

Attachment G

Final Environmental Impact Report

Section 4

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List of Comment Letters
Monterey County GPU5 FEIR
March 12, 2010

Comment Letter No.	Commenter
Federal Agencies	
F-1	U.S. Dept. of Commerce - National Oceanic and Administration Fisheries
State Agencies	
S-1	California Coastal Commission
S-2	California Department of Conservation
S-3	California Department of Fish And Game
S-4	Department of Forestry and Fire Protection
S-5	Department of Toxic Substances Control
S-6	California Department of Transportation, District 5
S-7	Native American Heritage Commission
S-8a	Office of Planning and Research (transmittal letter)
S-8b	Office of Planning and Research (transmittal letter)
S-8c	Office of Planning and Research (transmittal letter)
S-9	California Regional Water Quality Control Board, Central Coast Region

Comment Letter No.	Commenter
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Local Agencies

L-1a	Assoc. of Monterey Bay Area Governments
L-1b	Assoc. of Monterey Bay Area Governments
L-2	City of Gonzales
L-3	City of King City
L-4	City of Marina
L-5	City of Salinas
L-6	City of Seaside, Resource Management Services
L-7	County of San Benito
L-8	County of Santa Cruz
L-9	King City Airport Monterey Bay Unified Air Pollution Control District
L-10	Monterey Bay Unified Air Pollution Control District
L-11	Monterey Peninsula Regional Park District
L-12	Monterey Peninsula Water Management District
L-13	Monterey Salinas Transit
L-14	Moss Landing Harbor District
L-15	Salinas Union High School District
L-16	Transportation Agency of Monterey County

Organizations

O-1a	Ag Land Trust
O-1b	Ag Land Trust CRPB & MC - Concerned Residents of Pebble Beach and Monterey County
O-2	Alliance of Monterey Area Preservationists (AMAP)
O-3	California Native Plant Society
O-4	California Oaks Foundation
O-5a	Carmel Valley Association
O-5b	Carmel Valley Association
O-6a	Carmel Valley Traffic Committee
O-6b	Carmel Valley Traffic Committee
O-7	Citizens for Sustainable Monterey County
O-8	Coast Property Owners Association
O-9a	Friends, Artists, and Neighbors of Elkhorn Slough (FANS)
O-9b	Friends, Artists, and Neighbors of Elkhorn Slough (FANS)
O-10a	Helping our Peninsula's Environment (HOPE)
O-10b	Helping our Peninsula's Environment (HOPE)
O-10c	Helping our Peninsula's Environment (HOPE)
O-11a	LandWatch
O-11b	LandWatch
O-11c	LandWatch
O-11d	LandWatch
O-11e	LandWatch
O-11f	LandWatch
O-11g	LandWatch
O-12a	League of Women Voters
O-12b	League of Women Voters
O-13a	Monterey County Cattlemen's Association
O-13b	Monterey County Cattlemen's Association

Comment Letter No.	Commenter
O-14a	Monterey County Farm Bureau
O-14b	Monterey County Farm Bureau
O-15	Monterey Institute for Research in Astronomy (MIRA)
O-16	The Nature Conservancy
O-17	Plan for the People
O-18a	Prunedale Neighbors Group
O-18b	Prunedale Neighbors Group
O-19	Save Our Peninsula Committee
O-20a	Sierra Club, Ventana Chapter
O-20b	Sierra Club, Ventana Chapter
O-20c	Sierra Club, Ventana Chapter
O-21a	The Open Monterey Project
O-21b	The Open Monterey Project
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O-21f	The Open Monterey Project
O-21g	The Open Monterey Project
O-21h	The Open Monterey Project
O-21i	The Open Monterey Project
O-21j	The Open Monterey Project
O-21k	The Open Monterey Project

Individuals

I-1	Brennan, Janet
I-2	California Water Service Company
I-3	Clark, David and Madeline
I-4	Del Piero, Marc
I-5	Doering, John
I-6	General Farm Investment Company (C. Bunn)
I-7a	Haines, Jane
I-7b	Haines, Jane
I-7c	Haines, Jane
I-7d	Haines, Jane
I-7e	Haines, Jane
I-7f	Haines, Jane
I-7g	Haines, Jane
I-8	Hale, Robert
I-9	Houston, Lance
I-10	Kasunich, Doug and Susan
I-11	Knauf, Katherine and Don
I-12	L&W Land Company and Sakata Ranch
I-13	Mitchell, Eddie
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I-15	Pratt, Nancy
I-16	Robbins, Margaret
I-17	Rosenthal, Richard H.

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I-19a	Theyskens, William
I-19b	Theyskens, William (addendum)
I-20	Weaver, Mike
I-21	Zischke, Jaqueline

Late Letters

O-5c	Carmel Valley Association
O-10d	Helping our Peninsula's Environment (HOPE)
O-22	Action Pajaro Valley
I-22	Carver, Robert

Chapter 7

Comment Letters

This chapter contains the written comments received on the DEIR. The comments and responses are grouped in five categories: federal agencies, state agencies, local agencies, organizations, and individuals. Table 7-1 below identifies the commenters and assigns a number to their correspondence. Where more than one letter or correspondence was received from a commenter, the letters are given alphabetic subscripts with the commenter's number. For example, the numbers O-1a and O-1b would be applied to two letters that were submitted by the same organization.

The individual comment letters are marked to identify the specific issues raised in the letter, and numbered accordingly in the margin. The responses are organized in accordance with the appearance of the comment in the letter. So, response O-1a.1 would respond to the first comment in letter O-1a, response O-1a.2 to the second comment, and so on.

To reduce the size of this chapter, most comment letters have been reproduced two pages per printed page. Accordingly, most printed pages comprise two numbered pages.

Table 7-1. List of DEIR Commenters

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O-2	Alliance of Monterey Area Preservationists (AMAP)	7-368
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O-17	Plan for the People	7-947
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O-20a	Sierra Club, Ventana Chapter	7-973
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Individuals		
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I-3	Clark, David and Madeline	7-1,177
I-4	Del Piero, Marc	7-1,178
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I-6	General Farm Investment Company (C. Bunn)	7-1,180
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I-13	Mitchell, Eddie	7-1,288
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I-19a	Theyskens, William	7-1,325
I-19b	Theyskens, William (addendum)	7-1,330
I-20	Weaver, Mike	7-1,332
I-21	Zischke, Jaqueline	7-1,335
Late Letters		
O-5c	Carmel Valley Association	7-1,337
O-10d	Helping our Peninsula's Environment (HOPE) (Later Letter)	7-1,346
O-22	Action Pajaro Valley (Late Letter)	7-1,349
I-22	Carver, Robert (Late Letter)	7-1,350

Comment Letters Federal Agencies

F-1



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
777 Sonoma Ave., Room 325
Santa Rosa, CA 95404-4731

October 17, 2008

In response refer to:
151416SWR2008SR00380

Cari Holm, Assistant Director
Monterey County Planning Department
168 W. Alisal Street, 2nd Floor
Salinas, California 93901

Monterey County
Planning and Building
Inspection Administration

OCT 20 2008

RECEIVED

Dear Mr. Holm:

Thank you for the opportunity to comment on the September 2008 Draft Environmental Impact Report (DEIR) for the 2007 Monterey County General Plan. NOAA's National Marine Fisheries Service (NMFS) received a notice seeking written comments on the DEIR on September 5, 2008. Our comments on the September 2008 DEIR for the 2007 Monterey County General Plan are provided below. Please also refer to our October 2, 2006, comments we provided to the Monterey County Planning Department on the County of Monterey's Draft Program Environmental Impact Report for the 2006 Monterey County General Plan.

Many rivers, streams, and creeks within Monterey County support federally-threatened South-Central California Coast (S-CCC) Distinct Population Segment (DPS) steelhead (*Oncorhynchus mykiss*, 71 FR 834). Many of these watercourses are designated as critical habitat for S-CCC steelhead (70 FR 52488). NMFS is responsible for the protection of S-CCC steelhead pursuant to the Federal Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*) and implementing regulations promulgated thereunder.

NMFS has determined the S-CCC steelhead DPS is suffering a significant decline in overall abundance and productivity, is becoming increasingly fragmented, and that four sub-populations have become or are nearly extirpated. These population trends in conjunction with the large scale anthropogenic influences (e.g., water diversions, the influences of large dams, agricultural practices [including irrigation], urbanization, loss of wetlands and riparian areas, roads, grazing, gravel mining, and logging) on habitat conditions lead to the conclusion that this DPS continues to decline toward extinction. Further adverse effects to steelhead and their designated critical habitat as a result of water use are of primary concern to NMFS relative to the DEIR.

Specific comments

Page 4.3-14 refers to "the central coast steelhead", but should be changed to South-Central California Coast steelhead.



F-1

2

Page 4.3-78 states, "Work in Salinas River and Arroyo Seco River channels is exempted if it is covered by a (U.S. Army Corps of Engineers) 5-year regional Section 404 permit, approved by the (California Department of Fish and Game), and approved by the (Monterey County Water Resources Agency)." This sentence is incorrect. The existing 5-year regional Section 404 permit expires on October 31, 2008, and does not include any channel maintenance activities in the Arroyo Seco River. We expect the Monterey County Water Resources Agency will apply for another 5-year regional Section 404 from the U.S. Army Corps of Engineers, which will require Federal Endangered Species Act consultation between NMFS and the U.S. Army Corps of Engineers; we do not expect the Monterey County Water Resources Agency will propose to authorize channel maintenance activities in the Arroyo Seco River.

Page 4.3-97: We support the development and adoption of a stream setback ordinance. Setbacks must be adequate to (1) sufficiently remove harmful human activities near watercourses, and (2) prevent the need for costly and invasive human interventions in the stream ecosystem. The stream setback ordinance should apply not only to those rivers and creeks listed on page 4.3-97, but to all watercourses supporting steelhead. We would like to work with Monterey County on the development of a stream setback ordinance because local regulations affecting stream corridor health and function directly affect our ability to conserve and protect steelhead and their habitat.

Page 4.3-103; Area Plan Policies: Although some Area Plans have supplemental policies supporting water quality protection related to construction impacts on soil erosion and sedimentation, all Area Plans should have policies regarding construction-related soil erosion and sedimentation.

Page 4.9-1: The DEIR should acknowledge that NMFS has listed approximately 472 miles as designated critical habitat in Monterey County for S-CCC DPS steelhead and describe how the General Plan will avoid impacts to steelhead critical habitat.

Page 4.9-1: The DEIR does not address lagoons/estuaries within Monterey County. The DEIR should describe how the General Plan will avoid impacts to these important habitats.

Page 4.9-48: When referring to the issuance of a biological opinion, the DEIR should state that NMFS, in addition to the U.S. Fish and Wildlife Service, also issues biological opinions.

Page 4.9-47; Endangered Species Act: The ESA was enacted to identify species at risk of extinction, to provide a means to help such species recover, and to protect the ecosystems of which declining species are a part. Section 9 of the ESA prohibitions on 'take' applies to the activities of everyone - every state, city, and county government, every business, and every citizen. Local agencies are liable under the ESA for issuing permits which result in take of federally-protected species.

In addition to sections 7 and 10 of the ESA, section 4(d) has rules that include a set of limits on the application of the ESA 'take' prohibitions for specific categories of activities that contribute

F-1

3

to the conservation of listed steelhead or adequately limit their adverse impacts. The limits can be thought of as exceptions to the 'take' prohibitions.

9

One of the limits, Limit No. 12 – Municipal, Residential, Commercial and Industrial Development and Redevelopment (MRCI), may be applicable to Monterey County. As a general matter, MRCI development (and redevelopment) has a significant potential to degrade habitat and injure or kill steelhead in a variety of ways. With appropriate safeguards, MRCI development can be specifically tailored to minimize impacts on listed fish to the extent that additional Federal protections would not be needed to conserve the listed DPS. To be approved for a limit on ESA 'take' prohibitions, a program must adequately contribute to the conservation of salmonids and meet their biological requirements. By providing limitation from take liability, NMFS encourages governments and private citizens to adjust their programs and activities to be "salmon safe". For more information, contact NMFS or see <http://www.nwr.noaa.gov/ESA-Salmon-Regulations-Permits/4d-Rules/Index.cfm>.

10

Page 4.9-55, Section 4.9.5.2: "NMFS" should be added to the end of the first two paragraphs, to read "...or regulations, or by the CDFG, USFWS, or NMFS..."

11

Page 4.9-74: Pursuant to Mitigation Measure BIO-1.3, we recommend the County contact NMFS when proposed projects may affect steelhead or their habitat. If the project will not take or harm listed fish, then there is no need to modify the activity, or to contact NMFS. If, however, after reviewing the project, it seems likely it will take or harm listed fish, or there is uncertainty about whether take or harm may occur, the acting agency, entity, or individual should contact NMFS to seek more information on evaluating the project's impacts and determining ways to avoid harming the fish and violating the ESA.

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Thank you again for the opportunity to comment on the DEIR and we look forward to working with the County in the future. Please contact Mr. Bill Stevens at (707) 575-6066, or via e-mail at William.Stevens@noaa.gov, if you have any questions concerning these comments.

Sincerely,


Dick Butler
Santa Rosa Area Office Supervisor
Protected Resources Division

cc: Russ Strach, NMFS, Sacramento

**Comment Letters
State Agencies**

Feb-02-08 04:38pm From-Coastal Commission 831-4274877 T-402 P.002/003 F-052 69

STATE OF CALIFORNIA - THE RESOURCES AGENCY
CALIFORNIA COASTAL COMMISSION
 CENTRAL COAST DISTRICT OFFICE
 728 FRONT STREET, SUITE 200
 SANTA CRUZ, CA 95060
 PHONE: (831) 427-4883
 FAX: (831) 427-4877

Monterey County
 Planning and Building
 Inspection Administration

S-1

FEB 11 2008
 RECEIVED
 Filed 2/2/09
 4:38pm

February 2, 2009

Carl Holm, Assistant Director
 Monterey County Planning Department
 168 West Alisal Street, 2nd Floor
 Salinas, CA 93901

Subject: Monterey County 2007 General Plan Draft EIR

Dear Mr. Holm:

Thank you for the opportunity to comment on the Draft Program Environmental Impact Report (EIR) for the Monterey County 2007 General Plan. Please note that we have previously provided comments on the earlier version of the EIR (letter of April 2, 2004), on the Notice of Preparation for the EIR for the 2006 General Plan document (letter of March 14, 2006), on the Draft EIR for the 2006 General Plan document (letter dated October 16, 2006), and on the General Plan drafts themselves, including, most recently our letter of July 25, 2006. Please continue to consider those previous comments as the County moves forward with subsequent General Plan drafts and environmental review. The purpose of this letter is not to reiterate those past comments, but rather is provide some general feedback regarding the relationship of the General Plan to the Local Coastal Program (LCP) and related CEQA documents.

As we have noted previously, we understand it is not the County's intent to use any part of the General Plan document as the basis for an LCP amendment or update. We further understand that any such LCP update amendments pursued by the County will be pursued separately in the future through their own planning processes. As a result, and due to ongoing budget and staffing shortfalls, we have not thoroughly reviewed the current documents, preferring instead to allot our available review time to future coastal zone documents and proposals. However, despite indications in the text that the General Plan and EIR are meant to cover only the inland portions of the County, cursory review of the EIR document indicates that a significant amount of data collection appears to have been included for the coastal zone portion of the County, and is represented in various exhibits, tables, and text throughout the document (e.g., the Biological Resources chapter shows and describes vegetation cover, special-status species, and habitats in the entire County). Although we understand the need to provide overall context in the EIR, given the County's stated position regarding the General Plan's lack of relationship to the coastal zone, we have not reviewed this information in relation to coastal zone resources and potential LCP updates and/or amendments related thereto. Please clarify if our understanding is incorrect, and the EIR/General Plan is intended to form the basis for future LCP planning. If so, we may have more comments for you.

Feb-02-08 04:38pm From-Coastal Commission 831-4274877 T-402 P.003/003 F-052

Carl Holm, Monterey County
 2007 General Plan Draft EIR
 February 2, 2009
 Page 2

In any event, we look forward to seeing a revised final EIR that addresses these and previous comments that we have submitted. Please contact me if you have any questions or would like to discuss our comments further.

Sincerely,

 Katie Morange
 Coastal Planner

cc: OPR Clearinghouse
 AMBAG Clearinghouse

Feb-02-09 04:38pm From: Coastal Commission 831-4274877 T-402 P.001/003 F-052



California Coastal Commission
Central Coast District Office

FAX TRANSMITTAL

DATE: 2/2/09	NUMBER OF PAGES (INCLUDING COVERSHEET): 3
PLEASE DELIVER TO: Carl Holm	FROM: Katie Morange
COMPANY:	CALIFORNIA COASTAL COMMISSION 725 Front Street, Santa Cruz, CA 95060-4508 Phone: (831) 427-4863 Fax: (831) 427-4877
PHONE NUMBER:	
FAX NUMBER: 757-9516	

Please notify sender if you do not receive a clear or complete copy of this transmittal

REGARDING:
General Plan DEIR comments

California Coastal Commission - Central Coast District Office

Feb-02-2009 16:31 From: DIVISION OF LAND RESOURCE PROTECTION 18159273430 T-578 P.001/002 F-381

NATURAL RESOURCES AGENCY ARNOLD SCHWARZENEGGER, GOVERNOR 67



DEPARTMENT OF CONSERVATION
DIVISION OF LAND RESOURCE PROTECTION S-2

801 K STREET • MS 10-01 • SACRAMENTO, CALIFORNIA 95814
PHONE: 916 / 324-0650 • FAX 916 / 327-3430 • TDD 916 / 324-2555 • WEBSITE: conservation.ca.gov

February 2, 2009

VIA FACSIMILE (831) 757-9516
Mr. Carl Holm, Assistant Director
Monterey County Resource Management Agency
168 West Alisal Street, 2nd Floor
Salinas, CA 93901-2680

RECEIVED
Faxed 2/3/09
4:31 pm

Dear Mr. Holm:

Subject: Draft Environmental Impact Report (DEIR) for the 2007 Monterey County General Plan

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the DEIR for the referenced project. The Division monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act and other agricultural land conservation programs. We offer the following comments and recommendations with respect to the project's impacts on agricultural land and resources.

Project Description:

The 2007 General Plan is a comprehensive update to the existing 1982 Monterey County General Plan providing goals and policies to guide future development and to preserve natural and agricultural resources from urban encroachment to 2030. The 2007 Plan covers all unincorporated portions of the County. The 2007 General Plan directs urbanization to incorporated cities and to designated Community Areas and Rural Centers. As maximum development potential is not expected to occur during the 2007 planning horizon, the Plan also provides analysis for longer-term full build out to 2092.

Important Farmlands

The DEIR states there are 236,142 acres identified as Important Farmland and 1,065,577 acres of grazing land. 763,396 acres are protected under Williamson Act contracts, Farmland Security Zone (FSZ) or other enforceable restrictions as of 2007. The DEIR does an admirable job of discussing the existing environmental setting. We suggest the following be included in the Final Environmental Impact Report (FEIR) related to changes in agricultural resources proposed by implementation of the 2007 General Plan.

The DEIR references that additional information pertaining to the Department's Important Farmland Mapping and Monitoring can be found under section 4.2.2 (see section 4.2.3.3, reference to regulatory framework). The reference is incorrect; the correct reference is 4.2.4.

Grazing lands are an important natural/agricultural resource in Monterey County. The Department suggests the FEIR include the Department's Monterey County Important Farmland Map. The 2006 Map is available at the Department's website and indicates the location of grazing lands in the County.

The Department of Conservation's mission is to balance today's needs with tomorrow's challenges and foster intelligent, sustainable, and efficient use of California's energy, land, and mineral resources.

