

**U.S. House of Representatives**  
**Committee on Natural Resources**  
**Washington, DC 20515**

July 3, 2019

Brian Steed  
Acting Director  
Bureau of Land Management  
U.S. Department of the Interior  
1849 C Street NW  
Washington, D.C. 20240

Dear Acting Director Steed:

The Committee is investigating federal agency decision-making regarding El Dorado Holdings, Inc.'s proposed Villages at Vigneto development in Benson, Arizona. The 12,000-acre, nearly 28,000 home development would be located near the San Pedro Riparian National Conservation Area (SPRNCA). The Bureau of Land Management (BLM) is responsible for protecting and managing the SPRNCA, including the Saint David Cienega. Cienega, or desert marshland habitat, is considered to be among the rarest, most threatened, and most valuable habitats in the Southwest.

El Dorado Holdings, Inc. has been seeking a Section 404 Clean Water Act permit with the Army Corps of Engineers (ACOE) for the Vigneto development for over a decade. In July 2004, when the Vigneto development was called Whetstone Ranch, the U.S. Environmental Protection Agency wrote to ACOE expressing concerns about impacts of the development on the San Pedro River:<sup>1</sup>

“...we determined the project may result in substantial and unacceptable impacts to aquatic resources of national importance (ARNIs)... We respectfully reaffirm our objections to the proposed project and request permit denial on the basis that authorization will have a substantial and unacceptable impact on ARNIs. Our detailed comments are attached. ...

we may reasonably anticipate a number of substantial and unacceptable impacts from these projects including: ... Degradation of the San Pedro River, its floodplain and sensitive riparian habitat. ... The San Pedro River is already imperiled by significant groundwater overdraft. The potential increase in groundwater pumping associated with the proposed project, and the removal 70 acres of tributary waters, will almost certainly exacerbate this degradation.”

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<sup>1</sup> Letter from Wayne Natri, Regional Administrator, U.S. Environmental Protection Agency Region IX, San Francisco, CA, to Colonel Alex C. Dornstauder, District Engineer, ACOE, Los Angeles District (July 1, 2004).

In October 2016, then U.S. Fish and Wildlife Service Arizona Ecological Services Office Field Supervisor, Steve Spangle wrote to ACOE echoing similar concerns regarding the potential impact of the development on critical habitat for threatened and endangered species:<sup>2</sup>

“...it is likely that an appreciable volume of groundwater will be withdrawn to serve the development. Such a displacement of groundwater from the aquifer is likely to reduce flow in the San Pedro River, in reaches designated as critical habitat for the southwestern willow flycatcher and proposed as critical habitat for the yellow-billed cuckoo and northern Mexican gartersnake.”

It has been widely reported that Mr. Spangle later reversed his decision to recommend denial of the permit.<sup>3</sup> Mr. Spangle claims that he did so after receiving a phone call from a lawyer at the Department of the Interior who advised him that “a high-level politico” believed he had made the wrong decision and he would be “wise to reconsider it.”<sup>4,5</sup>

Adding to agency officials’ concerns about the San Pedro River, two recent hydrology studies demonstrate that groundwater pumping for the Vigneto development could deplete the surface water of SPRNCA, including the Saint David Cienega.<sup>6,7</sup> These studies conclude that “proposed pumping at the Vigneto Development has the potential to adversely impact spring flow within the Saint David Cienega area, by lowering the water table...”<sup>8</sup> and that pumping for the Vigneto development “would bring a risk of drying the wetlands.”<sup>9</sup>

BLM is explicitly required “to protect the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources of the public lands surrounding the San Pedro River.”<sup>10</sup>

To assist the Committee’s investigation of this issue, please provide the following documents and information as soon as possible, but no later than July 29, 2019:

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<sup>2</sup> Letter from U.S. Fish and Wildlife Service Arizona Ecological Services Office Field Supervisor Steven L. Spangle to ACOE Arizona Branch Chief Sallie Diebolt (Oct. 14, 2016).

<sup>3</sup> Letter from U.S. Fish and Wildlife Service Arizona Ecological Services Office Field Supervisor Steven L. Spangle to ACOE Arizona Branch Chief Sallie Diebolt (Oct. 26, 2017).

