose of the project is, in part, to enhance safety and provide route continuity (p. iv). There has been absolutely no connection whatsoever as to how the creation of two separate highways accomplishes this goal. The EIR states that safety will be enhanced by preventing "frustrating drivers who are willing to attempt unsafe maneuvers … [which] have led to a traffic fatality rate higher than the statewide average." However, this assertion fails to recognize that State Route 190 will remain a two lane road with truck traffic entering and existing Geyser Springs and the Excel Bridge facility. It

also fails to identify the most common reason serious accidents occur in the project area -- vehicle merging scenarios outside of Olancha.

Most significantly, safety issues identified in section 1.2.5 of the EIR used outdated data that is not relevant to the current conditions. In 2012, Caltrans constructed safety improvements in the Olancha section of Highway 395 which included the widening of shoulders and the addition of rumble strips. According to Steve Davis, Olancha-Cartago Fire Chief, traffic incidents have since been reduced by 80-90%. This could be attributed to the safety improvements or to the reduced flow in traffic as discussed below. Regardless, with accidents falling to low levels, a major reason for project construction has been eliminated.

It is noteworthy that if any bypass is eventually built, safety will likely be degraded, not improved. This is because local emergency services that were previously either on or immediately adjacent to the Highway 395 will now have to proceed to one of two access points and that will involve a substantial increase in driving distance and time. For example, since the Olancha fire department is in the approximate middle of the proposed bypasses, it will need to travel several miles to the South or North just to access the on-ramp to the new highway. Then it will have to back track to the scene of the accident, substantially increasing the response time by 10 – 15 minutes.

4. COST ESTIMATES DEEPLY FLAWED

Especially confusing are the estimated project costs. Alternative 1 which uses the existing highway, the least amount of added material, and is the shortest distance, is estimated to cost $90.9 million. The "Caltrans Preferred Alternative," which route is wider, longer and involves entirely new construction on undisturbed and unleveled land is estimated at only $84.9 million. As Alternative 3 is estimated to cost $92.1 million and Alternative 4 $123 million (p. 13), there is no explanation why the "Caltrans Preferred Alternative" will cost substantially less when it is a combination of 3&4.

This disparity of costs cannot be explained away factoring the "free" BLM and public lands primarily used in the bypass options. Although Alternative 1 may have more land acquisition costs (privately owned land paralleling part of the route), this land is very inexpensive and only involves small sections where the current right of way is widened to allow for four lanes. Recent comparable sales data show larger parcels often selling at less than $2,000.00 an acre.

Construction amounts used in the EIR are also totally inconsistent with generic per mile estimating tools that have the cost of widening existing 2 lanes to a divided four lane less than half the cost of a new four lane in rural road construction. Some of this underestimating could be associated with the underreporting of necessary structures. All of the alternatives specify structures except for the "Caltrans Preferred Alternative" which lacks any information regarding the required bridges or culverts.

Finally, there is no information regarding the cost of alterations to the new State Route 190 and construction necessary to align with the north and south end of the bypass. Nor is there any information regarding the cost to Inyo County in maintaining the old Highway 395.

5. BYPASS WILL DESTROY COMMUNITY CHARACTER AND COHESION

All bypass options are deeply unpopular to locals. Caltrans has survey data that shows it is the overwhelming will of Olancha/Cartago residents to avoid any bypass and asphalt plant construction in their community. Unfortunately, the EIR limits public sentiment to skewed data obtained primarily from a survey of 25,000 members of the Mammoth Mountain Ski Resort e-mail contact list (p. 180). The sentiment of this group is already well known – to drive as fast as possible in order to reach their destination in the shortest possible time. The consequences of such behavior are also well known – fatal accidents such as the one involving CHP Officer Paul Pino who died after being hit by a Southern California winter sports enthusiast on her way to Mammoth Mountain. Certainly, this matter could be easily addressed by reducing the speed limit to 25 MPH, something that is done in every community north of Olancha/Cartago.

Instead, Caltrans is advocating for the construction of a multi-million dollar bypass project under the delusion it will keep the Community "intact" (p. 47). This belief is in part based on the assumption that the old highway will become a "main Street" and North and South bound motorists will continue to "stop if they are in need of food, fuel, or lodging" (p. 47). While the Table S-1 indicates that none of the businesses will be displaced if Alternative 4 or the "Caltrans Preferred Alternative" is selected, this ignores relevant research which finds bypasses as having a significant negative impact on small-sized communities, especially gasoline service stations and restaurants. Due to the small population base, these critical service businesses are not expected to remain viable without 395 highway patrons. With the construction of a bypass, travelers are much more likely to make their fuel, food and lodging stops in Lone Pine where there will be no inconvenience in exiting the highway and where the options are visibly open and available.