Feb-02-2009 16:31 From: DIVISION OF LAND RESOURCE PROTECTION 16189273430 T-578 P. 002/002 F-301

Mr. Carl Holm, Assistant Director
February 2, 2009
Page 2 of 2

S-2

The DEIR indicates that implementation of the 2007 General Plan will result in the conversion of 2,571 acres of important farmland to urban land uses. Of this amount, 476 acres of important farmland are within incorporated cities Sphere of Influence. The DEIR states that conversion of the remaining acreage is most likely to occur in the Community Areas of Boronda, Castroville, Chualar and Pajaro. The Department recommends the FEIR include a table indicating the estimated breakdown of important farmland acreage figures per Area Plan. The table could be similar to Table 4.9-2 that indicates the approximate acreage of different vegetation types by Community Areas. 2

The Department supports the County's proposed policy to adopt and implement a program to mitigate for the loss of important Farmland resulting from a change of land use designation or annexation. Until the program is established, the County may wish to consider that the California Farmland Conservancy Program is authorized to accept donations of funds if the Department of Conservation is the designated beneficiary and it agrees to use the funds for purposes of the program in a county specified by the donor. 3

Williamson Act Land

The Department recommends that the County's more restrictive Williamson Act contract terms (20-year versus 10-year) be included in the discussion of Williamson Act contracts in Section 4.2.4.1. Additionally, we recommend that Exhibit 4.2.2 be replaced with the Monterey County 2007 Williamson Act Map. The map is available from the Department website and provides a comprehensive picture of the County Williamson Act prime and nonprime lands, Farmland Security Zone lands and lands undergoing nonrenewal of the contract. 4

The DEIR states that implementation of the 2007 General Plan will result in the conversion of 6,874 acres of Williamson Act land to urban uses. The DEIR also indicates that 299 of the 6,874 acres designated for conversion, are located within the Spheres of Influence of the County's incorporated cities. The Department suggests the FEIR breakdown the 6,874 acres to the number of Williamson Act prime and nonprime acres. Additionally, the FEIR could include a table that provides readers a breakdown of where conversion of Williamson Act acreage is expected, i.e. 40 Williamson Act prime acres in the City of Castroville.

Thank you for the opportunity to comment on the DEIR. If you have questions on our comments, or require technical assistance or information on agricultural land conservation, please contact Adele Lagomarsino at 801 K Street, MS 18-01, Sacramento, California 95814; or, phone (916) 445-9411.

Sincerely,
DJO
Dan Otis
Program Manager
Williamson Act Program

cc: State Clearinghouse

02-03-09 12:46 FROM: DFG 550 2433004 T-292 P. 002/008 F-006

DEPARTMENT OF FISH AND GAME
Central Region
1254 East Shaw Avenue
Fresno, California 93710
(559) 243-4005

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February 3, 2009

Carl Holm
Resource Management Agency -
Planning Department
County of Monterey
168 West Alisal, 2nd Floor
Salinas, California 93901

Subject: Draft General Plan 2007 (DGP)
Draft Environmental Impact Report (DEIR)
SCH No. 2007121001

Dear Mr. Holm:

The Department of Fish and Game has reviewed the Monterey County Draft General Plan 2007 and the Draft Environmental Impact Report (DEIR) which addresses the adoption of the General Plan Update. We recognize this draft represents a monumental effort to update the 1982 General Plan and commend the County on its efforts to address the challenges of balancing various and competing needs into the foreseeable future. We endorse the guiding objectives of the DGP, and offer comments with the intent of supporting implementation of those objectives. 1

The Department's comments are focused on helping the County identify and conserve the unique and characteristic natural resources found throughout Monterey County. We recognize the desirability of concentrating growth into those areas where there is existing or planned infrastructure and insuring the continued viability of agricultural lands in the County. We believe both these objectives are consistent with the objective of protection of areas of important natural resources. We offer the following comments to aid in general plan implementation and protection of public trust resources.

California Environmental Quality Act (CEQA) Authority: The Department is a Trustee Agency with the responsibility under CEQA for commenting on projects that could impact fish and wildlife resources. Pursuant to Fish and Game Code Section 1802, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. As a Trustee Agency for fish and wildlife resources, the Department is responsible for providing, as available, biological expertise to review and comment on environmental documents and impacts arising from project activities, as those terms are used under CEQA. 2

Conserving California's Wildlife Since 1870

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Habitat Connectivity: The Department supports incorporating open space goals and policies to provide for habitat connectivity between conservation lands within the County and between neighboring counties. California's Wildlife Action Plan (<http://www.dfg.ca.gov/wildlife/wap/report.html>) directs us to work with local agencies to protect large, relatively unfragmented habitat areas, wildlife corridors, and under-protected ecological community types. The Department recommends a comprehensive approach to producing a map of existing and potential open space areas and a wildlife corridor system to connect those areas.

The Western Governor's Association (WGA) recently recognized the importance of maintaining wildlife corridors and crucial wildlife habitat with a 2007 policy resolution entitled "Protecting Wildlife Migration Corridors and Crucial Wildlife Habitat in the West." The WGA 2008 "Wildlife Corridors Initiative Report" summarized the importance of open spaces and wildlife corridors: "Large, intact and functioning ecosystems, healthy fish and wildlife populations, and public access to natural landscapes contribute to the West's quality of life and economic well-being. Important wildlife movement corridors and crucial wildlife habitats within these landscapes are critical to maintaining these Western qualities". The full report can be found at (<http://www.westgov.org/wga/initiatives/corridors/index.htm>).

Development, agricultural conversion, and overuse of water resources increasingly isolate the County's open space areas and reduce their fish and wildlife habitat values. Many of the protected open space areas are too small to maintain viable isolated wildlife populations. In many cases, only the surrounding unprotected open space areas allow species to persist within the protected areas by providing larger habitat patches and corridors connecting to larger habitat patches. Maintaining species diversity within open spaces will require expanding protected areas and maintaining habitat connectivity between them. Incorporating wildlife corridors into the Conservation and Open Space Element would facilitate species conservation and, therefore, maintain the value of open space within Monterey County.

To facilitate conservation of habitat linkages, the Department recommends that the general plan include an overlay map of linkages required to maintain wildlife populations in protected areas and other important habitat patches which are likely to remain undeveloped. Without a map representing the important linkages, planning efforts are likely to slowly erode remaining habitat connectivity and result in projects with significant, unmitigated impacts. A general connectivity map can be developed without being parcel-specific. General plan policy should be developed to protect connectivity in the mapped linkages.

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Some important linkages to maintain and/or enhance include the following: Santa Lucia to Gabilan Mountains, Gabilan/Diablos to Santa Cruz Mountains, Santa Lucias to Fort Ord, and the Monterey Peninsula to Santa Lucias. The Department would be happy to work with you on mapping these linkages, identifying other important linkages, and developing effective policy for their maintenance.

Goal AG-4 Proposed Winery Corridors: The proposed winery corridors fall within San Joaquin kit fox range. Associated policy should include requirements to minimize habitat fragmentation. In addition to kit fox habitat connectivity, linkages are necessary to allow wildlife movement between river corridors and upland habitats, and between the Gabilan and Santa Lucia mountain ranges.

Where a project has the potential to inhibit wildlife movements, it should be designed to minimize the potential impacts to wildlife movement. To reduce crop damage and subsequent depredation permit requests to the Department, policy should require fencing to limit deer access to any new vineyards. General Plan policies should also require that any wire mesh fencing in San Joaquin kit fox range be constructed of mesh not smaller than six (6) by six (6) inches at ground level or other designs which are permeable to kit fox. General Plan policies for winery corridors should require breaks every 0.25 miles to allow passage of all wildlife where winery projects would fragment wildlife habitat.

Goal AG-5: Goal AG-5 promotes compatibility between agricultural uses and environmental resources, specifically soils and water quality. We support this goal and request that policies under AG-5 also promote compatibility between agricultural uses and biological resources. The DEIR identifies substantial impacts to biological resources resulting from anticipated agricultural expansion under the proposed General Plan. For example, the DEIR anticipates the loss of 7,709 acres of annual grasslands, due to development, and 7,536 acres due to agricultural conversion, with no means currently identified to compensate for San Joaquin kit fox habitat losses.

Goal OS-5: This proposed goal would "Conserve designated critical habitat for listed plant and animal species designated as federal or state threatened or endangered species and critical habitats designated in area plans." The Department recommends clarifying the term "critical habitat," revising this goal and subsequent policies to be consistent with the CEQA definition of "endangered, rare, or threatened species," and reevaluating the reference to area plan species lists since the area plans do not appear to contain species lists.

"Critical habitat" is a Federal designation applied to some Federally listed species. It applies only to Federal projects. The United States Fish and Wildlife Service (USFWS)

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has not designated critical habitat for many Federally listed species. The State has no equivalent designation for State-listed species.

While the Department supports the goal of conserving critical habitat, we note that this goal and its supporting policies seem to misinterpret "critical habitat"—applying it to State-listed species, species designated by area plans, and Federally listed species which may have no critical habitat designation. Policies OS-1.7, 1.8, 5.1, 5.17, refer to different classes of resources with "critical habitat." This may lead to confusion when policies are applied to projects. Clarification of the term "critical habitat" and revising the goals and policies to reflect the CEQA definition of "endangered, rare, or threatened," may aid in more effective general plan implementation.

The CEQA Guidelines define "endangered, rare, or threatened" in Section 15380. Since the DGP is a "project," as defined by CEQA, and an intent of CEQA is to avoid, minimize, and (as a last resort) compensate for impacts to endangered, rare, or threatened species, Goal OS-5 should be consistent with the CEQA definition. The CEQA definition includes all species listed under the State and Federal Endangered Species Acts as well as those species which meet the criteria in Section 15380(b). For example, the California Native Plant Society maintains lists of rare species which meet the criteria for CEQA consideration, but are not on State or Federal endangered species lists.

The proposed OS-5 language referring to species listed in area plans is problematic because the area plans presented in the DGP do not designate species or critical habitats to be conserved. If the area plans will contain lists, they should be consistent with the CEQA definition of "endangered, rare, or threatened" as discussed above. Species which may not meet the criteria in Section 15380(b), but are of local importance, can be included in addition to those which meet the CEQA criteria. The area plans should also recognize that the status of species will change over time; any area plan lists should not be considered static.

Policy OS-5.4: This goal relies on the USFWS to prescribe mitigation measures for projects which affect critical habitat. This may be problematic because Federal critical habitat designations apply only to Federal projects. We are unaware of any mechanism that would require the USFWS to consult on non-Federal actions which may affect critical habitat. The Department recommends developing a general plan policy which parallels the Federal Endangered Species Act critical habitat regulations by requiring the County and its applicants to develop mitigation which avoids destroying or adversely modifying critical habitat.

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Mitigation Measure BIO-1.3 and Policy OS-5.6: Mitigation measure BIO-1.3 in the DEIR and policy OS-5.6 in the DEIR require biological surveys only for projects which the County determines would affect special status species or sensitive natural communities. This may lead to a biological survey requirement only when special status species are already known to occur on a project site. The Department recommends that this measure and policy be revised to require that biological surveys should be required to *determine if* projects would affect biological resources.

One reasonable trigger may be to require biological surveys when a project would disturb or remove naturally occurring (including naturalized) vegetation. Such a policy would correspond with the botanical survey guidelines developed by the Department (<http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/guidepln.pdf>). Other circumstances may also warrant biological surveys even when naturally occurring vegetation would not be disturbed or removed, such as when building demolition could result in the loss of important bat roosts and the direct "take" of bats. Adopting a general plan policy to hire biological staff may aid in determining appropriate biological studies for each project.

Requiring surveys to determine if a project would affect biological resources, rather than requiring surveys when it is already known that a project may affect biological resources, would strengthen subsequent CEQA reviews in the following ways:

- assist in determining whether projects which would normally be categorically exempt may not be exempt because of location or a reasonable possibility of a significant effect (CEQA Guidelines §15300.2 (a) and (c)); circumstances which would go undetected in the absence of biological surveys
- assist in establishing baselines for CEQA reviews as required by CEQA Guidelines Section 15125
- assist in disclosing the impacts of a project
- assist in conserving biological resources which are currently undocumented

Policy OS-5.12: This policy requires Department consultation for impacts to "Areas of Special Biological Significance" (ASBS). While we support the underlying intent to protect these areas and would participate in discussions of impacts to them, please note that these areas are designated by the State Water Resources Control Board. The extents of ASBSs do not represent the range of species and natural communities which should be addressed in CEQA analyses. As a Trustee Agency for fish and wildlife resources, the Department is responsible for providing, as available, biological expertise to review and comment on environmental documents and impacts arising from all CEQA project activities.

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Affordable Housing Overlay Area for the Monterey Airport and Vicinity: The Department requests that the area identified for affordable housing near the Monterey Airport be reconsidered. The area bounded by State Route 68, Olmstead Road, Via Maipaso, and the unnamed drainage to the east is an intact coastal terrace prairie dominated by native perennial grasses. The combination of this plant community with the mi-na-mound topography found on-site is exceptionally rare, often associated with rare endemic plant species, and typically comprises wetlands as defined by the California State Fish and Game Commission. This particular site is known to support several endemic, special status plant species, some of which indicate seasonal wetlands in coastal prairies:

Table 1. Special-Status Plant Species Known to Occur at the Affordable Overlay Area for the Monterey Airport and Vicinity

Species	Common Name	Status
<i>Allium hickmanii</i>	Hickman's onion	CNPS 1B.2
<i>Cercylanthus rigidus</i> ssp. <i>littoralis</i>	seaside bird's beak	SE, CNPS 1B.1
<i>Piperia yadonii</i>	Yadon's piperia	FE, CNPS 1B.1
<i>Trifolium polyodon</i>	Pacific Grove clover	SR, CNPS 1B.1
<i>Trifolium buckwestiorum</i>	Santa Cruz clover	CNPS 1B.1

SE: State Endangered; FE: Federal Endangered; SR: State Rare; CNPS 1B.1: California Native Plant Society seriously endangered in California; CNPS 1B.2: fairly endangered in California.

Development of this site may require an Incidental Take Permit, pursuant to Section 2080 of Department of Fish and Game Code. For State Rare species such as Pacific Grove clover, we currently do not have a mechanism to permit "take." The Department recommends that this site be managed for its significant natural resource values instead of being targeted for housing.

Lockwood Rural Center: The proposed Lockwood Rural Center boundaries include Critical Habitat for the Federal endangered vernal pool fairy shrimp (*Branchinecta lynchi*). The proposed rural center area south of Jolon Road, and a portion of the area north of Jolon Road and west of Lockwood-Jolon Road, overlaps entirely with Critical Habitat Unit 29A as designated by the USFWS. Designating this area as a rural center for development conflicts with the proposed general plan Goal OS-5, which would "conserve designated critical habitats..." In addition, much of the overlapping area appears to contain vernal pool and swate features. Please see our other comments above regarding Goal OS-5 and the use of the term "critical habitat."

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Oak Tree Replacement: The North County and Carmel area plans require 1:1 oak tree replacement with 1-gallon plantings. The remaining area plans contain no oak tree replacement policies. All the planning areas contain oak woodlands. The Department recommends an oak woodland and oak tree policy for all planning areas. Policy should be developed to minimize or avoid the net loss of oak woodlands.

Tree planting mitigation ratios are typically greater than 1:1 to compensate for tree plantings which fail to reach maturity. Allowing a 1:1 ratio will likely lead to a net loss in trees, potentially resulting in unmitigated impacts.

In addition, tree plantings alone may not mitigate the loss of an oak woodland. Therefore, we recommend developing policy which requires replacing areas of oak woodlands when a project displaces oak woodlands. Public Resources Code (PRC) Section 21083.4 outlines the tools available to offset significant oak woodland impacts. The Department encourages general plan policy which reflects the provisions of PRC Section 21083.4. The provisions include oak woodland conservation easements, replacement tree plantings with a seven-year maintenance period, restoration of degraded oak woodlands, and contributions to the Oak Woodlands Conservation Fund. The Department is willing to provide a letter of support should the County submit a grant proposal to obtain funds to develop an oak conservation element for the general plan, oak protection ordinance, or an oak woodland management plan, pursuant to the Oak Woodlands Conservation Act.

Mitigation Measure BIO-1.2: The Department supports this measure and encourages its implementation, which would require the County to develop a conservation plan to sustain the Salinas Valley San Joaquin kit fox population. A Natural Communities Conservation Plan may be an appropriate tool for the Salinas Valley and adjoining foothills.

Thank you for the opportunity to comment on the 2007 General Plan and DEIR. If you have any questions regarding these comments, please contact Dave Hacker, Environmental Scientist, at 3196 Higuera Street, Suite A, San Luis Obispo, California 93401, by telephone at (805) 594-6152, or email at dhacker@dfg.ca.gov.

Sincerely,

Andrew G. Gordon, PhD
for Jeffrey R. Single, PhD,
Regional Manager

cc: See Page Eight

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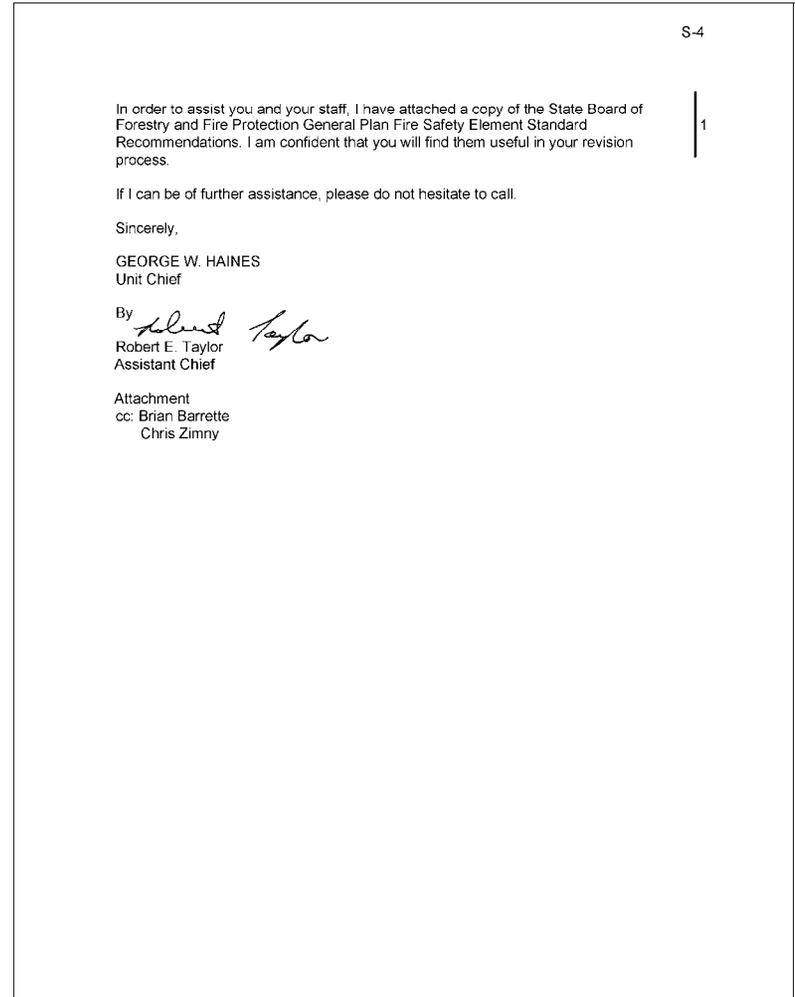
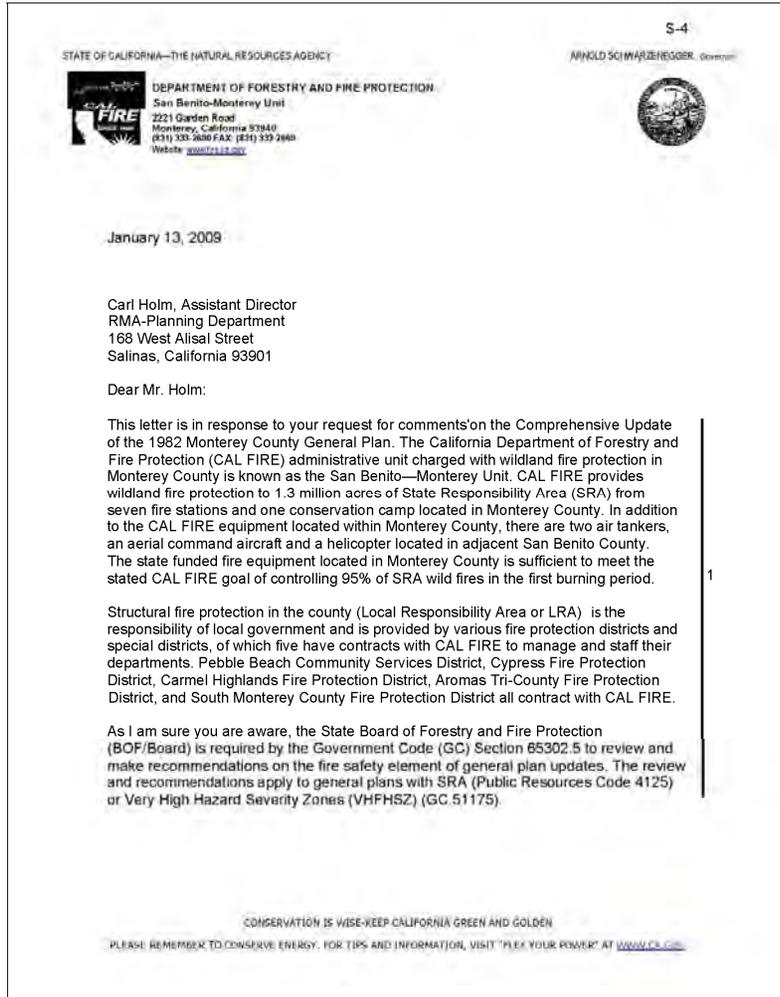
DATE: 2/3/09 PAGE 1 OF 9

TO: Carl Holm
Monterey Co Resource Management Agency

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FROM: Dave Hacker

INSTRUCTIONS: Original to follow by mail.