<sup>4</sup> Tony Davis, *Ex-federal official: ‘I got rolled’ by the Trump administration to ease way for Vigneto housing development*, ARIZONA DAILY STAR (Apr. 29, 2019), [https://tucson.com/news/local/ex-federal-official-i-got-rolled-by-trump-administration-to/article\\_e6d7a688-0a63-5f88-b993-24384d87a4bd.html](https://tucson.com/news/local/ex-federal-official-i-got-rolled-by-trump-administration-to/article_e6d7a688-0a63-5f88-b993-24384d87a4bd.html)

<sup>5</sup> Ian James, *High-level Trump appointee sought reversal on Arizona development near San Pedro River, ex-official says*, Arizona Republic (May 3, 2019), <https://www.azcentral.com/story/news/local/arizona-environment/2019/05/03/ex-official-trump-reverse-decision-vigneto-political-san-pedro-river/3616674002/>

<sup>6</sup> “Evaluation of Impacts of Proposed Well Pumping at the Villages of Vigneto Development, southwest of Benson, Arizona on Groundwater beneath the Saint David Cienega, in the Northern San Pedro Riparian National Conservation Area,” Prepared by Robert H. Prucha, PhD, PE, Integrated Hydro Systems, LLC, Golden, CO (Apr. 18, 2016).

<sup>7</sup> “A Stable Isotope Study of Groundwater and Surface Water near the St. David Cienega, San Pedro Valley, Arizona,” Prepared by Chris Eastoe, University of Arizona Geosciences Retired Staff Scientist (Nov. 2017).

<sup>8</sup> *Id.*

<sup>9</sup> “Evaluation of Impacts of Proposed Well Pumping at the Villages of Vigneto Development, southwest of Benson, Arizona on Groundwater beneath the Saint David Cienega, in the Northern San Pedro Riparian National Conservation Area,” Prepared by Robert H. Prucha, PhD, PE, Integrated Hydro Systems, LLC, Golden, CO (Apr. 18, 2016).

<sup>10</sup> *Arizona-Idaho Conservation Act*, U.S. Congress 1988 (S. 2840), 16 U.S.C. § 460xx(a), U.S. Congress, Nov. 18, 1988.

1. All documents and communications referring or relating to BLM's consideration of the impacts of the Villages at Vigneto development on the SPRNCA, including the Saint David Cienega, and
2. All documents and communications sent to ACOE regarding the Villages at Vigneto development. To the extent not contained in these documents, provide additional documents and information sufficient to show the justification for failing to request that ACOE consider the effects of the Vigneto development on SPRNCA.

Please contact the Oversight and Investigations Subcommittee staff at (202) 225-6065 with any questions about this request. Thank you for your attention to this matter.

Sincerely,



Raúl M. Grijalva  
Chair  
Committee on Natural Resources



## Responding to Committee Document Requests

In responding to document requests from the Committee on Natural Resources, please apply the instructions and definitions set forth below:

### Instructions

1. In complying with the request, you should produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data, or information should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization, or individual denoted in this request has been, or is currently, known by any other name than that herein denoted, the request should be read also to include them under that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., memory stick or thumb drive) in lieu of paper productions. Documents produced in electronic format should also be organized, identified, and indexed electronically. Consult with the Committee to determine the appropriate format in which to produce the information.
4. Each document produced should be produced in a form that renders the document capable of being copied.
5. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box, or folder is produced, each CD, hard drive, memory stick, thumb drive, box, or folder should contain an index describing its contents.
6. Documents produced in response to this request should be produced together with copies of file labels, dividers or identifying markers with which they were associated when this request was issued. To the extent that documents were not stored with file labels, dividers, or identifying markers, they should be organized into separate folders by subject matter prior to production.
7. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
8. It shall not be a basis for refusal to produce documents that any other person or entity also possesses a non-identical or identical copy of the same documents.
9. If compliance with the request cannot be made in full, compliance should be made to the extent possible and should include an explanation of why full compliance is not possible.

10. In the event that any document or part of a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document or part of a document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
11. If any document responsive to this request was, but no longer is, in your possession, custody, or control, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
12. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
13. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.
14. All documents should be Bates-stamped sequentially and produced sequentially.
15. Documents produced to the Committee in response to this request should be delivered to majority staff in Room 1324 of the Longworth House Office Building.

#### Definitions

1. The term "**document**" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone calls, text messages, MMS or SMS messages, other mobile-to-mobile messages, instant messages or online chat messages, meetings or other communications, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotape,

recordings and motion pictures), and electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, memory sticks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "**documents in your possession, custody, or control**" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that you have placed in the temporary possession, custody, or control of any third party.
3. The term "**communication**" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, facsimile, mail, e-mail (desktop or mobile device), text message, MMS or SMS message, other mobile-to-mobile message, instant message or online chat, telexes, releases, personal delivery, or otherwise.
4. The terms "**and**" and "**or**" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
5. The terms "**person**" or "**persons**" means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.
6. The term "**identify**," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
7. The terms "**referring or relating**," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is in any manner whatsoever pertinent to that subject.
8. The term "**employee**" means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.