While part-time residents are not recognized in the EIR, these individuals as well as full time residents and employees who work in the Olancha and Cartago areas rely on local establishments to obtain fuel and food (the EIR does not account for the market and restaurant collocated at the gas station). If these businesses fail, residents will be forced to travel by car 48 mile round-trip to Lone Pine or even further to Ridgecrest to obtain basic services previously available within walking distance. This is especially troubling to the many elderly and disabled residents who rely on pedestrian access to services.

Some of the largest revenue generating businesses in the region are located in South County and Olancha serves as the community hub. In addition to the bottling plant and Excel Bridge Manufacturing, there is the Coso Geothermal Facility and Global Pumice, LLC, which operates 2 of the only 3 pumice mines in California. While neither of these businesses is mentioned in the EIR, the EIR does recognize that additional new "commercial development – Crystal Geyser Roxane Cabin Bar Ranch bottling facility expansion – is being planned, and a solar demonstration project on Owens Lake has been proposed by the Los Angeles Department of Water and Power" (p. 33).

Despite this concentration of large employers and the largest stock of privately owned and ready to develop subdivisions in the county along the Highway 395 corridor, the EIR portrays Olancha and Cartago as the proverbial backwaters with low demand for housing and low potential for growth. No

mention is made of the negative and devastating impact on growth caused by the Caltrans circulation of nearly a dozen different proposed routes over a two decade planning period that sliced and diced the community in unimaginable and confusing ways. No mention is made of the proposed brewery that stopped construction when it found out about the proposed bypass. No mention is made of the numerous other projects that stalled indefinitely due to the uncertainty of Caltrans actions.

The EIR envisions new growth in Inyo County in the "city of Bishop and [other] larger communities" (p. 33). For employees, this would unrealistically entail a daily round trip commute of 162 miles from their Bishop residences to their jobs in Olancha/Cartago, which is characterized as not self-sustaining because residents drive "to other communities in the region" for their supplies and services (p. 43). Noticeably missing is what communities they are travelling to. The answer is Ridgecrest which has the largest business and shopping centers in the Eastern Sierras. The closest community to Ridgecrest in Inyo County is Olancha/Cartago. Ridgecrest has a population of approximately 27,616 as opposed to Bishop's 3,879 (source - suburbanstats.org) and as a result can support a Wal-Mart, Home Depot, K-Mart, chain grocery stores, ethnic markets, numerous places of worship, book store, community college, regional medical center, full service airport, etc. That is why Olancha/Cartago as well as Bishop Residents typically drive south to obtain services not locally available.

6. **LEVEL OF SERVICE ESTIMATES OUTDATED -- TRAFFIC VOLUMES ARE DECREASING**

The EIR uses projected traffic data based on 2012 traffic volume. It factors future traffic volumes based on a growth rate of 0.5 percent per year (p. 61, Table 2-15). However, traffic volumes have decreased significantly since this time. This is the result of decreased recreational traffic to the Mammoth Lakes area.

Traditionally, interregional travelers are some of the heaviest users of Highway 395 through Inyo and Mono counties. According to an Origination and Destination Travel Study conducted by Caltrans in 2011, 61 percent of the traffic on U.S. Highway 395 was recreationally oriented. It also found that 47 percent of the traffic originated in Southern California (p. 60). Another survey conducted in 2012 had the vast majority of respondents as skiers/boarders of Mammoth Mountain (p.180). These individuals are overwhelmingly from Southern California as access to the mountain from other population centers in Central and Northern California is excessively long and there are other skiing/boarding options closer to home, e.g. Lake Tahoe.

While it is no secret that skiers/boarders from Southern California are the largest single group of highway users, it is also no surprise that this group is rapidly dwindling. In 2012, the city of Mammoth Lakes filed for bankruptcy protection after tourists stayed away during the second-lowest snowfall in two decades. 2015 turned out to be Mammoth's worst season ever receiving no snow whatsoever in January during peak ski season. One could contribute this decline exclusively to snow conditions but the fact of the matter is that snow skiing/boarding is a dying sport. It is very expensive, perceived as an elitist activity, and new demographic populations disfavor it. For example, there is a professional soccer team in Los Angeles but no football. Also, see http://qz.com/175664/the-descending-popularity-of-downhill-skiing-in-america.

As the data used to estimate level of service is outdated, current flow is probably operating at a "C" level. It is extremely rare to see any heavy traffic, even on weekends during winter. This is further supported by the substantial decrease in accidents. As shown above in Section #4, traffic incidents are down by 80-90% since 2012.