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**General Plan Fire Safety Element
Standard Recommendations
August 29, 2007
State Board of Forestry and Fire Protection**



Purpose and Background	Contents
Methodology for Review and Recommendations	
Standard List of Recommendations	

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Purpose and Background: The State Board of Forestry and Fire Protection (BOF/Board) is required to review and make recommendations to the fire safety element of general plan updates in accordance with Government Code (GC) §65302.5. The review and recommendations apply to those general plans with State Responsibility Area (SRA) (Public Resources Code 4125) or Very High Fire Hazard Severity Zones (VHFHSZ) (GC 51175).

The statutory requirements for the Board review and recommendations pursuant to GC 65302.5 (a)(1) and (2), and (b) are as follows:

- Ⓢ "The draft elements... to the fire safety element of a county's or a city's general plan...shall be submitted to the Board at least 90 days prior to... the adoption or amendment to the safety element of its general plan [for each county or city with SRA or VHFHSZ]."
- Ⓢ "The Board shall... review the draft or an existing safety element and report *its written* recommendations to the *planning* agency *within 60 days of its receipt of the draft or existing safety element*...."
- *Prior to adoption of the draft element*..., the Board of Supervisors... shall consider the recommendations made by the Board... If the Board of Supervisors...determines not to accept all or some of the recommendations...." the Board of Supervisors... shall communicate in writing to the Board its reasons for not accepting the recommendations.

Methodology for Review and Recommendations: The Board has created a standard list of fire protection evaluation factors and recommendations related to these factors. The factors and recommendations provide civic planners general plan goals and policies for mitigation of fire hazard and risks. The factors and recommendations were developed using CAL FIRE technical documents and input from local fire departments.

The recommendations on the attached list are the Board's general recommendations for any entity.. Each entity should evaluate their general plan using the factors and include the appropriate recommendations from the list.

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Standard List of General Plan Safety Element Recommendations

1. General Plan References and Incorporates County or Unit Fire Plan: Yes Partial No

Recommendation: Identify, reference or create (if necessary) a fire plan for the entity. Plan should incorporate the general concepts and standards from any county fire plan, fire protection agency (federal or state) fire plan, and local hazard mitigation plan.

Recommendation: Ensure fire plans incorporated by reference into the GP contain evaluations of fire hazards, assessment of assets at risk, prioritization of hazard mitigation actions, and implementation and monitoring components.

2. Land Use Mapping:

2.1 Goals and policies include mitigation of fire hazard for future development. Yes Partial No

Recommendation: Ensure the fire safe development codes used as standards for fire protection for new development in the VHFHSZ portions of the entity's jurisdiction meet or exceed statewide standards used for State Responsibility Area in 14 California Code of Regulations Section 1270 et seq.

Recommendation: Include policies and recommendations that incorporate fire safe buffers and greenbelts as part of the development planning. Ensure that land uses designated near high or very fire hazard severity zones are compatible with wildland fire protection strategies/capabilities.

2.2 Disclosure of wildland urban interface hazards including Very High Fire Hazard Severity Zones designations and Communities at Risk designations: Yes Partial No

Recommendation: Specify whether the entity has a VHFHSZ designation and include a map of the zones. Clearly indicate any area designated VHFHSZ pursuant GC 51175. Adopt CAL FIRE proposed Fire Hazard Severity Zones including model ordinance terms and conditions developed by the Office of the State Fire Marshal for establishing VHFHSZ areas.

3. Kousiing:

3.1 Incorporation of current fire safe building codes. Yes Partial No

Recommendation: Adopt the International Fire Code Council Urban Interface Model Code for new development in wildland urban interface areas in State Responsibility Areas or local Very

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High Fire Hazard Severity Zones. Adopt newly proposed Title 24 CCR/Midland Urban Interface Building Codes.

3.2 Identification of substandard fire safe housing relative to fire hazard area. Yes Partial No

Recommendation: Identify plans and actions to improve substandard housing structure conformance with contemporary fire standards in VHFHSZ or SRA. Plans and actions should include structural rehabilitation, occupancy reduction, demolition, reconstruction, community education, and community based solutions.

3.3 Compatibility of development, construction and building standards relative to access, flammability and fire flow. Yes Partial No

Recommendation: Ensure existing residential structures, and other "legacy" substandard residential structures, meet current fire safe ordinances pertaining to access, water flow, signing, and vegetation clearing.

3.4 Consideration of occupancy category effects on wildfire protection. Yes Partial No

Recommendation: Ensure risks to uniquely occupied structures, such as seasonally occupied homes, multiple dwelling structures, or other structures with unique occupancy characteristics, are considered for appropriate and unique wildfire protection needs.

3.5 Urban development and wildfire encroachment resistance features. Yes Partial No

Recommendation: Ensure residential housing zoning provides minimum fire safe standards, particularly in VHSZ or SRA. For example, zone designations that allow less expensive housing should conform to contemporary fire safe building and development standards.

3.6 Fire engineering structures (sprinklers/alarms). Yes Partial No

Recommendation: Ensure new development proposals contain specific fire protection plans, actions or referenced codes for fire engineering features for structures in VHFHSZ. Examples include codes requiring automatic sprinklers in VHFHSZ.

4. Conservation and Open Space:

4.1 Identification of critical natural resource values relative to fire hazard areas. Yes Partial No

Recommendation: Determine maximum acceptable wildfire size and initial attack suppression success rates for protection of critical natural resources.

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- 4.2 Inclusion of resource management activities to enhance protection of open space (prescribed burning, fuel breaks, vegetation thinning and removal). Yes Partial No

Recommendation: Provide vegetation management fire mitigation measures that provide protection of open space natural resources, reduce fire hazards to adjacent assets, and allow for safe fire suppression tactics.

- 4.3 Mitigation for unique pest, disease and other forest health issues leading to hazardous situations. Yes Partial No

Recommendation: Establish goals and policies that address unique pest, disease, exotic species and other forest health issues in open space areas relative to reducing fire hazard.

- 4.4 Integration of open space into fire safety effectiveness. Yes Partial No

Recommendation: Establish goals and policies for reducing the wildland fire hazards within the entity's boundaries and on adjacent private wildlands, federal lands, vacant residential lots, and greenbelts. Wildland fuels should be treated in those areas to reduce the intensity of fires. Identify goals and policies for engaging adjacent wildland owners regarding hazard mitigation plans on lands with fire hazards that threaten the entity.

- 4.5 Policies for dedication, construction and maintenance of systematic fire protection improvements in open space. Yes Partial No

Recommendation: Establish goals and policies for incorporating, systematic fire protection improvements for open space. Specifics should include standards for adequate access for firefighting, fuel modifications for open space within and on the perimeter of the entity, mitigation planning with agencies managing open space, water sources for fire suppression, and other fire prevention and suppression needs.

- 4.6 Urban forestry plans relative to fire protection: Yes Partial No

Recommendation: Ensure residential areas have appropriate fire resistant landscapes and discontinuous vegetation adjacent to open space or wildland areas.

Recommendation: Evaluate and resolve existing laws and local ordinances which conflict with fire protection requirements. Examples include conflicts with vegetation hazard reduction ordinances and listed species habitat protection requirements.

6. Circulation and Access:

- 5.1 Existing and planned transportation system incorporates requirements for designs that minimize wildfire damage to natural resources and minimizes hazards to human life. Yes Partial No

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Recommendation: Incorporate adequate access for firefighting, especially for existing legacy neighborhoods in VHFHSZ, SRA. Goals for standards for access should be consistent to those in 14 CCR 1270.

- 5.2 Adequacy of existing and future transportation system to incorporate fire infrastructure elements such as turnouts, helispots and safety zones. Yes Partial No

Recommendation: Establish goals and policies for transportation system fire infrastructure elements or otherwise reference appropriate supporting documents where these topics are addressed.

- 5.3 Adequate access to high hazard areas. Yes Partial No

Recommendation: Establish goals and policies that delineate high hazard areas, establish adequate access that meets or exceeds standards in 14 CCR 1270 for lands with no structures, and maintaining conditions of access in a suitable fashion for suppression access or public evacuation.

- 5.4 Standards for evacuation of residential areas in high hazard areas. Yes Partial No

Recommendation: Goals and policies should be established to delineate residential evacuation routes and evacuation plans in high fire hazard residential areas.

6. Hazard Mapping and Fire Safe Regulations:

- 6.1 Fire Hazard Mapping Designations Yes Partial No

Recommendation: Specify whether the entity has an official VHFHSZ designation and include a map of the zones. Clearly indicate any VHFHSZ pursuant GC 51175. Adopt CAL FIRE proposed Fire Hazard Severity Zones.

Adopt or incorporate local fire safe ordinances which meet or exceed standards similar to those in 14 CCR § 1270 for State Responsibility Area. Yes Partial No

Recommendation: Establish goals and policies for specific ordinances addressing evacuation and emergency vehicle access; water supplies and fire flow; fuel modification for defensible space; and home addressing and signing.

- 6.3 Geographic specific mitigation measures for fuel modification and fire risk reduction. Yes Partial No

Recommendation: Establish goals and policies that identify structures that have adequate fuel modification or other features that provide adequate fire fighter safety when tactics call for protection of a specific asset (i.e. which houses are safe to protect).

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6.4 Fuel Modification around homes: Yes Partial No

Recommendation: Establish ordinances in VHFHSZ for vegetation fire hazard reduction around structures that meet or exceed the Board of Forestry and Fire Protection's Defensible Space Guidelines, <http://www.boffire.org/pdfs/20070401/DefensibleSpaceGuidelines%2006.pdf> for SRA.

6.5 Adequacy of defense zones: Yes Partial No

Recommendation: Establish goals and policies for wildfire defense zones for emergency services including fuel breaks, back fire areas, or other staging areas that support safe fire suppression activities.

7. Emergency Services:

7.1 Map/description of existing emergency service facilities and areas lacking services:
 Yes Partial No

Recommendation: Include descriptions, maps, and standards for levels of emergency services. Review, develop or incorporate Local Agency Formation municipal services reviews for evaluating level of service, response times, equipments condition levels and other relevant emergency service information.

Recommendation: Incorporate goals and policies that establish emergency services consistent with state or national standards.

Recommendation: Ensure new development includes appropriate facilities to assist and support wildfire suppression.

7.2 Assessment and projection future emergency service needs: QD Yes Partial No

Recommendation: Establish goals and policies for new development emergency service needs and ensure appropriate levels of service are established consistent with state or national standards.

7.3 Adequacy of training: Yes Partial No

Recommendation: Establish goals and policies for emergency service training that meets or exceeds state or national standards.

7.4 Inter-fire service coordination preparedness/mutual aid and multi jurisdictional fire service agreements: Yes Partial No

Recommendation: Adopt the Standardized Emergency Management Systems for responding to large scale disasters requiring a multi-agency response. Ensure and review mutual aid and cooperative agreements with adjoining emergency service providers.

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8. Post Recovery and Maintenance: The Recovery and Maintenance recommendations address an opportunity for the community and landowners to re-evaluate land uses and practices that affect future wildfire hazards and risk.

8.1 Reevaluate hazard conditions: Yes Partial No

Recommendation: Incorporate goals and policies that provide for reassessment of fire hazards following wildfire events. Adjust fire prevention and suppression needs commensurate for both short and long term fire protection needs. Develop bum area recovery plans that incorporate comprehensive recovery and fire safe maintenance.

8.2 Incorporate wildlife habitat/endangered species considerations: Yes Partial No

Recommendation: Establish goals and policies for consideration of wildlife habitat/endangered species into long term fire area recovery and protection plans.

8.3 Native species reintroduction: Yes Partial No

Recommendation: Incorporate native species habitat needs as part of long term fire protection and fire restoration plans.

8.4 Evaluation of redevelopment: Yes Partial No

Recommendation: In High and Very hazardous areas, ensure redevelopment utilizes state of the art fire resistant building standards with 100 foot set backs (when possible) to ensure adequate defensible space is maintained around structures.

8.5 Long term maintenance of fire hazard reduction mitigation projects: Yes Partial No

Recommendation: Provide polices and goals for maintenance of fire hazard reduction projects, activities, or infrastructure.

9. Flood and Landslides: Recommendations for flood and landslides hazards, risks and vulnerabilities relative to past wildfire should be developed to mitigate potential losses to life, human assets and critical natural resources.

9.1 Establish flood and landslide vulnerability areas related to post wildfire conditions:
 Yes Partial No

Recommendation: Establish goals and policies that address the intersection of flood /landslide/post fire bum areas into long term public safety protection plans. These should include treatment assessment of fire related flood risk to life, methods to control storm runoff in bum areas, revegetation of bum areas, and drainage crossing debris maintenance.

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10. Terrorist Preparedness and homeland security impacts on wildfire⁹ protection:
These recommendations are included to ensure that terrorist preparedness actions do not substantially increase fire risk or unduly restrict emergency response.

10.1 Communication channels during incidences. Yes Partial No

Recommendation: Establish goals and policies consistent with the Governor's Blue Ribbon Fire Commission of 2005 for communications and interoperability. Example goals and policies should address fire personnel capability to communicate effectively across multiple frequency bands and update and expansion of current handheld and mobile radios used on major mutual aid incidents.

10.2 Fire prevention barriers. Yes Partial No

Recommendation: Identify goals and policies that address vital access routes that if removed would prevent fire fighter access (bridges, dams, etc.). Develop an alternative emergency access plan for these areas.

10.3 *Prioritizing asset protection from fire with lack of suppression forces.* Yes Partial No

Recommendation: Identify and prioritize protection needs for assets at risk in the absence of response forces.

Recommendation: Establish fire defense zones that provide adequate fire protection without dependency on air attack.

End Standard Recommendations (version 8/29/07)

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Linda S. Adams
Secretary for
Environmental Protection



Department of Toxic Substances Control

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Arnold Schwarzenegger
Governor

October 31, 2008

Mr. Carl Holm
Planning Manager
Monterey County Planning Department
168 W. Alisal Street, 2nd Floor
Salinas, California 93901

REVIEW OF THE MONTEREY COUNTY 2007 GENERAL PLAN (AMENDED) DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR), SCH #2007121001 DATED SEPTEMBER 2008

Dear Mr. Holm:

Thank you for providing the Department of Toxic Substances Control (DTSC) the opportunity to review the *Monterey County 2007 General Plan Draft Environmental Impact Report* dated September, 2008.

DTSC is the State's lead agency for the environmental cleanup and realignment of closing military bases and maintains jurisdiction over all hazardous substance and hazardous waste issues with the exception of petroleum contamination. The basis for DTSC's regulatory authority is found in California Health and Safety Code, Division 20, Chapters 6.5 (Hazardous Waste Control), Chapter 6.8 (Hazardous Substances Account Act), and California Code of Regulations, Title 22, Division 4.5.

The Central Coast Regional Water Quality Control Board (CCRWQCB) has authority over the remediation of petroleum sites and the protection of the waters of the State of California. The CCRWQCB regulatory authority is found in the Porter-Cologne Water Quality Control Act, California Water Code and California Code of Regulations, Title 23, Division 3, Chapter 15 and 16. In addition, the Air Resources Board would be concerned with impacts to air quality.

DTSC generally reviews the environmental documents to determine whether the proposed project could have potential impact on public health and worker safety because of the possible presence of residual chemical contaminants and/or munitions and explosives of concern (MEC).

S-5

Mr. Carl Holm
October 31, 2008
Page 2

Please ensure that any reuse planned for property on the former Fort Ord facility is consistent with the approved Fort Ord Reuse Plan dated June 1997. This is the document that the regulators use to ensure cleanup levels support reuse of various parcels. 2

The comments below were previously submitted to your agency for the 2006 General Plan DEIR. These are being resubmitted to ensure completeness of our review.

Table 1-2 Executive Summary Table, Mitigation Measure 4.3 Water Resources. Volatile Organic Compounds and other contaminants have been found to impact the groundwater resources at numerous sites in Monterey County, and the most notable is the former Fort Ord. Although the Fort Ord and Monterey Peninsula Airport prohibition zones and the associated County Ordinance are mentioned briefly in Section 4.3 (Page 4.3-72) of the DEIR, DTSC encourages the County to research the extent of groundwater impacts that have been identified in Monterey County. For instance, the former Fort Ord drinking water wells have been impacted with low concentrations of Trichloroethene (TCE). These other organic contaminants should be added to mitigation measure Table 1-2 and other appropriate tables throughout the document. Information with respect to the status of the former Fort Ord cleanup program can be found at www.fortordcleanup.com. You can also view various Land Use Covenants for groundwater use restrictions for Fort Ord on the DTSC's web page, www.envirostor.dtsc.ca.gov 3

Section 4.3.4, Page 4.3-100 Well Competition and Adverse Well Interference. This section describes the impacts of wells in close proximity or adjacent to each other that can be thought of as competing for the same groundwater resources. It should be noted that interference with groundwater contaminant plumes should also be avoided. If upon pumping, the cone of depression interferes with a contaminated groundwater plume, adverse effects will result. 4

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Mr. Carl Holm
October 31, 2008
Page 3

Track 1 Sites, February 2005. The Army requires to be notified, by the landowner, prior to the start of planned intrusive activities. The link for registering for this training can be found at www.fortordcleanup.com. 5

If you have any questions, please feel free to contact me at (916) 255-3664.

Sincerely,

Theresa McGarry
Hazardous Substances Scientist
Sacramento Office
Brownfields and Environmental Restoration Program

cc: Ms. Gail Youngblood
Fort Ord BRAC Environmental Coordinator
Department of the Army
Environmental and Natural Resources
Post Office Box 5004
Presidio of Monterey, California 93944-5004

Mr. Grant Himebaugh
Regional Water Quality Control Board
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401

Office of Planning and Research
State Clearinghouse
1400 Tenth Street
Post Office Box 3044
Sacramento, California 95812-3044

Mr. Guenther Moskat
California CEQA Tracking Center
1001 I Street, 25th Floor
Post Office Box 806
Sacramento, California 95812-0806

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY
 ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
 50 HIGUERA STREET
 SAN LUIS OBISPO, CA 93401-5415
 PHONE: (805) 549-3101
 FAX: (805) 549-3077
 TDD: (805) 549-3259
<http://www.dot.ca.gov/dist05/>

S-6

*Fix your power!
 Be energy efficient!*

October 28, 2008

SCH#: 2007121001

Carl Holm
 County of Monterey, Resource Management Agency
 168 West Alisal Street, 2nd Floor
 Salinas, CA 93901-2680

RE: 2007 MONTEREY COUNTY GENERAL PLAN

Dear Mr. Holm:

The California Department of Transportation (Caltrans), District 5, has reviewed the 2007 General Plan Draft Environmental Impact Report and offers the following comments.

GENERAL COMMENTS

1. Caltrans supports the county's adoption of the Regional Development Impact Fee Program that originated from the Transportation Agency for Monterey County's 2005 Nexus Study, and its use for the mitigation of cumulative regional traffic impacts in Monterey County. The program is consistent with both California Environmental Quality Act (CEQA) guidelines and Caltrans objectives, assuming that project-specific impacts will continue to be addressed on a case-by-case basis to determine appropriate mitigation. Impacts to mainline transportation facilities must be considered in addition to access points. 1
2. Caltrans supports local development that is consistent with State planning priorities intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety. We accomplish this by working with local jurisdictions to achieve a shared vision of how the transportation system should and can accommodate interregional and local travel and development. 2
3. Because Caltrans is responsible for the safety, operations, and maintenance of the State transportation system, our Level of Service (LOS) standards are used to determine the significance of the project's impact. We endeavor to maintain a target LOS *at the transition between LOS C and LOS D* on all State transportation facilities. In cases where a State facility is already operating at an unacceptable LOS, the Department would consider additional trips to be a potentially significant cumulative traffic impact, and they should be addressed. The methodologies used to calculate the LOS should be consistent with the methods in the current version of the *Highway Capacity Manual*. Also, some of the general assumptions that may have been used to calculate LOS for this report may be suitable for 3

"Caltrans improves mobility across California"

S-6

2007 Monterey County General Plan
 October 28, 2008
 Page 2

- 3 planning purposes, but should not be used for design and operations decisions (assumptions may include an average shoulder width, average frequency of driveways or turn lanes, etc.). 3
- 4 The Transportation Agency for Monterey County conducts traffic counts in April and August each year, and may be coordinating their counts with the Santa Cruz County Regional Transportation Commission, the Council of San Benito County Governments, and the Association of Monterey Bay Area Governments (AMBAG). This type of data is valuable for AMBAG's regional travel demand model. If it has not already been done, AMBAG should be contacted to discuss coordinated count efforts with the County of Monterey. 4
- 5 The network of Amtrak thruway buses that pass through Monterey County and connect to the intercity rail lines should be mentioned, along with their impact on regional traffic. 5
- 6 We support the conclusions in the Transit Oriented Development (TOD) alternative, noting that funding for the second and third tier (Bus Rapid Transit and Light Rail) will be difficult to obtain. Furthermore, it should be noted that lower frequency and lower quality service is unlikely to yield successful TOD. The assumptions about transit system characteristics must be reviewed thoroughly before any conclusions can be drawn about regional impacts on either traffic or land development. 6

SPECIFIC COMMENTS

- 7 The definition of archaeology should not be limited to prehistoric resources, and archaeological resources can be older than 10,000 years (4.10.2). 7
- 8 Please include a discussion of the Salinan Indians, whose main territory is Monterey County (4.10.2.2). 8
- 9 The citation of "California Register of Historic Places" should actually be "California Register of Historical Resources" (4.10.3.1). 9
- 10 The second sentence of the Open Space and Conservation Element has one unclear clause: "on such matters archaeological resources." Also, the term "Native American descendants" should be replaced with "Native Americans" (4.10-17). 10
- 11 Please include the proposed bicycle bridge over the Salinas River (Spreckels Boulevard/Reservation Road Bicycle Path and Bridge). 11
- 12 On page 4.6-39, there is a statement suggesting that an increase in county truck volume from 12,600 to 18,600 per day would be insignificant in terms of capacity-related impacts. The potential significant impacts of such a change should be considered, noting that there are very few north-south and east-west shipping corridors in the region, and that impacts may be regional in nature. 12

"Caltrans improves mobility across California"

S-6

2007 Monterey County General Plan
October 28, 2008
Page 3

7. In reference to the above comment, we suggest a policy that encourages placement of agricultural processing, industrial and manufacturing oriented land uses adjacent to existing or probable railroad spurs, yards, and sidings. There is no discussion of the possibility of an intermodal transfer facility for freight containers on trains. Planning strategies today that align shipping modes in future years will provide opportunities to growers and shippers when the economics of increased rail use (as a business framework) and the economics of climate change and air quality requirements (in a regulatory framework) set the conditions to compel rail use. The environmental benefits of transferring freight from truck to rail can be substantial, with one full freight train eliminating 280 trucks or 1100 cars from regional roadways. The American Association of State Highway and Transportation Officials (AASHTO) *Freight-Rail Bottom Line Report*, which provides the source figure of 4 to 5 trucks per rail car, may be found at <http://freight.transportation.org> or <http://www.go21.org>.

13

District 5 staff will continue to be committed to working closely with you to achieve a shared vision of how the transportation system should and can accommodate interregional and local travel.

If you have any questions, or need further clarification on items discussed above, please do not hesitate to contact David Kuperman at (805) 549-3131 or david_kuperman@dot.ca.gov.

Sincerely,



DAVID MURRAY, Chief
District 5 North Region

cc: Nick Papadakis (AMBAG)
Debbie Hale (TAMC)

"Caltrans improves mobility across California"

S-6

2007 Monterey County General Plan
October 28, 2008
Page 4

Bcc: Steve Price
Aileen Loe
Tim Gubbins
Gary Ruggerone
Doug Heumann
Dave Murray
Chris Shaeffer
Dan Herron
Paul McClintic
Judy Lang

"Caltrans improves mobility across California"



STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT

S-7



CYNTHIA BRANT
DIRECTOR

October 29, 2008

Monterey County
Planning and Building
Inspection Administration

OCT 31 2008
RECEIVED

Carl Holm
Monterey County
168 W. Alisal Street, 2nd Floor
Salinas, CA 95901-2680

Subject: 2007 Monterey County General Plan
SCH#: 2007121001

Dear Carl Holm:

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 October 28, 2008, 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."

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
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Document Details Report
State Clearinghouse Data Base

S-7

SCH# 2007121001
Project Title 2007 Monterey County General Plan
Lead Agency Monterey County

Type EIR Draft EIR

Description Note: Supplement/Subsequent, Program EIR
The General Plan serves as the blueprint for growth in unincorporated inland areas of Monterey County by designating land for various urban and non-urban uses including agricultural, commercial, industrial, residential, and public/quasi-public. GP 2007 carries over most of the policies and land use designations that composed GP 2006, with a number of key revisions. The following describes GP 2007, with items that represent a change from GP 2006 marked with an asterisk or listed under *Other GP 2007 Provisions.

Lead Agency Contact

Name	Carl Holm		
Agency	Monterey County		
Phone	(916) 755-5103	Fax	
email			
Address	168 W. Alisal Street, 2nd Floor	State CA	Zip 95901-2680
City	Salinas		

Project Location

County	Monterey
City	Carmel-by-the-Sea
Region	
Lat / Long	
Cross Streets	
Parcel No.	
Township	
Range	
Section	
Base	

Proximity to:

Highways	multiple
Airports	multiple
Railways	multiple
Waterways	multiple
Schools	multiple
Land Use	This is an update to the 1962 General Plan effective county-wide. Various zoning and land use designations

Project Issues Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Cumulative Effects; Drainage/Absorption; Economics/Jobs; Flood Plain/Flooding; Forest Land/Fire Hazard; Geological/Seismic; Growth Inducing; Landuse; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Septic System; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife

Reviewing Agencies Resources Agency; Department of Conservation; Department of Fish and Game, Region 4; Cal Fire; Department of Parks and Recreation; Office of Emergency Services; Caltrans, Division of Aeronautics; California Highway Patrol, Caltrans, District 5; Department of Housing and Community Development; Air Resources Board, Transportation Projects; Regional Water Quality Control Board, Region 3; Native American Heritage Commission; Public Utilities Commission

Date Received 09/05/2008 Start of Review 09/05/2008 End of Review 10/28/2008

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

S-7

STATE OF CALIFORNIA
NATIVE AMERICAN HERITAGE COMMISSION
 915 CAPITOL MALL, ROOM 364
 SACRAMENTO, CA 95814
 (916) 663-4062
 (916) 657-5990 - Fax

Arnold Schwarzenegger, Governor

September 12, 2008

Carl Holm
 County of Monterey, Resource Management Agency
 168 West Alisal Street, 2nd Floor
 Salinas, CA 93901-2680

RE: SCH#2007121001 2007 Monterey County General Plan; Monterey County.

Dear Mr. Holm:

The Native American Heritage Commission (NAHC) has reviewed the Notice of Completion (NOC) referenced above. The California Environmental Quality Act (CEQA) states that any project that causes a substantial adverse change in the significance of an historical resource, which includes archeological resources, is a significant effect requiring the preparation of an EIR (CEQA Guidelines 15064(b)). To comply with this provision the lead agency is required to assess whether the project will have an adverse impact on historical resources within the area of project effect (APE), and if so to mitigate that effect. To adequately assess and mitigate project-related impacts to archaeological resources, the NAHC recommends the following actions:

- ✓ Contact the appropriate regional archaeological information center for a record search. The record search will determine:
 - If a part or all of the area of project effect (APE) has been previously surveyed for cultural resources.
 - If any known cultural resources have already been recorded on or adjacent to the APE.
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological information center.
- ✓ Contact the Native American Heritage Commission for:
 - A Sacred Lands File Check. **USGS 7.5 minute quadrangle name, township, range and section required.**
 - A list of appropriate Native American contacts for consultation concerning the project site and to assist in the mitigation measures. **Native American Contacts List attached.**
- ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
 - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5(f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
 - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
 - Lead agencies should include provisions for discovery of Native American human remains in their mitigation plan. Health and Safety Code §7050.5, CEQA §15064.5(e), and Public Resources Code §5087.98 mandates the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

Sincerely,

 Katy Sanchez
 Program Analyst

CC: State Clearinghouse

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 SEP 17 2008
 STATE CLEARING HOUSE

Carl Schwarzenegger, Governor
 168 West Alisal Street, 2nd Floor
 Salinas, CA 93901-2680
 (916) 657-5990 - Fax

S-8a

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
 STATE CLEARINGHOUSE AND PLANNING UNIT

Cynthia Bryant, Director

November 5, 2008

Carl Holm
 Monterey County
 168 W. Alisal Street, 2nd Floor
 Salinas, CA 93901-2680

Subject: 2007 Monterey County General Plan
 SCH#: 2007121001

Dear Carl Holm:

The enclosed comment (s) on your Draft EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on October 28, 2008. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2007121001) when contacting this office.

Sincerely,

 Terry Roberts
 Senior Planner, State Clearinghouse

Enclosures
 cc: Resources Agency

See S-5

RECEIVED
 NOV 07 2008
 Comments rec'd on 11/6/08

Arnold Schwarzenegger, Governor
 168 West Alisal Street, 2nd Floor
 Salinas, CA 93901-2680
 (916) 657-5990 - Fax

S-8a
See S-5



Department of Toxic Substances Control
Maureen F. Gorsen, Director
8800 Cal Center Drive
Sacramento, California 95826-3200



Arnold Schwarzenegger
Governor



Linda S. Adams
Secretary for
Environmental Protection



STATE CLEARING HOUSE

October 31, 2008

Mr. Carl Holm
Planning Manager
Monterey County Planning Department
168 W. Alisal Street, 2nd Floor
Salinas, California 93901

RECEIVED
NOV 05 2008
STATE CLEARING HOUSE
*clear to 10-28-08
late*

REVIEW OF THE MONTEREY COUNTY 2007 GENERAL PLAN (AMENDED) DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR), SCH #2007121001 DATED SEPTEMBER 2008

Dear Mr. Holm:

Thank you for providing the Department of Toxic Substances Control (DTSC) the opportunity to review the *Monterey County 2007 General Plan Draft Environmental Impact Report* dated September, 2008.

DTSC is the State's lead agency for the environmental cleanup and realignment of closing military bases and maintains jurisdiction over all hazardous substance and hazardous waste issues with the exception of petroleum contamination. The basis for DTSC's regulatory authority is found in California Health and Safety Code, Division 20, Chapters 6.5 (Hazardous Waste Control), Chapter 6.8 (Hazardous Substances Account Act), and California Code of Regulations, Title 22, Division 4.5.

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♻️ Printed on Recycled Paper

S-8a
See S-5

Mr. Carl Holm
October 31, 2008
Page 2

Please ensure that any reuse planned for property on the former Fort Ord facility is consistent with the approved Fort Ord Reuse Plan dated June 1997. This is the document that the regulators use to ensure cleanup levels support reuse of various parcels.

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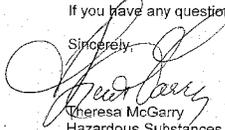
S-8a
See S-5

Mr. Carl Holm
October 31, 2008
Page 3.

Track 1 Sites, February 2005. The Army requires to be notified, by the landowner, prior to the start of planned intrusive activities. The link for registering for this training can be found at www.fortordcleanup.com.

If you have any questions, please feel free to contact me at (916) 255-3664.

Sincerely,


Theresa McGarry
Hazardous Substances Scientist
Sacramento Office
Brownfields and Environmental Restoration Program

cc: Ms. Gail Youngblood
Fort Ord BRAC Environmental Coordinator
Department of the Army
Environmental and Natural Resources
Post Office Box 5004
Presidio of Monterey, California 93944-5004

Mr. Grant Himebaugh
Regional Water Quality Control Board
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401

Office of Planning and Research
State Clearinghouse
1400 Tenth Street
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Sacramento, California 95812-3044

Mr. Guenther Moskat
California CEQA Tracking Center
1001 I Street, 25th Floor
Post Office Box 806
Sacramento, California 95812-0806

S-8b



ARNOLD SCHWARZENEGGER
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT



CYNTHIA BYRANT
DIRECTOR

December 3, 2008

Carl Holm
Monterey County
168 W. Alisal Street, 2nd Floor
Salinas, CA 93901-2680

Subject: 2007 Monterey County General Plan
SCH#: 2007121001

See S-5

Dear Carl Holm:

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 December 2, 2008, 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:

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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
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Document Details Report State Clearinghouse Data Base		S-8b See S-5
SCH#	2007121001	
Project Title	2007 Monterey County General Plan	
Lead Agency	Monterey County	
Type	EIR Draft EIR	
Description	<p>Note: Supplement/Subsequent, Program EIR</p> <p>The General Plan serves as the blueprint for growth in unincorporated inland areas of Monterey County by designating land for various urban and non-urban uses including agricultural, commercial, industrial, residential, and public/quasi-public. GP 2007 carries over most of the policies and land use designations that composed GP 2006, with a number of key revisions. The following describes GP 2007, with items that represent a change from GP 2006 marked with an asterisk or listed under "Other GP 2007 Provisions."</p>	
Lead Agency Contact		
Name	Carl Holm	
Agency	Monterey County	
Phone	(916) 755-5103	Fax
email		
Address	168 W. Alisal Street, 2nd Floor	
City	Salinas	State CA Zip 93901-2680
Project Location		
County	Monterey	
City	Carmel-by-the-Sea	
Region		
Lat / Long		
Cross Streets		
Parcel No.		
Township	Range	Section Base
Proximity to:		
Highways	multiple	
Airports	multiple	
Railways	multiple	
Waterways	multiple	
Schools	multiple	
Land Use	This is an update to the 1982 General Plan effective county-wide. Various zoning and land use designations	
Project Issues	Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Cumulative Effects; Drainage/Absorption; Economics/Jobs; Flood Plains/Flooding; Forest Land/Fire Hazard; Geological/Seismic; Growth Inducing; Landuse; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Septic System; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife	
Reviewing Agencies	Resources Agency; Department of Conservation; Department of Fish and Game, Region 4; Cal Fire; Department of Parks and Recreation; Office of Emergency Services; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 5; Department of Housing and Community Development; Air Resources Board, Transportation Projects; Regional Water Quality Control Board, Region 3; Native American Heritage Commission; Public Utilities Commission; Department of Toxic Substances Control	
Date Received	09/05/2008	Start of Review 09/05/2008 End of Review 12/02/2008
Note: Blanks in data fields result from insufficient information provided by lead agency.		

Department of Toxic Substances Control		S-8b See S-5
 Linda S. Adams Secretary for Environmental Protection	 Maureen F. Gorsen, Director 8800 Cal Center Drive Sacramento, California 95826-3200	 Arnold Schwarzenegger Governor
October 31, 2008		
Mr. Carl Holm Planning Manager Monterey County Planning Department 168 W. Alisal Street, 2nd Floor Salinas, California 93901		
REVIEW OF THE MONTEREY COUNTY 2007 GENERAL PLAN (AMENDED) DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR), SCH #2007121001 DATED SEPTEMBER 2008		
Dear Mr. Holm:		
Thank you for providing the Department of Toxic Substances Control (DTSC) the opportunity to review the <i>Monterey County 2007 General Plan Draft Environmental Impact Report</i> dated September, 2008.		
DTSC is the State's lead agency for the environmental cleanup and realignment of closing military bases and maintains jurisdiction over all hazardous substance and hazardous waste issues with the exception of petroleum contamination. The basis for DTSC's regulatory authority is found in California Health and Safety Code, Division 20, Chapters 6.5 (Hazardous Waste Control), Chapter 6.8 (Hazardous Substances Account Act), and California Code of Regulations, Title 22, Division 4.5.		
The Central Coast Regional Water Quality Control Board (CCRWQCB) has authority over the remediation of petroleum sites and the protection of the waters of the State of California. The CCRWQCB regulatory authority is found in the Porter-Cologne Water Quality Control Act, California Water Code and California Code of Regulations, Title 23, Division 3, Chapter 15 and 16. In addition, the Air Resources Board would be concerned with impacts to air quality.		
DTSC generally reviews the environmental documents to determine whether the proposed project could have potential impact on public health and worker safety because of the possible presence of residual chemical contaminants and/or munitions and explosives of concern (MEC).		
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October 31, 2008
Page 2

Please ensure that any reuse planned for property on the former Fort Ord facility is consistent with the approved Fort Ord Reuse Plan dated June 1997. This is the document that the regulators use to ensure cleanup levels support reuse of various parcels.

The comments below were previously submitted to your agency for the 2006 General Plan DEIR. These are being resubmitted to ensure completeness of our review.

Table 1-2 Executive Summary Table, Mitigation Measure 4.3 Water Resources. Volatile Organic Compounds and other contaminants have been found to impact the groundwater resources at numerous sites in Monterey County, and the most notable is the former Fort Ord. Although the Fort Ord and Monterey Peninsula Airport prohibition zones and the associated County Ordinance are mentioned briefly in Section 4.3 (Page 4.3-72) of the DEIR, DTSC encourages the County to research the extent of groundwater impacts that have been identified in Monterey County. For instance, the former Fort Ord drinking water wells have been impacted with low concentrations of Trichloroethene (TCE). These other organic contaminants should be added to mitigation measure Table 1-2 and other appropriate tables throughout the document. Information with respect to the status of the former Fort Ord cleanup program can be found at www.fortordcleanup.com. You can also view various Land Use Covenants for groundwater use restrictions for Fort Ord on the DTSC's web page, www.envirostor.dtsc.ca.gov

Section 4.3.4, Page 4.3-100 Well Competition and Adverse Well Interference.

This section describes the impacts of wells in close proximity or adjacent to each other that can be thought of as competing for the same groundwater resources. It should be noted that interference with groundwater contaminant plumes should also be avoided. If upon pumping, the cone of depression interferes with a contaminated groundwater plume, adverse effects will result.

Section 4.13, Hazards and Hazardous Materials. The presence of MEC has been identified in the former Fort Ord area. The MEC areas are being identified, evaluated and remediated by the Army, although DTSC feels that MEC should be listed as a hazardous material on page 4.13-2. In addition, the Army feels that reasonable and prudent actions be taken when performing intrusive activities on the former Fort Ord site. The Army recommends that construction personnel involved in intrusive activity attend MEC recognition and safety training as offered by the Army in accordance with Record of Decision, No Further Action Related to Munitions and Explosives of Concern

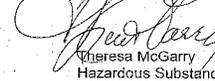
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Mr. Carl Holm
October 31, 2008
Page 3

Track 1 Sites, February 2005. The Army requires to be notified, by the landowner, prior to the start of planned intrusive activities. The link for registering for this training can be found at www.fortordcleanup.com.

If you have any questions, please feel free to contact me at (916) 255-3664.