7. **NO MITIGATION MEASURES PROPOSED**

Despite an existing designated wilderness area directly bordering and parallel to the "Caltrans Preferred Alternative," the EIR unequivocally concludes that "No mitigation measures are necessary" for impact on wilderness characteristics (p. 64). Despite the location of Sierra Nevada Bighorn in vicinity of the bypass location, no impact is anticipated (p. 142) and no mitigation is proposed. This is notwithstanding the fact that in 2008, the California Department of Fish and Wildlife recognized bighorn sheep activity in the project location (p. 181), a whole five years *before* the reintroduction of a new herd. Despite known natural plant communities in the "Caltrans Preferred Alternative" project area including Big Sagebrush, Creosote Bush, Fremont Cottonwood, Mixed Saltbush, Rubber Rabbitbrush, and Shadscale Series, "no mitigation or minimization measures are proposed" (p. 118). Despite known populations of the Crowned Muilla species in the "Caltrans Preferred Alternative" project area, "No mitigation measures are proposed" (p. 127). It is also noteworthy that no alternative location or mitigation option for the Asphalt plant is proposed.

As this EIR ignores potential impacts, it consequently ignores alternative solutions that avoid, mitigate or compensate such as Alternative 1.

8. ASPHALT PLANT AND BYPASS TRAVESTY OF ENVIRONMENTAL JUSTICE

One of the most devastating aspects of the bypass is the impact of the proposed 50 acre material site. This has not been considered in the EIR. There is no information as to how this site will comply with the Surface Mining and Reclamation Act (SMARA). There is insufficient information regarding a Reclamation Plan, e.g. the angle of slope of the land and a list of plants to be used to re-vegetate and provide drainage and erosion control.

The proposed location is at the end of Fall Road which is the most important road outside of highway 395 as it feeds most streets in Olancha and provides direct access to the market, gas station, and fast food restaurant. Working class residential neighborhoods cluster along it as branches to a tree trunk. This area, identified as block 148 in Table 2-12, is almost 40% Hispanic and Native American with median household income near the bottom of the "Low Income" designation for Inyo County (see http://www.hcd.ca.gov/housing-policy-development/housing-resource-center/reports/state/inc2k15.pdf). In addition to the noise, vibration, and air quality issues that will be created by the excavation and movement of massive amounts of material up and down this residential road, people and especially children who play, run and ride bikes on this road will have an increased safety risk.

There are many unpopulated areas along or near the route of the various alternatives where this plant could be located. For example, Caltrans has previously used a facility just down the highway in the unpopulated Cottonwood area. However, regardless of the Alternative chosen, Caltrans proposes to

locate it immediately adjacent to one of the poorest minority neighborhoods in all Inyo County. Furthermore, Caltrans conclusion that the project "would not cause disproportionately high and adverse effects on any minority or low-income populations ignores the fact that this site is estimated to yield 765,000 tons of in-situ material and could remain available indefinitely for future use. It would be unheard of for such a facility to be located in a predominately white middle-income neighborhood anywhere in America.

9. ELIMINATION OF ALTERNATIVE 2R FROM FURTHER CONSIDERATION WAS IMPROPER AND UNJUSTIFIED

Alternative 2R proposed the same alignment at Alternative 2 except that it continues past State Route 190 (post mile 34.4) on the east side of the existing highway until the 35.75 post mile where it crosses over to the west of the existing highway and back to the proposed alignment for Alternative 2. "This alignment would have substantially reduced right-of-way impacts, cost of construction, and some natural and physical environmental impacts" (DEIR p. 28). This is a better option than the bypass alternatives but was eliminated from further consideration due to an erroneous interpretation of the Clean Water Act. The EIR incorrectly concluded that this option would affect 25.24 acres of wetlands thereby violating that Act in Section 404(b)(1). However, for purposes of the Clean Water Act, 40 CFR 230.3(o) defines the applicable waters as "All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide." The wetlands in question do not even remotely affect interstate commerce. Moreover, Section 1(b) of Executive Order 11990, which further clarifies the Government's obligation to protect wetlands states that "This Order does not apply to the issuance by Federal agencies of permits, licenses, or allocations to private parties for activities involving wetlands on non-Federal property." As the wetlands in Alternative 2R do not apply to the Clean Water Act, this alternative should not have been removed from consideration as it represents a much better choice when compared to the "Caltrans preferred alternative" and other bypass options.

CONCLUSION

In conclusion, all bypass options require the use of virgin land, have huge environmental impacts and negative aesthetics, require extensive mitigation, and face strong local opposition. Whereas Alternative 1 utilizes disturbed lands, requires little mitigation, has nearly unanimous local support, and accomplishes Caltrans' major objectives. This is not evident in the EIR and in particular the summary information contained in Table S-1 and the CEQA (Appendix A) because as written it minimizes the impact of alternatives 3 and 4 and makes the "Caltrans Preferred Alternative" appear as the best option when it is in fact not. Most significantly, the EIR fails to address the environmental impact of modifying an existing highway while simultaneously constructing an entirely new four-lane highway immediately adjacent to Wilderness Areas. As a result, this draft EIR does not address the significance of the project and does not comply with CEQA or NEPA.