Sincerely,



Theresa McGarry
Hazardous Substances Scientist
Sacramento Office
Brownfields and Environmental Restoration Program

cc: Ms. Gail Youngblood
Fort Ord BRAC Environmental Coordinator
Department of the Army
Environmental and Natural Resources
Post Office Box 5004
Presidio of Monterey, California 93944-5004

Mr. Grant Himebaugh
Regional Water Quality Control Board
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401

Office of Planning and Research
State Clearinghouse
1400 Tenth Street
Post Office Box 3044
Sacramento, California 95812-3044

Mr. Guenther Moskat
California CEQA Tracking Center
1001 I Street, 25th Floor
Post Office Box 806
Sacramento, California 95812-0806

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT

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ARNOLD SCHWARZENEGGER
GOVERNOR

CYNTHIA BRYANT
DIRECTOR

February 5, 2009

Monterey County
Planning and Building
Inspection Administration

FEB 10 2009
RECEIVED

Carl Holm
Monterey County
168 W. Alisal Street, 2nd Floor
Salinas, CA 93901-2680

Subject: 2007 Monterey County General Plan
SCH#: 2007121001

Dear Carl Holm:

The enclosed comment (s) on your Draft EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on February 2, 2009. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2007121001) when contacting this office.

Sincerely,

Terry Roberts
Terry Roberts
Senior Planner, State Clearinghouse

Enclosures
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

STATE OF CALIFORNIA - THE RESOURCES AGENCY
CALIFORNIA COASTAL COMMISSION

ARNOLD SCHWARZENEGGER, Governor

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 309
SANTA CRUZ, CA 95060
PHONE: (831) 427-4903
FAX: (831) 427-4977

S-8c
See S-1



RECEIVED
FEB 04 2009

STATE CLEARING HOUSE

2007121001

Carl Holm, Assistant Director
Monterey County Planning Department
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

Subject: Monterey County 2007 General Plan Draft EIR

Dear Mr. Holm:

Thank you for the opportunity to comment on the Draft Program Environmental Impact Report (EIR) for the Monterey County 2007 General Plan. Please note that we have previously provided comments on the earlier version of the EIR (letter of April 2, 2004), on the Notice of Preparation for the EIR for the 2006 General Plan document (letter of March 14, 2006), on the Draft EIR for the 2006 General Plan document (letter dated October 16, 2006), and on the General Plan drafts themselves, including, most recently our letter of July 25, 2006. Please continue to consider those previous comments as the County moves forward with subsequent General Plan drafts and environmental review. The purpose of this letter is not to reiterate those past comments, but rather to provide some general feedback regarding the relationship of the General Plan to the Local Coastal Program (LCP) and related CEQA documents.

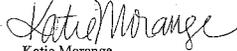
As we have noted previously, we understand it is not the County's intent to use any part of the General Plan document as the basis for an LCP amendment or update. We further understand that any such LCP update amendments pursued by the County will be pursued separately in the future through their own planning processes. As a result, and due to ongoing budget and staffing shortfalls, we have not thoroughly reviewed the current documents, preferring instead to allot our available review time to future coastal zone documents and proposals. However, despite indications in the text that the General Plan and EIR are meant to cover only the inland portions of the County, cursory review of the EIR document indicates that a significant amount of data collection appears to have been included for the coastal zone portion of the County, and is represented in various exhibits, tables, and text throughout the document (e.g., the Biological Resources chapter shows and describes vegetation cover, special-status species, and habitats in the entire County). Although we understand the need to provide overall context in the EIR, given the County's stated position regarding the General Plan's lack of relationship to the coastal zone, we have not reviewed this information in relation to coastal zone resources and potential LCP updates and/or amendments related thereto. Please clarify if our understanding is incorrect, and the EIR/General Plan is intended to form the basis for future LCP planning. If so, we may have more comments for you.

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Carl Holm, Monterey County
2007 General Plan Draft EIR
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Page 2

In any event, we look forward to seeing a revised final EIR that addresses these and previous comments that we have submitted. Please contact me if you have any questions or would like to discuss our comments further.

Sincerely,



Katie Morange
Coastal Planner

cc: OPR Clearinghouse
AMBAG Clearinghouse

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California Regional Water Quality Control Board
Central Coast Region



Linda Adams
Secretary for
Environmental
Protection

Internet Address: <http://www.cwrqcb.ca.gov/rwqcb3>
895 Acornvista Place, Suite 101, San Luis Obispo, California 93401
Phone (805) 549-2147 • FAX (805) 543-0397

Arnold Schwarzenegger
Governor

February 5, 2009

BY ELECTRONIC MAIL

Carl Holm
holmcp@co.monterey.ca.us
County of Monterey, Resource Management Agency
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

Monterey County
Planning and Building
Inspection Administration

FEB 05 2009

RECEIVED

by e-mail 2-5-09
4:20pm

Dear Mr. Holm:

DRAFT ENVIRONMENTAL IMPACT REPORT, 2007 MONTEREY COUNTY
GENERAL PLAN, MONTEREY COUNTY, SCH# 2007121001

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR) for the 2007 Monterey County General Plan (General Plan). The Central Coast Regional Water Quality Control Board (Water Board) is a responsible agency under the California Environmental Quality Act (CEQA). Water Board staff understands that the project is a comprehensive update of the existing 1982 Monterey County General Plan.

General/Opening Comments

Water Board staff supports and commends Monterey County for developing the goals and policies contained within the General Plan addressing issues critical to effective watershed protection such as the development of sustainable water supplies, groundwater recharge area protection, stream setbacks, habitat protection, centralized development, water conservation and reuse, centralized wastewater treatment and recycling, and collaborative regional planning. The successful implementation of policies addressing these critical issues should effectively restore and protect water quality (i.e. help mitigate potential cumulative impacts from projected land use activities). Monterey County is on the forefront of addressing some of these critical issues.

In some cases, the DEIR does not appear to link policies within the General Plan that could be applicable to impacts as mitigation measures. Given the DEIR Executive Summary Table (1-2) is not specific regarding which General Plan goals and policies apply, and the environmental impact discussions within DEIR section 4 neglect to identify all applicable General Plan policies as mitigation measures, we must assume that all policies within the General Plan are binding mitigation measures pursuant to the DEIR. We did not attempt to identify and itemize General Plan policies as DEIR mitigation measures for each and every discussed "Issue/Impact." As such, our comments below are generally in the form of issue discussions accompanied by

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suggested modifications to or additional policies within the General Plan that should be implemented as measures to mitigate the environmental impact of General Plan implementation.

Sustainable Water Supply & Healthy Watershed Functions – General Comments

Water demand for the existing developed areas of Monterey County is currently not sustainable and is resulting in cumulative watershed (both surface and groundwater) impacts. This is alluded to in various portions of the DEIR Water Resources section¹. The DEIR indicates the development and implementation of new water sources, conjunctive use strategies, and conservation and reuse are required to meet future demand. However, the DEIR does not recognize that these measures along with the restoration and protection of existing water resources are required to meet existing demand in a sustainable manner. Monterey County must take more holistic approach to protect and manage its water resources. A holistic water resource management approach requires healthy watershed functions as the primary goals and includes metrics for meeting sustainable water supply demand. This holistic approach also includes a clear understanding of the interrelationships between surface and groundwater resources within and between each of the watersheds. The economic viability and environmental health of Monterey County (particularly the health of its watersheds) are intricately dependent on one another.

Sustainable water supplies for future development can only be achieved within healthy functioning watersheds. Abundant and clean water does not exist in watersheds that do not function properly. Therefore, the goal for achieving sustainable water supplies to meet existing and future water demand should be met first and foremost through restoring and maintaining healthy watershed functions. We agree the potential impacts to water supply (surface waters and groundwater basins) are significant as a result of future growth within Monterey County. However, we are confident they are also avoidable (not unavoidable as indicated in the DEIR) should demand be met through sustainable practices and comprehensive watershed management programs that restore and maintain healthy watershed functions. The development of sustainable water supplies to meet future demand is predicated on restoring healthy watershed functions under existing developed conditions prior to placing additional demands on the already strained watersheds.

Healthy watersheds have physical and biological integrity, with conditions that are observable and measurable. Healthy watersheds meet all of the following conditions:

¹ The Seaside Aquifer and Pajaro Valley Groundwater Basin are currently in overdraft resulting in seawater intrusion and other water quality impacts associated with diminished assimilative capacity and concentration effects due to reduced aquifer volume and contaminant loading (primarily nutrients and salts). The Carmel River and Carmel River Lagoon riparian habitats are currently impacted as a result of California America Water Company's over allocation of approximately 10,730 acre-feet per year from the Carmel River which is the primary public water supply (approximately 75%) for most of the Monterey Peninsula. DEIR section 1.6.1.2 states: "The three major watersheds in the County (Salinas, Carmel and Pajaro Rivers) are all in state of overdraft." In addition, there are extensive and well documented nitrate impacts throughout the Salinas Valley.

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- Rainfall surface runoff at pre-development levels;
- Watershed storage of runoff, through infiltration, recharge, baseflow, and interflow, at pre-development levels;
- Watercourse geomorphic regimes within natural ranges (stream banks are stable within natural range; sediment supply and transport within natural ranges); and
- Optimal riparian and aquatic habitats (including: stream flow, in-channel, water column, and biotic conditions).

Consequently, the restoration and maintenance of healthy watershed functions could be achieved by watershed management plans that:

- Maximize infiltration of clean storm water, and minimize runoff volume and rate;
- Protect riparian areas, wetlands, and their buffer zones;
- Minimize pollutant loading (to surface water and groundwater);
- Protect recharge areas;
- Maximize groundwater recharge (that will not result in groundwater impacts);
- Minimize and eliminate overdraft;
- Maintain surface water baseflows;
- Promote water conservation and reuse;
- Provide sufficient ongoing monitoring; and
- Provide long-term watershed protection.

The General Plan contains numerous goals and policies addressing various components of what Water Board staff would consider a comprehensive watershed management program. However, the DEIR and General Plan do not link them together as part of a long-term comprehensive watershed management strategy. The General Plan should include a clear strategy that considers healthy watershed functions as necessary to assure sustainable water supplies. The strategy should establish realistic goals that can be evaluated by measureable outcomes.

Regional Watershed Management

The water supply issues facing Monterey County require a collaborative and integrative approach to the development of sustainable water supplies. Monterey County's ongoing collaborative development and implementation of watershed management plans and groundwater management plans is discussed in section 4.3.3.2 of the DEIR and the DEIR proposes additional policies (PS-3.16, PS-3.17 and PS-3.18) under mitigation measures WR-1 and WR-2 for the collaborative development of new water supply projects. However, Water Board staff could not find any additional specific policies within the General Plan or mitigation measures within the DEIR specifically identifying regional watershed management as a priority. Water Board staff strongly supports Monterey County's current efforts in developing regional solutions to developing sustainable water supplies given they clearly identify management of the watersheds as ecosystems and not just that of a water [supply] resource.

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DEIR Impact WR-3: Agricultural and resource development (i.e., limited timber harvesting and mineral resources extraction) land uses consistent with the General Plan would increase sediment and nutrients in downstream waterways and violate water quality standards. (Less-Than-Significant Impact);

5

To mitigate the environmental impacts of development consistent with the General Plan, the EIR should include a mitigation measure requiring Monterey County to conduct or require a third party to conduct a regional, collaborative [with San Luis Obispo County] fluvial geomorphology study of the Salinas River watershed to evaluate impacts associated with in-stream and off-channel sand and gravel mining and other activities.² This policy statement could fit in the General Plan under Mineral Resources Goal OS-2.

DEIR Impact WR-1: Residential, commercial, industrial, and public uses consistent with the 2007 General Plan would introduce additional nonpoint source pollutants to downstream surface waters, substantially degrading water quality. (Less-Than-Significant Impact).

6

To mitigate the environmental impacts of development consistent with the General Plan, the EIR should include a mitigation measure requiring Monterey County to add "Impacted soil and groundwater sites" to General Plan Public Services Policy PS-2.6.

DEIR Impact WR-4: Land uses and development consistent with the 2007 General Plan would exceed the capacity of existing water supplies and necessitate the acquisition of new supplies to meet expected demands (Significant and Unavoidable Impact);

DEIR Impact WR-6: Land uses and development consistent with the 2007 General Plan would increase demand on groundwater supplies in some areas; the associated increased well pumping would result in the continued decline of groundwater levels and accelerated overdraft. (Significant and Unavoidable Impact);

7

DEIR Impact BIO-2: Potential Adverse Effects on Sensitive Riparian Habitat, Other Sensitive Natural Communities and on Federal and State Jurisdictional Waters and Wetlands (Less Than Significant with Mitigation for 2030 Planning Horizon and Significant and Unavoidable with Mitigation for Buildout);

DEIR Impact BIO-3.1: Potential Disturbance and Loss of Native Fish and Wildlife Species Movement Corridors (Less than Significant with Mitigation for 2030 Planning Horizon and for Buildout);

To mitigate the environmental impacts of development consistent with the General Plan, the EIR should include a mitigation measure requiring Monterey County to develop a policy to continue the collaborative development and implementation of watershed

² See June 4, 2008 RWQCB letter to San Luis Obispo County Department of Planning and Building regarding: Viborg/Calkins Mitigated Negative Declaration (Conditional Use Permit ED07-082)

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management plans³ and develop additional regional watershed management plans as necessary to assure healthy functioning watersheds and sustainable water supplies. All new watershed management plans or updates to existing plans shall include performance goals, metrics and monitoring specifically focused on restoring and maintaining healthy watershed functions. This policy statement could fit in the General Plan Public Services Policy statement under Water Quality and Supply Goal PS-2.

7

DEIR Impact WR-4, WR-6, BIO-2 and BIO-3.1:

To mitigate the environmental impacts of development consistent with the General Plan, the EIR should include a mitigation measure requiring Monterey County to develop a policy to continue the collaborative development and implementation of groundwater management plans and develop additional regional groundwater management plans as necessary to assure healthy functioning watersheds and sustainable water supplies. All new groundwater management plans or updates to existing plans shall include performance goals, metrics and monitoring specifically focused on restoring and maintaining healthy watershed functions. This policy statement could fit in the General Plan Public Services Policy statement under Water Quality and Supply Goal PS-2.

8

DEIR Impact WR-7: Land uses and development consistent with the 2007 General Plan would increase demand on groundwater supplies in areas currently experiencing or susceptible to saltwater intrusion. Increased groundwater pumping in certain coastal areas would result in increased saltwater intrusion. (Significant and Unavoidable Impact);

DEIR Impact WR-9: Land uses and development consistent with the 2007 General Plan would result in an increase in the number of private wells in unincorporated areas of the county. Approval of wells in these areas would result in well interference impacts. (Less-Than- Significant Impact);

9

DEIR Impact WR-4, WR-6, BIO-2 and BIO-3.1:

To mitigate the environmental impacts of development consistent with the General Plan, the EIR should include a mitigation measure requiring Monterey County to modify General Plan Public Services Goal PS-3.15 as follows and include a realistic near term timeline for development and implementation of the proposed guidelines:

To ensure accuracy and consistency in the evaluation of water supply availability, Monterey County Health Department, in coordination with the MCWRA, shall develop guidelines and procedures for conducting water supply assessments and determining water availability. Water supply assessments shall be based on cumulative sustainable demand required to maintain healthy watershed functions (i.e. will not result in effects

³ Salinas River Watershed Management Action Plan; Carmel River Watershed Assessment and Action Plan; Pajaro Watershed Water Quality Management Plan; Pajaro River Watershed Integrated Regional Water Management Plan; Monterey Peninsula, Carmel Bay and South Monterey Bay Integrated Regional Water Management Plan.

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on instream flows necessary to support riparian vegetation, wetlands, fish, and other aquatic life, including migration potential for steelhead) and to prevent overdraft and seawater intrusion. Adequate availability and provision of water supply, treatment, and conveyance facilities shall be assured to the satisfaction of Monterey County prior to approval of final subdivision maps or any changes in the General Plan Land Use or Zoning designations. 9

DEIR Impact WR-1, WR-3 and WR-9:

To mitigate the environmental impacts of development consistent with the General Plan, the EIR should include a mitigation measure requiring Monterey County to actively participate in the development and implementation of the Salinas Valley groundwater nitrate study required pursuant to Senate Bill 1, Perata (Water quality, flood control, water storage, and wildlife preservation) adopted on September 30, 2008. This policy could fit in the General Plan Public Services Policy statement under Water Quality and Supply Goal PS-2. 10

General Plan Public Services Goal PS-2: Assure an adequate and safe water supply to meet the county's current and long-term needs:

To mitigate the environmental impacts of development consistent with the General Plan, the EIR should include a mitigation measure requiring Monterey County to modify General Plan Public Services Goal PS-2 in the following manner: 11

Assure healthy functioning watersheds to provide an adequate, sustainable and safe water supply to meet the county's current and long-term needs.

Groundwater

Groundwater management is an integral component of watershed management given the interrelationships between surface water and groundwater quality and quantity. The primary groundwater quality and quantity issues within Monterey County are overdraft, seawater intrusion, contaminant loading [especially nitrate and salts] and recharge area protection. Water Board staff commends Monterey County for their current regional efforts and for developing goals and policies within the General Plan that address these issues. Subsequently, our recommended mitigation measures below are generally programmatic in nature and build upon the existing General Plan policies and various regional projects currently being developed or implemented by Monterey County. 12

DEIR Impact WR-1 and WR-6:

To mitigate the environmental impacts of development consistent with the General Plan, the EIR should include a mitigation measure requiring Monterey County to develop a policy requiring project applicants for new development to identify and delineate groundwater recharge areas within the hydrologic influence of the proposed project. This policy statement could fit in the General Plan Water Quality and Supply Goal PS-2. 13

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Monterey County should use these data to update and maintain the Hydrologic Resources Constraints and Hazards Database within Monterey County Geographic Information System (GIS) identified in General Plan Public Services Policy statement PS-2.6. 13

DEIR Impact WR-1:

To mitigate the environmental impacts of development consistent with the General Plan, the EIR should include a mitigation measure requiring Monterey County to develop an ordinance prohibiting the siting of commercial and industrial facilities producing or handling hazardous chemicals (i.e. gas stations, dry cleaners, fertilizer/herbicide/pesticide facilities, etc.) within known groundwater recharge areas or sole source [water supply] aquifers. This policy could fit in the General Plan under Water Quality and Supply Goal PS-2. 14

Wastewater Management- General Comments

To mitigate the environmental impacts of development consistent with the General Plan, in addressing wastewater, the EIR should include a mitigation measure requiring Monterey County to identify, assess, document, and address requirements of the Basin Plan and other surface water and groundwater protection policies established within Monterey County. Requirements of these plans and policies should protect surface water and groundwater beneficial uses and ensure proper wastewater treatment system planning, design, construction, operation, and maintenance mechanisms.

The Basin Plan emphasizes the pursuit of regional wastewater management and includes the following Management Principle (Chapter V, Section IIIB): 15

"The number of waste sources and independent treatment facilities shall be minimized and the consolidated systems shall maximize their capacities for wastewater reclamation, assure efficient management of, and meet potential demand for reclaimed water."

That principle conforms to the Basin Plan goals (Chapter IV, Section 1):

"To manage municipal and industrial wastewater disposal as part of an integrated system of fresh water supplies to achieve maximum benefit of fresh water resources for present and future beneficial uses and to achieve harmony with the natural environment, and to continually improve waste treatment systems and processes to assure consistent high quality effluent based on best economically achievable technology."

To achieve Basin Plan goals and management principles, use of onsite septic systems should be minimized where a regional wastewater system is available. To mitigate the environmental impacts of development consistent with the General Plan, the EIR should 16

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Include a mitigation measure requiring Monterey County to consider onsite systems as temporary measures until access to a regional wastewater system is feasible.

To mitigate the environmental impacts of development for 2030 and 2092 ("Buildout") consistent with the General Plan, the EIR should include a mitigation measure requiring Monterey County to have policies that: a) strongly favor new developments being annexed into regional Monterey County wastewater treatment system service areas, connected to the nearest urban or rural center collection system, or b) require Monterey County to build a new wastewater treatment system to meet the needs of the planned development. To justify a new wastewater treatment system, the Water Board would require: a) a detailed third party evaluation indicating connection to the nearest Monterey County regional, urban, or rural center wastewater and reclamation facility is not feasible, or b) Monterey County to develop a Water Board approved Urban Area Wastewater Master Plan.

It is the joint goal of the Water Board and the Monterey County Environmental Health Division (EHD) to protect water quality and public health from impacts associated with onsite wastewater discharges (i.e., septic systems). A memorandum of understanding (MOU) between the Water Board and the EHD has historically been in effect but is in the process of renewal. This MOU defines cooperative roles for the EHD and the Water Board with respect to compliance with the purpose and intent of statewide standards, Basin Plan criteria, and applicable local regulations governing onsite wastewater systems. The Water Board intends this MOU to assist in creation of a partnership between the Water Board and the EHD to protect water quality and public health in areas where the utilization of onsite wastewater systems occur. Under the MOU, the EHD shall ensure that the siting, design, approval, installation, operation, maintenance, and monitoring of all onsite wastewater systems shall be in conformance with Basin Plan requirements.

To mitigate the environmental impacts to groundwater and surface water of development consistent with the General Plan, the EIR should include a mitigation measure requiring Monterey County to establish a policy requiring the renewal of and adherence to the MOU between the Water Board and EHD. The MOU should be updated as needed.

To mitigate the environmental impacts of development consistent with the General Plan, the EIR should include a mitigation measure requiring Monterey County to develop and implement an onsite wastewater management plan in urbanizing areas to investigate and mitigate long-term cumulative impacts resulting from continued use of onsite wastewater systems. The plan should be a comprehensive planning tool to specify onsite wastewater system limitations to prevent groundwater or surface water degradation.

Wastewater Management - Home Owner Associations and Community Service Areas
Our records indicate that Monterey County wastewater treatment systems, reclamation, and disposal facilities operated by home owners associations (HOAs), developers, or other similar private organizations have often lead to environmental impacts, since no

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responsible party is available to address the failing wastewater systems. Highland Sanitary Association and the various Las Palmas homeowners associations are noteworthy examples. The DEIR should address this environmental impact. The General Plan Public Service policies PS-4.3 and PS-4.7 do not establish criteria specifying that these organizations be omitted as an acceptable "provider" of new wastewater systems.

To mitigate the environmental impacts to surface water and groundwater from new wastewater systems developed under the General Plan, the EIR should include a mitigation measure requiring Monterey County to adopt an enforceable regulation prohibiting HOAs, developers, or other similar private organizations from being designated service provider, unless it is infeasible for Monterey County to establish a community service area (CSA) or similar public service provider. A CSA or similar should have the ability to levy additional fees as necessary to ensure an adequate funding and management structure is in place for operation and maintenance of the wastewater systems. At a minimum, mitigation measures should include policies that require financial guarantees (e.g., performance bonds) for the operation and maintenance of the system. Such systems also must be operated by an appropriately qualified and licensed operator. Property deed restrictions may be necessary in some instances to ensure adequate long term operation and maintenance.

Wastewater Management - Salts Management

Salts (sodium, chloride, and total dissolved solids) loading from wastewater is a major cause of groundwater quality degradation. Salty wastewater also inhibits a community's ability to recycle water. The DEIR should address this environmental impact. To mitigate the environmental impacts of development consistent with the General Plan, the EIR should include a mitigation measure requiring Monterey County to adopt an enforceable regulation requiring all brine disposal to be performed offsite at a certified brine receiving facility, or be disposed of in a manner that will not have an effect on groundwater quality. In addition, mitigation measures for salt management should include a prohibition of self-regenerating water softeners (those which discharge salt) in all new development. These mitigation measures are key to reducing the environmental impacts of wastewater discharges.

Wastewater Management - Water Recycling

In California Water Code Section 13510, the state legislature declares, "...that the people of the state have a primary interest in the development of facilities to recycle water containing waste to supplement existing surface and underground supplies and to assist in meeting the future water requirements of the state." The Water Board strongly encourages the use of recycled water for irrigation and other non-potable uses. To this end, the EIR should include a mitigation measure requiring Monterey County to be an active participant in the implementation of the adopted State Water Resources Control Board Water Recycling Policy⁴ by:

⁴ Currently available for public review and pending approval at the February 3, 2009 State Water Resources Control Board meeting. Information available at: http://www.swrcb.ca.gov/water_issues/programs/water_recycling_policy/index.shtml

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- a. Promoting and mandating water recycling for new development projects within Monterey County's jurisdiction.
- b. Actively participating in the locally driven and controlled collaborative process for the preparation of salt and nutrient management plans for each basin/sub-basin within Monterey County, including compliance with CEQA.

DEIR Impact WR-5: Land uses and development consistent with the 2007 General Plan would increase the demand for water storage, treatment, and conveyance facilities that would have significant secondary impacts on the environment (Significant and Unavoidable Impact);

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DEIR Impact WR-8: Land uses and development consistent with the 2007 General Plan would result in sewer- and septic-related water quality impacts, including those associated with reuse of treated water and migration of septic tank leachfield wastewater effluent to groundwater that would violate water quality standards. (Less-Than- Significant Impact)

To mitigate the environmental impacts of development consistent with the General Plan, the EIR should include a mitigation measure requiring Monterey County to include conservation and recycling in General Plan Public Services Statement PS-3.9.

Wastewater Management – Grey Water Ordinance

DEIR Impact WR-4 and WR-5:

To mitigate the environmental impacts of development consistent with the General Plan, the EIR should include a mitigation measure requiring Monterey County to include a policy to develop a countywide grey water ordinance in support of General Plan Public Services Policy Statement PS-3.10.

20

Wastewater Management – Sewage Disposal

DEIR Impact WR-8:

To mitigate the environmental impacts of development consistent with the General Plan, the EIR should include a mitigation measure requiring Monterey County to update its sewage disposal ordinances contained within Chapter 15.20 of Monterey County Code to be consistent with the development of onsite wastewater management plans and the most current onsite wastewater system criteria with the Basin Plan.

21

Wastewater Management - Future Connection Mandates

22

State Water Resources Control Board proposed Water Recycling Policy addresses the following topics: benefits of recycled water; mandates for its use; interagency roles; collaborative development of basin/sub-basin salt/nutrient management plans; landscape irrigation projects including streamlined permitting; groundwater recharge projects; antidegradation; emerging constituents/chemicals of emerging concern; and incentives for the use of recycled water.

California Environmental Protection Agency



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Monterey County 11 February 5, 2009

General Plan Public Service policies PS-4.5 and PS-4.6 require Monterey County staff to develop criteria and provide proof of the adequacy of wastewater treatment services for new facilities. These policies do not apply the requirement to existing satellite wastewater systems for possible future connections. Continuance of existing satellite wastewater treatment systems can have cumulative impacts to surface waters and groundwater. To mitigate for the environmental impacts of development consistent with the General Plan, the EIR should include a mitigation measure requiring Monterey County to include a Public Service policy stating existing satellite wastewater treatment systems must establish a connection to regional, urban, or rural center wastewater treatment system when these systems become available.

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In addition, the mitigation measure should require adoption of an enforceable regulation requiring any new development's wastewater collection system be tied into the nearest county regional, urban, or rural center wastewater treatment facility when available, followed up by abandonment of an existing satellite system, if applicable. Monterey County should require assurances that the existing wastewater system is capable of, and agrees to accept maximum projected wastewater flows from the project at ultimate build-out. These mitigating measures are key to reducing impacts to surface water and groundwater.

Agriculture – Stream Setback

DEIR Impact BIO-2:

According to the DEIR, existing agricultural land use is not considered a significant impact on Sensitive Riparian Habitat because of General Plan policies AG-5.1 and AG-5.2. These policies support programs and policies that reduce erosion and protect surface and ground water, but they do not directly protect Sensitive Riparian Habitat, other sensitive natural communities or federal and state jurisdictional waters and wetlands. To mitigate the environmental impacts of development consistent with the General Plan, the EIR should include a mitigation measure requiring Monterey County to develop policies that explicitly ensure the compatibility of agricultural uses and riparian and aquatic habitat.

23

The stream setback ordinance required as mitigation for Impact BIO-2 would be a valuable measure to protect riparian habitat. The description of the mitigation measure recommends that the ordinance apply to discretionary development and to conversion of previously uncultivated agricultural land on slopes greater than 10% for erodible soils and greater than 15% for normal soil. To mitigate the environmental impacts of development consistent with the General Plan, the ordinance should apply to newly cultivated agricultural lands and conversion of existing agricultural uses to more intensive crops that may have greater impact on the environment, such as strawberries, nursery and greenhouse crops. Intensive agriculture has a high potential to impact riparian habitats on all slopes and soil types. The ordinance should remove slope as a requirement for applicability.

California Environmental Protection Agency



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Monterey County 12 February 5, 2009

Agriculture – Food Safety and Environmental Protection

DEIR Impact BIO-3.1:

Environmental issues and impacts from agricultural land use are not acknowledged and assessed in the DEIR. The impacts of irrigated agriculture on biological resources have intensified in recent years because of food safety concerns, such as potential exposure of crops to pathogens such as E. Coli and salmonella. Some produce buyers have required growers to demonstrate and document that potential vectors for these pathogens such as wildlife and domestic live stock are excluded from production fields and that there are distinct zones between cultivated production and habitats. Currently, common food safety practices include the removal of vegetated buffers, installation of wildlife exclusionary fences along corridors, removal and trimming of riparian vegetation, installation of rodent and bird poison bait stations between habitats and fields, removal of trees and non-productive vegetation from field edges, and the draining or treating of reservoirs and basins.

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To mitigate the environmental impacts of development consistent with the General Plan, the EIR should include a mitigation measure requiring Monterey County to develop supporting policies that ensure safe food supplies and protection of environmental resources. Monterey County should develop a program that coordinates food safety and environmental protection requirements for growers.

Agriculture – Pesticides and Agency Coordination

DEIR Impact WR-3:

The DEIR Impact WR-3 summary states that nutrients and sediment in downstream waterways are impacts from agricultural land uses. Pesticides should be included along with sediment and nutrients. Several water bodies in Monterey County are on the Clean Water Act Section 303(d) list for impairments from pesticides. Recent water quality monitoring data for agricultural drainages in Monterey County indicate the presence of currently applied agricultural pesticides at concentrations that have been documented to cause toxicity to aquatic species.

25

Policies in the Agricultural Land Use section of the General Plan support programs and policies that protect and enhance surface and ground water resources. In addition to supporting these programs, the EIR should include a mitigation measure requiring Monterey County to develop programs with County Agricultural Commissioner and Monterey County Water Resources Agency that work directly with agriculture to protect and enhance water quality from agricultural discharges. These programs should coordinate with the Water Board Conditional Waiver for irrigated Agriculture Program and other Water Board programs.

Hydromodification

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California Environmental Protection Agency



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Increased runoff from developed areas is the key cause of other adverse water quality and beneficial use effects. Attention to maintaining the pre-development hydrograph will prevent or minimize other problems and will limit the need for other analysis and mitigation.

Projects in Monterey County may be subject to the NPDES Phase II Municipal Stormwater Permit (Permit). The Permit requires new development and significant redevelopment projects to reduce runoff volume and pollutant load to the Maximum Extent Practicable (MEP). In most cases, MEP standards are not met by conventional site layouts, construction methods, and storm water conveyance systems with "end of pipe" basins and treatment systems that do not address the changes in volume and rates of storm water runoff and urban pollutants (including thermal pollution). Low Impact Development practices meet the MEP standard and are more effective at reducing pollutants in storm water runoff, at a reasonable cost.

Low Impact Development (LID) is an alternative site design strategy that uses natural and engineered infiltration and storage techniques to control stormwater runoff where it is generated. LID practices are dispersed across a site to minimize runoff. LID serves to preserve the hydrologic and environmental functions altered by conventional stormwater management. Water Board staff considers a project that includes all of the following elements to be a "Low Impact Development" project: runoff volume control, peak runoff rate control, and flow frequency duration control.

26

DEIR Impact PSU-7: Development and land use activities contemplated in the General Plan may result in the need for new or expanded stormwater drainage facilities. (Less-Than-Significant Impact);

DEIR Mitigation Measure PS-1: Policy S-3.9 - require all future developments to implement the most feasible number of Low Impact Development (LID) techniques into their stormwater management plan. The LID techniques may include, but are not limited to, grassy swales, rain gardens, bioretention cells, tree box:

Properly implemented LID is appropriate mitigation to prevent adverse water quality and beneficial use effects from runoff of developed areas, not just to decrease the need for new or expanded stormwater drainage facilities. The stated mitigation measure looks at LID on a technique (understood to be a Best Management Practice) level. To be effective, LID needs to be invoked as a design approach and implemented into the early site design and planning phases.

A development that only incorporates some LID techniques into an otherwise conventional design would not likely achieve the water quality benefit that comes from a project that is designed using LID principles. To mitigate for the environmental impacts of the General Plan, the mitigation measure should require projects to contain all of these elements. The DEIR also does not document the potential cumulative environmental impacts to watershed hydrology from existing and other planned development in the area.

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February 5, 2009

DEIR Impact WR-10: Land use and development consistent with the General Plan would result in alterations to existing drainage patterns. Such changes would increase erosion, both in overland flow paths and in drainage swales and creeks. (Less-Than-Significant Impact):

The DEIR discussion for WR-10 states that development consistent with the General Plan would result in a gradual increase in impervious cover. To mitigate for the environmental impacts of development consistent with the General Plan, the EIR should include a mitigation measure requiring Monterey County to implement a policy to limit the percentage of impervious cover for developments and to examine the effect of imperviousness on a watershed scale.

Detention ponds as a mitigation approach for hydrologic changes are not sufficient because they replace only a scant fraction of the storage capacity of hillslopes that was lost, convert what was once spatially distributed subsurface runoff into a point discharge at a surface water outfall, and reduce the rate and change the location of groundwater recharge and subsequent discharge.⁹ To mitigate the environmental impacts of development consistent with the General Plan, the EIR should include a mitigation measure requiring Monterey County to require, where feasible, new development to be consistent with a Low Impact Development project as described above.

DEIR Impact WR-11: Land uses and development consistent with the General Plan would result in increases in stormwater runoff and peak discharge. Existing storm drain systems, including urban creeks and rivers, may be incapable of accommodating increased flows, potentially resulting in increased onsite or offsite flooding. (Less-Than-Significant Impact):

General Plan Safety Element Policy S-3.1 requires post-development, offsite peak flow drainage limited to pre-development peak flow drainage. While controlling the peak flow is important for flood control and stream erosion, the environmental impacts of development consistent with the General Plan altering the hydrology are not sufficiently addressed by only limiting the peak flow. If one only controls the peak, the resulting drainage can cause downstream channel erosion/modification and impact water quality and fish habitat.

Riparian and Wetland Buffers

DEIR Impact BIO-2;

DEIR Mitigation Measure BIO-1.1: Baseline Inventory of Landcover, Special Status Species Habitat, Sensitive Natural Communities, Riparian Habitat, and Wetlands in Monterey County;

⁹ Konrad, C. &, Booth, D. (2005). Hydrologic changes in urban streams and their ecological significance. *American Fisheries Society Symposium*, 47:157-177

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Monterey County

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February 5, 2009

DEIR Mitigation Measure BIO-2.1: Stream Setback Ordinance:

The functions of riparian corridors include streambank stability, sediment reduction, and flood protection. The EIR should include a mitigation measure requiring Monterey County to complete a Riparian Corridor Study in order to develop a riparian protection ordinance for Monterey County. In addition, Monterey County should establish realistic near term timelines for the implementation of mitigation measures BIO-1.1 and BIO-2.1 regarding the identification and mapping of critical habitat and the development of a countywide stream setback ordinance. (Note: These mitigation measures are currently required to restore and protect riparian habitat under existing developed conditions.) Mitigation measure BIO-2.1 should include the following language: "Monterey County shall coordinate with the Central Coast Regional Water Quality Control Board for the development and review of the county-wide stream setback ordinance."

The proposed mitigation measure BIO-2.1 develops a stream setback ordinance but does not address setbacks to wetlands. Wetlands are both a highly productive and sensitive resources biologically, support a great diversity of plant and animal species, provide essential habitat for a high number of special-status species and serve critical water purification and groundwater recharge functions. Development setbacks are necessary around wetlands to provide a buffer to prevent disturbance of important wildlife habitat, and to filter sediments and pollutants from disturbed areas and urban-runoff. To mitigate the environmental impacts of the proposed General Plan development, in addition to the proposed Stream Setback Ordinance, Monterey County should develop an ordinance for wetland setbacks. The Greater Monterey Peninsula Plan calls for a setback to wetlands. The remainder of Monterey County should have a similar wetland setback requirement. Development should be set back a minimum distance to protect the wetland and provide an upland buffer. Larger setbacks should apply to wetlands supporting special-status species or associated with riparian systems and lands under tidal influence.

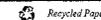
Cumulative Impacts Analysis – Water Resources

DEIR Impact CUM-2: Surface Water Quality:

The cumulative impacts analysis does not consider the interrelationships between groundwater and surface water quantity and quality. This is likely the result of the lack of a specific framework for the development and implementation of a long term watershed management strategy as part of the General Plan.

The incremental effects of the land use related impacts and increased water supply demand on "surface water quality" is "cumulatively considerable" not "less than cumulatively considerable" as stated under CUM-2 of the Executive Summary Table (2-1) and section 6.4.3.3 of the DEIR. Existing land use conditions and water supply demand has resulted not only in well documented surface water quality impacts, but also surface water quantity related impacts. Surface water quality impacts are primarily attributable to contaminant loading (i.e. sediment, nutrients, pathogens and herbicides/pesticides, etc.) and loss of riparian habitat (buffers). Water quantity related

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February 5, 2009

habitat impacts resulting in the loss or degradation of aquatic and riparian habitat are attributable to overdraft – both surface water diversion and groundwater pumping - and loss of recharge due to impervious surfaces and storm water runoff that result in decreased surface water and subsurface base flows. By virtue of the interrelationship between groundwater and surface water quantity and quality alone, a cumulative impacts analysis end point of "cumulatively considerable" for surface water quality would be anticipated. This would be in agreement with that of the cumulative impacts analysis results for groundwater quality.

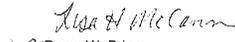
The analysis outlined in DEIR section 6.4.3.3 only considers surface water quality related impacts and suggests cumulative surface water quality impacts will be primarily mitigated via the Water Board's implementation of TMDLs and the irrigated agriculture general waiver program, along with a handful of policy statements within the General Plan. We could evaluate the appropriateness of mitigation measures if the DEIR described the Monterey County measures that will be implemented to address TMDLs. Additional General Plan policies and mitigation measures related to storm water runoff, groundwater recharge, sustainable water supply development and stream setbacks also warrant discussion within the cumulative impacts analysis. Although we anticipate measurable success in mitigating additional surface water quality impacts with these programs/policies on a project by project basis, the potential cumulative impacts of all the land use related potential water quality impacts will go unchecked without a long term watershed management strategy that links them all together.

In addition, for a long term watershed management strategy to be effective, it needs to be based on clearly identified performance goals and metrics for achieving them that are based on the physical, chemical and biological parameters of healthy watershed functions. Only then will Monterey County be able to provide long term sustainable water supplies for projected growth.

Monterey County's sweeping authority over land use practices and water supply is the primary controlling factor in mitigating potential water quality and quantity impacts on a watershed basis above. Therefore, the collaborative development and implementation of a successful long term watershed plan lies primarily within County oversight. That responsibility cannot be considered separately from the General Plan.

Thank you for your attention to this letter. We look forward to your responses in the EIR. If you have questions, or would like to meet to discuss these comments, please contact **Jennifer Epp** at (805) 594-6181, or Matt Thompson at (805) 549-3159.

Sincerely,


for Roger W. Briggs
Executive Officer

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California Environmental Protection Agency



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Monterey County

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February 5, 2009

CC:

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California Environmental Protection Agency



**Comment Letters
Local Agencies**

L-1a



October 13, 2008

Mr. Carl Holm
Monterey County
Planning Department
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

RE: MCH# 20080902 – Draft Environmental Impact Report for the
Draft Environmental Impact Report for the 2007
Monterey Co. General Plan

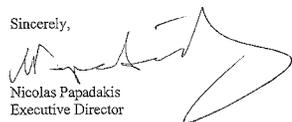
Dear Mr. Holm:

AMBAG's Regional Clearinghouse circulated a summary of notice of your
environmental document to our member agencies and interested parties for review and
comment.

The AMBAG Board of Directors considered the project on **October 8, 2008** and has no
comments at this time.

Thank you for complying with the Clearinghouse process.

Sincerely,


Nicolas Papadakis
Executive Director

SERVING OUR REGIONAL COMMUNITY SINCE 1968
445 RESERVATION ROAD, SUITE G ♦ P.O. BOX 809 ♦ MARINA, CA 93933-0809
(831) 883-3750 ♦ FAX (831) 883-3755 ♦ www.ambag.org

L-1b



January 23, 2009

Mr. Carl Holm
County of Monterey
Planning Department
168 W. Alisal Street, 1st Floor
Salinas, CA 93901

RE: MCH# 20081208 – Notice of Availability
2007 General Plan Draft EIR

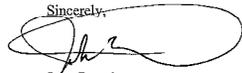
Dear Mr. Holm:

AMBAG's Regional Clearinghouse circulated a summary of notice of your
environmental document to our member agencies and interested parties for review
and comment.

The AMBAG Board of Directors considered the project on **January 14, 2009** and has
no comments at this time.

Thank you for complying with the Clearinghouse process.

Sincerely,


John Doughty
Executive Director

SERVING OUR REGIONAL COMMUNITY SINCE 1968
445 RESERVATION ROAD, SUITE G ♦ P.O. BOX 809 ♦ MARINA, CA 93933-0809
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L-2



City of Gonzales

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FAX: (831) 675-2644

GONZALES, CALIFORNIA 95926
www.ci.gonzales.ca.us

Monterey County
Planning and Building
Inspection Administration

JAN 09 2009
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January 5, 2009

Maria Ornela
Mayor

Fernando Armenta, Chairman
Monterey County Board of Supervisors
168 W. Alisal Street, Floor 1
Salinas, CA 93901

Re: *City of Gonzales. Comments on 2007 Monterey County General Plan Update*

Dear Chairman Armenta and Members of the Board of Supervisors:

The City of Gonzales continues to follow the evolution of the County General Plan Update because our interest in the future- of the County and because of the Update's potential effects upon the City of Gonzales. At several times during the County General Plan Update process the City has offered comments, most recently by letters on November 21, 2006 and December 4, 2006.

The City appreciates that the County has made various adjustments to certain plan policies along the lines that we previously requested. However, we believe that several parts of the plan text, still warrant adjustment. Attached to this letter, and indicated by *italics*, are comments on specific policies that we recommend be modified. These are the same comments that the City made on these specific policies in the letter of November 21, 2006. The County policies of concern are included for reference.

Please accept our congratulations that the General Plan Update is nearing completion. We will appreciate your further considerations of our attached recommendations.

Sincerely,


Maria G. Co. P. ayotl



CITY OF GONZALES
0033-01-20090100000000

BILL FARREL, AICP
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Gonzales will continue to be a safe, clean, family-friendly community, diverse in heritage, and committed to working collaboratively to preserve and retain its small town charm

L-2

CITY COUNCIL
CITY OF GONZALES
COMMENTS ON SELECTED GENERAL PLAN UPDATE POLICIES
January 5, 2008

Policy U-2.15 "Work with AMBAG and, cities to direct the majority of urban growth including higher density housing development into cities and their sphere of influence with an emphasis on redevelopment and infill."

Comment: *Gonzales is essentially built-out with only a handful of remaining vacant or under-utilized parcels, all of which are small and together cannot provide for more than about ten additional dwellings. These cannot make a dent in the level of residential demand projected for the area. Further, the City's ability to promote redevelopment of residential properties is almost non-existent, and has been made even more limited by recent case law. Any real response to growth pressures for residential, commercial, industrial and public uses will have to be through conversion of unincorporated agricultural properties general east of and outside the City's current boundaries.*

This proposed General Plan policy has the effect of forcing higher density development into the cities that already have relatively high density, while the county General Plan Update continues, to allow low-density, upscale housing in the outlying areas. It is important to keep in mind that the cities need some areas of relatively lower density, large lot residential development in order to encourage higher-end housing and a socio-economic balance and all the benefits that can bring to the life of the city. If the County wishes to retain this policy then it should conform to the same community development standards as the cities and the Plan should be amended to make that happen so that County development is also at higher densities.

Policy U-2.19 The County shall critically review development proposals and general plan amendments within the cities to assure that the impacts of growth in the cities on the County's infrastructure are adequately quantified and fully mitigated."

Comment: *Projects upon which the County should comment are generally defined by the inter-governmental referral process defined in the government code. These, are generally new projects on the cities' edges. Mitigation requirements are typically, established through CEQA compliance documents. We do not disagree that development within cities affects County infrastructure, but it is equally true that County development affects the infrastructure of the cities. The City of Gonzales is heavily impacted by traffic, especially heavy trucks that originate in the County. The City provides the affordable housing that supports agricultural workers within the County and bears the related services costs. What is needed is an overall assessment of shared infrastructure impacts and a mutually acceptable program for mitigation. Short of that, the County could find the cities demanding mitigations of all kinds for County projects. This policy should be*

Gonzales will continue to be a safe, clean, family-friendly community, diverse in heritage, and committed to working collaboratively to preserve and retain its small town charm

L-2

deleted or revised to state that "The County will coordinate with the cities to evaluate development proposals both in the County and within the cities in order to discuss issues of mutual concern and to mitigate, where feasible, impacts on respective infrastructure."

Policies AG-2.1 through 2.3

AG-2.1 "Agricultural support facilities such as coolers, cold storage, warehouses, parking lots, greenhouses, temporary and permanent worker housing and offices, processing equipment and facilities, agricultural research facilities, loading docks, workshops established to serve on-site and/or off-site farming and ranching activities shall be considered compatible and appropriate uses in the Farmlands, Permanent Grazing, and Rural Grazing land use designations. The County shall establish an ordinance that determines which uses require a discretionary permit."

AG-2.2 "The establishment and retention of a broad range of agricultural support businesses and services to enhance the full development potential of the agricultural industry in the County shall be encouraged and supported."

AG-2.3 "Agricultural processing facilities for products grown in and out of the County are compatible and appropriate land uses in the Farmlands, Permanent Grazing and Rural Grazing land use designations."

Comment: These policies are a major expansion of the range of uses allowed by the County in the past, and in essence allow gradual conversion of the County's best agricultural lands into an agricultural industrial park. For many years the County's policy, which worked well, was to limit uses on agriculturally zoned property to those uses supporting agriculture on that site. The current draft Plan language is a major change in the County's former protective treatment of the agricultural areas. This new language will result in conversion of significant areas into inappropriate uses, and increase rural traffic and roadway safety problems that are already significant in several areas of the Salinas Valley. These policies encourage isolated work environments instead of putting workers within cities where they can be housed and enjoy services. These policies work against creating a good jobs housing balance within the cities and County.

Agricultural support and processing facilities are needed, but most of these facilities should be located within the designated agricultural industrial parks of the Salinas Valley cities, where infrastructure has been developed at considerable public expense. The encouragement of these uses outside the cities undermines the financial viability of the established and traditional farm service centers. If the County wishes to allow a range of agricultural support uses on the farms, then these should be limited to the principal of allowing only those uses that must be located on the farm to function at all and that serve only that farm property. The City requests these policies be revised to direct future agricultural support and processing uses to established industrial parks in the incorporated cities. Uses allowed in the rural farming areas should be limited to those uses that are solely dependent on that cannot effectively, function except on the farm site and which serve only that farm site.

Gonzales will continue to be a safe, clean, family-friendly community, diverse in heritage, and committed to working collaboratively to preserve and retain its small town charm

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L-3 7:2



Sent Via E-mail and Certified Mail

January 29, 2009

Carl Holm, Assistant Director
County of Monterey
Planning Department
168 West Aisal, 2nd Floor
Salinas, CA 93901

Subject: Comments on 2007 Monterey County General Plan Draft Environmental Impact Report (September 2008) - County File # PLN070525

Dear Mr. Holm,

Thank you for the opportunity to comment on the 2007 Monterey County General Plan Draft Environmental Impact Report (DEIR). The purpose of this letter is to provide comments on the adequacy of the DEIR. The City of King's primary considerations pertain to impacts on agricultural lands and City-centered growth.

The following comments provide an overview of the policy and mitigation considerations that the City of King would like the County to address in the 2007 Monterey County General Plan and DEIR.

- Impact AG-1 (Loss of Important Farmland) states that 2,571 acres of Important Farmland will be removed from the agricultural land use designation through General Plan buildout. The DEIR should describe the type, amount, and location of farmland conversion resulting directly or indirectly from both project implementation and growth inducement. Feasible mitigation measures should be considered if implementation of the project will result in any conversion of Important Farmland. Consideration should be given to the purchase of agricultural conservation easements on land of at least equal quality and size as partial compensation for the direct loss of agricultural land, as well as for the mitigation of growth inducing and cumulative impacts on agricultural land. Conservation easements can protect a portion of those remaining land resources and lessen project impacts in accordance with CEQA Guidelines §15370.
- Impact AG-1 (Loss of Important Farmland) evaluates policies from the General Plan Agriculture Element that are intended to minimize adverse impacts on the conversion of Important Farmland to non-agricultural uses. However, the analysis does not acknowledge the inconsistency between the city-centered growth concept supported by the General Plan and Policies AG-2.1 and AG-2.3. These policies promote the development of agricultural support and processing facilities in the unincorporated area on lands designated as Farmland, Permanent Grazing and Rural Grazing. The General Plan is overly vague in its definition of agricultural support facilities.

AGRICULTURAL SUPPORT FACILITY means the use of a structure, land or land and structure principally established to support on-site and/or off-site farming or

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read CEQA Comments
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ranching activities including but not limited to coolers, cold storage, loading docks, and workshops.

While the City of King strongly supports the agricultural industry, Policies AG-2.1 and AG-2.3 could lead to the development of a more industrial character in the unincorporated areas of the County, rather than preserve the rural environment and Important Farmland. To be consistent with the city-centered growth concept, the County should include mitigation measures or General Plan programs to direct these industrial facilities to more appropriate areas within the incorporated cities and close to infrastructure and housing.

- Impact AG-2 (Agricultural Use Zoning and Williamson Act Contracts) discusses potential conflicts between the 2007 General Plan and agriculturally zoned land or land under a Williamson Act contracts. However the discussion does not adequately address the CEQA threshold - *conflict with existing zoning for agricultural use or a Williamson Act contract*. The discussion should be expanded to address and mitigate the following issues:
 - Additional impacts the project may have on lands under Williamson Act contract such as potential contract cancellations or nonrenewals.
 - Whether the project may result in zoning precluding agricultural use in agricultural preserve areas as defined in the Williamson Act (Government Code § 51230).
 - Impacts on current and future agricultural operations, land-use conflicts, and potential increases in property values and taxes from project implementation.

Thank you again for the opportunity to comment on the DEIR. The staff contact in this office is Maricruz Aguilar, Assistant Planner. Please contact her as needed with any questions (831) 385-5816.

Sincerely,


Michael Powers
City Manager

cc: City Manager
City Council
Community Development Department
City Clerk

212 S. VANDERHURST AVENUE • KING CITY, CA 93930
PHONE: (831) 385-3281 • FAX: (831) 385-6887
WWW.KINGCITY.COM

Page 1 of 1
L-3

Calderon, Vanessa A. x5186

From: Maricruz Aguilar [maguilar@kingcity.com]
Sent: Monday, February 02, 2009 6:20 PM
To: ceqacomments
Subject: City of King Comment Letter - County GP DEIR

To Whom It May Concern:

I am attaching an electronic copy of the City of King's comments regarding the Monterey County's General Plan Draft EIR. Please feel free to contact me if you have any questions.

Original will follow.

Thank you,

Maricruz Aguilar, Assistant Planner

02/03/2009

L-4



City of Marina
211 HILLCREST AVENUE
MARINA, CALIFORNIA 93933
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October 27, 2008

Carl Holm, Planning Manager
Monterey County Planning Department
168 Alisal Street, 2nd floor
Salinas, California 93901

**RE: CITY OF MARINA COMMENTS ON THE MONTEREY COUNTY
GENERAL PLAN DRAFT EIR**

Dear Mr. Holm,

On October 21, 2008, the City Council held a duly noticed public meeting to discuss and consider the Monterey County General Plan Draft Environmental Impact Report (Draft EIR) as it pertains to the City of Marina. At the meeting, the City Council adopted Resolution No. 2008-213 memorializing their response to the County. This letter forwards the City Council's comments.

1. County Draft General Plan, Conservation and Open Space Element

While the draft General Plan does include policy GMP-3.2 to limit the visual impact of new development on canyon edges and hilltops and while the County did add a policy to prohibit development on slopes greater than 30 percent, there is still no specific language to preserve hill tops and bluff tops as permanent open space that can be enjoyed by many future generations.

The City believes that the existing, un-developed hill tops and bluff tops within the County, and in particular within the Greater Monterey Peninsula Area Plan, deserve to be protected and preserved. The City believes that any development at the top of these hills and bluffs is a significant impact and that the only acceptable mitigation is to prohibit their development. Such impact and mitigation should be addressed in the EIR.

2. County Draft General Plan and Draft EIR, Circulation Element, Intersection Level of Service

The County draft General Plan and Draft EIR continue to set a Level of Service D as the impact threshold for County intersections.

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October 27, 2008
RE: City of Marina Comments on the Monterey County General Plan Draft EIR

Page 2

The City believes that the County should set a minimum Level of Service C for major County intersections to limit impacts to local jurisdictions, since approximately 75 percent of the County's residents are located within city boundaries. A Level of Service C should be addressed in the EIR.

3. County Draft General Plan, Public Services Element, Fair Share of Impact Fees

The County has not added language to the draft General Plan to emphasize that new residential development located adjacent to the City of Marina should seek annexation to the City to relieve the impact on City services by paying their fair share of impact fees.

The City believes that new development within the County, but adjacent to local jurisdictions, will greatly impact those jurisdictions, because it is within the local jurisdiction that most of the public services are concentrated. For example, if a Marina fire station is the closest fire station to an emergency in adjacent County land, Marina will respond and likewise for police services. These types of public service impacts from new, adjacent development to local jurisdictions should be addressed in the EIR.

4. Draft EIR, Table 4.11-1, Sheriff's Station Summary

The Draft EIR includes a table that summarizes the service areas for the Central, Coastal, and South County regional stations. The City suggests listing the Royal Oaks area as a neighborhood that is also serviced by the Central sheriff's station.

5. Draft EIR, Page 4.11-16, Safety Element Policies

The City recommends revising the last paragraph to provide more detail regarding the types of resources needed in an emergency situation, as follows:

"As stated in Impact 1, Safety Element Policies S-6.1 through S-6.8 set forth emergency preparedness policies to ensure that the Sheriff's Office would have adequate resources to meet the demands of the 2030 population. Policies S-6.1 through S-6.8 would decrease impact on sheriff stations by ensuring that stations have the adequate resources in an emergency situation, which include emergency centers, resources, personnel, and equipment, information on the levels of emergency provided and prohibiting development in areas that cannot be reached by emergency vehicles."

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RE: City of Marina Comments on the Monterey County General Plan Draft EIR Page 3

6. Draft EIR, Page 4.11-17, Significance Determination

The City suggests strengthening the third to last paragraph to emphasize that there are currently unincorporated areas that are already underserved, as follows:

"There are no plans at the current time that describe the design, location, or operational characteristics of future facilities. Therefore, their environmental impacts cannot be determined with any certainty and are examined at only a general level of detail. New facilities and services would serve the Community Areas and Rural Centers (where demand is expected to be greatest) and likely would be located in those areas. Their impacts would be an indistinguishable part of the impacts of the community as a whole. These facilities are typically low-key. For example, traffic is generally insubstantial because it is spread throughout the day. Noise is similarly low because of the limited number of employees and because sirens are seldom, if ever used when vehicles leave the premises (unlike a fire station). **Regardless, these facilities must be geographically located in those unincorporated areas that historically have been underserved and have the highest concentration of population and crime.**"

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In summary, the City of Marina appreciates the efforts by the County to address the concerns of our community as you move forward with your General Plan adoption. However, we believe that the above concerns are critical to Marina's future. Thank you for the opportunity to comment.

Sincerely,

 Anthony J. Atfield
 City Manager

CDD/S:\Planning\Monterey County\MoC\REIR\2008\City comment letters on County DREIR - October 22, 2008

L-5



City of Salinas

OFFICE OF THE CITY MANAGER
 200 Lincoln Avenue Salinas, California 93901 (831) 758-7201 Fax (831) 758-7368

January 8, 2009

Carl Holm, Assistant Planning Director
 County of Monterey RMA
 Planning Department
 168 West Alisal Street, 2nd Floor
 Salinas, CA 93901

Monterey County
 Planning and Building
 Inspection Administration
 1600 Hill
 Salinas, CA 93901

SUBJECT: 2007 GENERAL PLAN AND DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT

Dear Mr. Holm:

The City of Salinas submits the following comments on the County of Monterey's 2007 General Plan and Draft Program Environmental Impact Report. Many of the City's comments have been previously submitted in response to the 2006, version of the General Plan Update. These concerns remain applicable where similar policies exist. Copies of the City's prior correspondence dated October 6, 2006 and September 25, 2007 are attached.

Land Use

Greater Salinas Area Plan Policies GS-1.1 through GS-1.12 identify multiple Special Treatment Areas (STAs) and Study Areas (SAs), including Butterfly Village, Spence/Potter/Encinal Road and Highway 68/Foster Road among others. These STAs and SAs are intended to establish standards to guide development at those locations. In some cases, this is accomplished quite effectively. For example, GS 1.4 stipulates that development would only be allowed under specific conditions, within the identified land use boundaries shown in the Area Plan. In other areas, discussed further below, the Greater Salinas Area Plan does not establish clear guidelines for orderly development or does so in a manner that is inconsistent with the Greater Salinas Area Memorandum of Understanding (GSA-MOU).

1

As you know, the Greater Salinas Area Memorandum of Understanding (GSA-MOU) was adopted at a historic joint session of the Monterey County Board of Supervisors and Salinas City Council on August 29, 2006.

Some of the key elements of the GSA-MOU (excerpted and paraphrased below) were:

- City growth to the North and East, except as provided in the agreement;
- County support for the City's Future Growth Area annexation proposal to LAFCO;

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Carl Holm
2007 Monterey County General Plan
January 6, 2009

County support for the City's Fresh Express and Uni-Kool annexation proposals, subject to appropriate environmental review, and subject to appropriate agricultural conservation easements;

- Agricultural easements to the west and south;
- Consultation with the City in the planning process for any development in the Greater Salinas Planning Area;
- No development by County contiguous to the City limits if those proposals require either or both a General Plan amendment or a rezoning. Proposals requiring such changes shall be referred to the City for consideration and possible annexation;
- City and County support for regional transportation system (TAMC);
- County development of a County-wide Traffic Impact Fee within 18 months of the adoption of the County General Plan;
- City and County cooperation regarding the alignment of the future Westside Bypass which shall establish a development boundary for the City;
- Development in area west of Davis Road and east of the future Westside Bypass, excluding the Boronda Redevelopment Area, shall be limited to expansion of City's retail sales capacity and shall take place after annexation;
- City and County to work cooperatively to address impacts on the Reclamation Ditch Watershed Area, recognizing that a comprehensive financing program is needed. County to complete a nexus study and hearing process, within 36 months of adoption of the GSA-MOU [August 29, 2009].

Our review of the 2007 General Plan and Draft Program EIR has focused first and foremost on an analysis of consistency with the GSA-MOU. The City of Salinas is pleased to see that the Land Use Map for the Greater Salinas Area has been amended to restore an Agricultural land use designation to those lands previously considered in the prior versions of the Rancho San Juan Specific Plan (pre Butterfly Village). The exception being those existing developed commercial parcels adjacent Highway 101 at the northerly entrance to the City. As we have mentioned in our informal monthly City – County staff meetings, it would be appropriate to designate that area northeasterly of the City as a Special Study Area (SA) subject to specific planning requirements and its potential annexation into the City of Salinas.

The City maintains its advocacy of city-centered growth and was therefore, concerned to see an acknowledgement of the potential for the development of general commercial uses in the vicinity of the Salinas River and Highway 68.

The City appreciates the agricultural-tourism nature of "The Farm," as addressed in Policy GS-

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Carl Holm
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1.3, however, the addition of general commercial uses as contemplated by Policy GS-1.5, or any commercial uses other than row-crop agriculture along this agricultural, scenic corridor would not be appropriate.

The City of Salinas has been diligent in its adherence to maintaining a distinct urban boundary. Unfortunately, that distinction is often blurred by commercial ventures at important gateways into the City. Of particular note is the cluster of heavy commercial, storage and even a mobile home park at the northerly entrance to the City as viewed from US 101. We fear that similar conditions are evolving along Highway 68 just south of Salinas as a series of metal buildings, ostensibly "fruit stands" are being developed. The aforementioned Policy GS-1.5 affirms the City's concern in this regard.

The City also questions Policy GS-1.6 addressing the potential development of commercial uses on commercially designated parcels between Harrison Road and Highway 101 to the north of the City. It is the City's position that any commercial development along this city gateway should be limited to only the redevelopment of those properties containing existing development. Additional development is inherently in conflict with the idea of city-centered growth and in conflict with the spirit of the Greater Salinas Area Memorandum of Understanding. Absent further consultation with the City, any undeveloped properties between Harrison Road and Highway 101 should be designated and limited to agricultural farmland use.

If not limited to row crop production, as a gateway into the City of Salinas (if not annexed into the City of Salinas), at minimum the properties should be developed to a very high architectural standard.

Policy GS-1.11 establishing a study area for Espinosa Road suggests the intention of the introduction of industrial uses in this location. Consideration of a General Plan policy and the establishment of a Special Study Area would be not an appropriate solution to a code enforcement concern. The introduction of industrial uses in this location - in near proximity to the City of Salinas is in conflict with the principles of city-centered growth and again in conflict with the Greater Salinas Area Memorandum of Understanding.

The City of Salinas is also concerned regarding Policy GS-6.2 permitting the development of coolers, cold rooms, loading docks and farm equipment shops on agriculturally designated land. These are industrial activities and as such should be located in an appropriate industrially designated, city-centered location.

Circulation

The discussion regarding the public transportation services provided by Monterey-Salinas Transit fails to mention the service provided to South County.

The City is pleased to see that the Capital Improvement and Financing Plan (CIFP) are to be completed within the 18 month period established by the Greater Salinas Area Memorandum of Understanding (GSA-MOU). It is interesting that the County has determined that Level of

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Carl Holm
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January 6, 2009

Service (LOS) D is being proposed as a County standard. LOS D is more typically an urban rather than rural standard. LOS D may be appropriate in designated Community Areas; however as an overall standard for the County, it may condone traffic congestion in rural locations where traffic problems are typically not anticipated. Regrettably, the electorate did not see the ultimate value in Measure Z (the ½ cent sales tax initiative to address region and local serving roads) which makes it all the more imperative that the County of Monterey along with other regional entities adopt timely transportation congestion/safety policies.

Conservation and Open Space

The City of Salinas questions Policy OS-1.1 encouraging the establishment *voluntary* restrictions to the development potential of property located in designated visually sensitive areas. Monterey County is visually stunning. Areas which are deemed to be visually sensitive should have development regulations and public review processes established to ensure that Policies OS-1.2 through OS-1.9 remain viable.

Regarding Policy OS-3.7 encouraging *the voluntary preparation of a coordinated resources management plan in watersheds of State designated impaired waterways*; the City of Salinas encourages the County of Monterey to require the preparation of stormwater management and control plans meeting the requirements as imposed on the City by the state Central Coast Regional Water Quality Control Board. This is particularly relevant to those properties within the Zone 9 watershed area as defined by the Monterey County Water Resources Agency.

Safety

Safety policy S-2.3 provides for an exemption to the guidelines established by FEMA and the National Flood Insurance Programs as well as ordinances enacted by the Monterey County Board of Supervisors for grading activities carried out in the course of routine agricultural operations. It has been the City of Salinas' experience that the greatest contributor to the siltation of the creeks and their tributaries flowing through the City is a result of upstream agricultural grading practices. The City of Salinas recommends an agricultural grading policy that would result in the detention/retention of storm and irrigation water on-site. Table PS-1 indicates that agricultural lands result in no net increase in harmful run-off. This statement is contrary to the herbicide and pesticide measurements that have been collected in the stream corridors flowing through the City as a result of upstream agricultural operations. Drainage and agricultural management and mitigation monitoring plans should be required for run-off into the regional watershed.

Agriculture

The 2007 General Plan update anticipates the conversion of approximately 2,571 acres of Important Farmland to non-agricultural uses. Although the Draft Environmental Impact Report (DEIR) states that no mitigation beyond the 2007 General Plan policies is feasible, the City was pleased to see the commitment to the preparation, adoption and implementation of a program to mitigate for the loss of that farmland in Policy AG-1.2. The City of Salinas recommends that the

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Carl Holm
2007 Monterey County General Plan
January 6, 2009

County of Monterey consider the Agricultural Land Preservation Program established in consultation with the County of Monterey as a potential regional model [Resolution No. 19422 (NCS)] for the loss of important farmland.

Water Resource Management

The Water Resources section of the Draft Environmental Impact Report for the 2007 Monterey County General Plan update commendably addresses many of the hydrologic conditions throughout the County of Monterey. However, with the attention that the community has given Can Lake, and with the concerns expressed by the Monterey County Water Resources Agency, the City was surprised to note that Section 4.3 Water Resources did not address this significant natural stormwater management facility along with the accompanying 1907 Reclamation Ditch that was created to enable the cultivation of this watershed feature.

It is vital that the County implement Paragraph #13 of the GSA-MOU and work in good faith with the City and other interested parties to complete its comprehensive financing program for the Reclamation Ditch, including finalization of the nexus study and hearing process.

The City did note the reference to existing storm drain systems and the potential that they may be insufficient to accommodate future "Special Treatment Areas" outside of the city-limits. The properties within these "Special Treatment Areas" must be included in the solution to address the deficiencies identified by the Monterey County Water Resources Agency.

The Reclamation Ditch is a man made feature connecting the regions natural watercourses: Gabilan and Natividad Creeks and Alisal and Tembleadero Sloughs. As these natural and man-made riparian and drainage features are improved the City of Salinas encourages the County to establish policies that would establish a recreation trail extending from the foothills of the Gabilan Mountains to the beach at Moss Landing for the benefit of all our respective residents.

The City of Salinas appreciates that the County of Monterey has had many challenges throughout its lengthy General Plan Update process. The City also acknowledges that the adoption of the GPU initiates the requirement to bring all of the County's land use, zoning and development policies into conformance with the General Plan. In this regard, the City of Salinas urges the County of Monterey to limit the permissive and conditionally permissive land uses and development that may be considered in Agriculturally designated lands which surround the cities of the Salinas Valley to maintain the distinct urban/rural boundaries that contribute so significantly to the beauty and bounty of this region.

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Carl Holm
2007 Monterey County General Plan
January 6, 2009

The City is grateful for the progress that that been made and hopes that its comments assist in improving the document and ensuring that mitigation measures are consistent with the GSA-MOU.

Respectfully submitted,

CITY OF SALINAS



ARTIE FIELDS
City Manager

Enclosures

Correspondence dated October 6, 2006 and September 25, 2007
Resolution No. 19422 establishing an Agricultural Land Preservation Program

cc: Mayor and Salinas City Council
Monterey County Board of Supervisors
City Attorney
Deputy City Manager / City Engineer

L-5



City of Salinas

OFFICE OF THE CITY MANAGER
200 Lincoln Avenue Salinas, California 93901 (831) 758-7201 Fax (831) 758-7368

September 25, 2007

BY LAND DELIVERY

Chairman Dave Potter
Vice-Chair Fernando Armenta and Members of the
Monterey County Board of Supervisors
168 West Alisal St., 1st Floor
Salinas, CA 93901

Re: City of Salinas Comments re Planning Commission Recommendations for GPU-5

Dear Chairman Potter and Members of the Board:

Please accept these comments on behalf of the City of Salinas concerning the recommendations by the Planning Commission and the Planning Commission Ad Hoc Subcommittee for GPU-5. The City commends the County's efforts to arrive at a comprehensive and credible compromise General Plan update document.

The City's primary considerations pertain to policies in support of City Centered Growth, and development in the Greater Salinas Area. The Greater Salinas Area Memorandum of Understanding (GSA-MOU), approved by the Monterey County Board of Supervisors and the Salinas City Council on August 29, 2006 (attached as Exhibit A) establishes a framework of guiding principles to ensure orderly and appropriate development for the Greater Salinas area.

This is consistent with our previous communications to the County, most recently in October 2006 (copy of letter attached as Exhibit B).

It is critical to the City of Salinas that GPU-5 be consistent with the GSA-MOU and that the GSA-MOU be distributed and reviewed as part of the regular planning and environmental review process for any project or development in the Greater Salinas Area of Monterey County. Specific comments pertaining to the Planning Commission recommendation are as follows:

- : Rancho San Juan. The City positively considers the deletion of Rancho San Juan/ Butterfly Village as a "Community Area" in GPU-5.
- : Development in the Greater Salinas Area. The City notes that under the GSA-MOU, the City and County agreed that "developments within the area designated by the County General Plan as the Greater Salinas Planning Area shall only occur after consultation with the City in the planning process". (GSA-MOU, Paragraph 6 (emphasis added))



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Monterey County Board of Supervisors
September 25, 2007
Page 2

10 **Community Areas generally:** Community Area policies that establish designated areas for urban uses are not generally consistent with basic and widely accepted "smart growth" principles which are city-centered and take advantage of existing urban infrastructure, transit and public and emergency services. Any development within designated "Community Areas" (including redevelopment areas) should not proceed prior to the adoption of a Community Plan or Specific Plan.

11 **Boronda:** With respect to the designation of Boronda as a "Community Area", the City notes that any development in the undeveloped southern portion of the Boronda Redevelopment area must be consistent with Paragraph 14-15 of the GSA-MOU.

12 **Affordable Housing Overlays:** The City notes that under the GSA-MOU, the City and County agreed "to support each other's efforts to construct affordable housing throughout the County necessary to achieve the Fair Share Housing Allocation as approved by the Association of Monterey Bay Area Governments (AMBAG)." (GSA-MOU, Paragraph 16 (emphasis added)) The City commends the County's efforts to promote affordable housing throughout the County.

13 **Traffic:** In addition to the Planning Commission's recommendation that the Board require the adoption of a concept-level Capital Improvement Financing Plan (CIFP), the City notes that the GSA-MOU also requires the County "to develop a County-wide Traffic Impact fee program for the improvement of major County roads in accordance with the County's adopted General Plan." (GSA-MOU, Paragraph 10.) Also, please note our previous concerns with the traffic modeling assumptions prepared for the 2006 General Plan Draft Program Environmental Impact Report.

14 **Annexations:** The City and County have also agreed "to work cooperatively and expeditiously in annexation matters consistent with this agreement." (GSA-MOU, Paragraph 8.)

These comments are not intended to be exclusive and merely highlight some of the provisions of the GSA-MOU that have application to GPU-5.

The City is available and welcomes the opportunity meet and consult with County staff concerning any of these comments.

Thank you for your consideration.

Sincerely,


DAVE MORA
City Manager

L-5

Monterey County Board of Supervisors
September 25, 2007
Page 3

Enclosures:

- Exhibit A -- City of Salinas Letter to Mike Novo dated October 6, 2006
- Exhibit B -- GSA-MOU

- cc: Mayor and City Council (without enclosures)
- Vanessa Vallarta, City Attorney (w/ enclosures)
- Robert C. Russell, PE, Deputy City Manager/City Engineer (w/o enclosures)
- Jorge Rifa, Deputy City Manager (w/o enclosures)
- Mike Novo, Monterey County Planning Department (w/ enclosures)
- Wayne Tanda, Resource Management Agency (w/ enclosures)
- Charles, McKee, County Counsel (w/ enclosures)

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GREATER SALINAS AREA
MEMORANDUM OF UNDERSTANDING

Preface

The negotiated terms of the Greater Salinas Area Memorandum of Understanding (MOU) will replace the previous Boronda Memorandum of Understanding between the City of Salinas and the County of Monterey and shall be adopted only after a joint public meeting of the Monterey County Board of Supervisors and the Salinas City Council. In the event of a successful challenge to any provision of this MOU by a third party, such provision shall be removed from the Greater Salinas Area MOU.

This Memorandum of Understanding (MOU), by and between the County of Monterey (County) and the City of Salinas (City), is to set forth certain agreements between the parties to express their intent to jointly pursue action to assure orderly and appropriate land use development in the area designated in the General Plan of Monterey County as the Greater Salinas Area Plan area and in the City of Salinas. Specific objectives to be achieved through the implementation of the land use and associated policies included in this MOU are the preservation of certain agriculture land, the provision of future growth areas, and the provision of adequate financing for the services and facilities of benefit to the residents of the Greater Salinas Area Plan area and the City. It is recognized that, with respect to some of the provisions set forth herein, numerous actions must be taken pursuant to State and local laws and regulations before such policies can be implemented. Such actions include, in some instances, the need to comply with the California Environmental Quality Act (CEQA), the need, to hold public hearings and/or otherwise seek public input before reaching binding decisions, and the need to obtain approvals from other agencies such as the Local Agency Formation Commission (LAFCO). For all such provisions, this MOU shall be understood to constitute tentative policy commitments that can only become fully binding after all such legal prerequisites have been satisfied. Even so, both parties agree to make a good faith effort to follow and implement the provisions of this MOU subject to the foregoing.

The City and County do hereby mutually agree to the following:

City Growth

1. City and County agree that the future growth direction of the City shall be to the north and east of the current City limits, except as otherwise provided for in this MOU.
2. County supports the City's 2005 Preliminary Sphere of Influence/Annexation Proposal to LAFCO to the north and east of the City's existing City Limits (Exhibit
3. County supports the City's 2005 Preliminary Sphere of Influence/Annexation Proposal to LAFCO to the south of the City's existing City Limits (Exhibit A) for the exclusive purpose of agricultural processing and processing capacity (Fresh Express). County further supports future City Sphere of Influence / Annexation proposals to the

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GREATER SALINAS AREA
MEMORANDUM OF UNDERSTANDING

south of the City's existing City Limit for the exclusive purpose of agricultural processing and processing capacity (Unkool), subject to the establishment of appropriate agricultural conservation easements.

4. City and County agree to the creation and land annexation of agricultural conservation easements in the unincorporated areas to the west and south of the City's Sphere of Influence insofar as the easements are consistent with the adopted General Plans of the two jurisdictions.
5. City and County agree to work cooperatively and in concert with the affected property owners to annex developed unincorporated areas (e.g. Bolsa Knolls) adjacent to or within the City's Sphere of Influence as shown in Exhibit A and to transfer existing County sanitation facilities (e.g. Boronda) upon future City annexation that support these areas subject to the property owners paying any required sanitation system connection fees established by MRWPA. It is anticipated that an initial effort consistent with this annexation commitment shall be cooperation by all parties to consider and facilitate the proposed Chapin Rogge Road annexation application insofar as the annexation is consistent with the provisions of LAFCO.
6. City and County agree that developments within the City's 2005 Preliminary Sphere of Influence/Annexation Proposal shall only occur after annexation to the City and that the City shall consult with the County in the planning process. City and County also agree that the developments within the area designated by the County General Plan as the Greater Salinas Planning Area shall only occur after consultation with the City in the planning process.
7. City and County agree that the County shall not process any proposals for development in areas contiguous (immediately adjacent) to the City's City Limit / if those proposals would require either or both a County General Plan amendment or a rezoning. Proposals for development requiring a General Plan amendment or a rezoning shall be referred to the City for consideration and possible annexation to the City.
8. City and County agree to work cooperatively and expeditiously in annexation matters consistent with this agreement.
9. City and County agree to support fees and taxes needed to mitigate the collective impact of new and existing development on the regional transportation system to the extent that the fees and taxes reflect the overall financing program adopted by TAMC.
10. City and County agree that County will develop a County-wide Traffic Impact Fee program for the improvement of major County roads in accordance with the County's adopted General Plan. The County Fee program will be developed in consultation with TAMC and Monterey County cities. It is recognized that there

Page .0rs

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GREATHER SALINAS AREA MEMORANDUM OF UNDERSTANDING

will be development within the City of Salinas related to the anticipated annexation of land to the north and east of the existing City Limits, and it is the desire of both jurisdictions that the County not rely upon the imposition of an ad hoc traffic fee on City development. Therefore the development of the Traffic Impact Fee for the Salinas Area as shown in Exhibit R, will be a priority and a nexus study and hearing process should be completed within 18 months of adoption of the 2006 County General Plan. The County Traffic Impact Fee will be imposed on development in affected cities and unincorporated areas.

- 11. City and County agree to work cooperatively on establishing the alignment, phasing and financing of the regional roadway facility commonly referred to as the Westside Bypass and will expedite the completion of a Project Study Report for this future roadway. City and County agree that the ultimate alignment of the future Westside Bypass shall establish the development boundary for the City. It is the intent of both parties to minimize the impact on agricultural land in establishing the Westside Bypass alignment so that the ultimate alignment shall not result in the development of acres of agricultural land in excess of that anticipated in the Westside Bypass alignment as shown in the City of Salinas 2002 adopted General Plan (Exhibit C).
12. City and County agree that future development between the area west of Davis Road and east of the future Westside Bypass, excluding the Boronda Redevelopment Project area, shall be limited to expansion of the City's retail sales capacity and shall take place after annexation.
13. City and County agree to work cooperatively to address the collective impact of current and anticipated land uses in the Reclamation Ditch Watershed Area. There is a recognition that a comprehensive financing program is needed that includes grants, benefit assessments, appropriate development impact fees, and special uses required to address current and anticipated impacts. The County, in consultation with the City, should complete a nexus study and hearing process, assessing benefit of current and existing land uses, within 36 months of adoption of this MOU. The adopted impact fee will be imposed on current and existing land uses in both the City and unincorporated areas.

Boronda Redevelopment Project Area

- 14. City and County agree that in the undeveloped southern portion of the Boronda Redevelopment Project Area (Exhibit D) the County shall take the lead in the planning, review, and approval process subject to concurrent City review so that the final approved project is consistent with existing City development standards. City recognizes the County's desire and intent to assure development that is consistent with commitments made to the Boronda community regarding required amendments to the current adopted Boronda Community Plan and that the anticipated development is assumed to provide financial benefits (i.e. tax increment) to the Boronda Development Area. City and County will work

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GREATHER SALINAS AREA MEMORANDUM OF UNDERSTANDING

cooperatively to assure that those commitments will result from and through the final approvals for development and annexation to the City of Salinas. City and County further agree that there will be no final development approvals prior to the completion of all requirements (including final LAFCO approval) for annexation of the subject area to the City of Salinas.

City and County agree that infill development in the northern portion of the Boronda Redevelopment Project Area (Exhibit D) will continue to be processed by the County subject to consultation with the City.

- 15. City and County agree that property tax generated within the Boronda Redevelopment Area shall continue to accrue to the Boronda Redevelopment Area for implementation of the current (January 1, 2006) adopted Redevelopment Area Plan. Upon completion of the aforementioned Plan, the former Redevelopment Property Tax increment shall be allocated between the City and the County on a 50/50 basis.

Affordable Housing

- 16. City and County agree to support each other's efforts to construct affordable housing throughout the County necessary to achieve the Fair Share Housing Allocation as approved by the Association of Monterey Bay Area Government (AMBAG).
17. City and County agree that if the 100% affordable housing project on Rogge Road approved by the County in 2006 is annexed to the City that the project shall be credited to the County's Fair Share Housing Allocation.

Other

- 18. City and County mutually agree that neither will pursue future development related litigation against the other insofar as the subject development is consistent with this agreement.

CITY OF SALINAS A municipal corporation of the State of California By: Anna Caballero, Mayor Dated: 03/20/10
COUNTY OF MONTEREY A political subdivision of the State of California By: Jerry Smith Chairman of the Board of Supervisors Dated: 03/22/10

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GREATER SALINAS AREA
MEMORANDUM OF UNDERSTANDING

ATTESTED TO:

Anna Campbell
City Clerk

County Clerk

Page M5

L-5

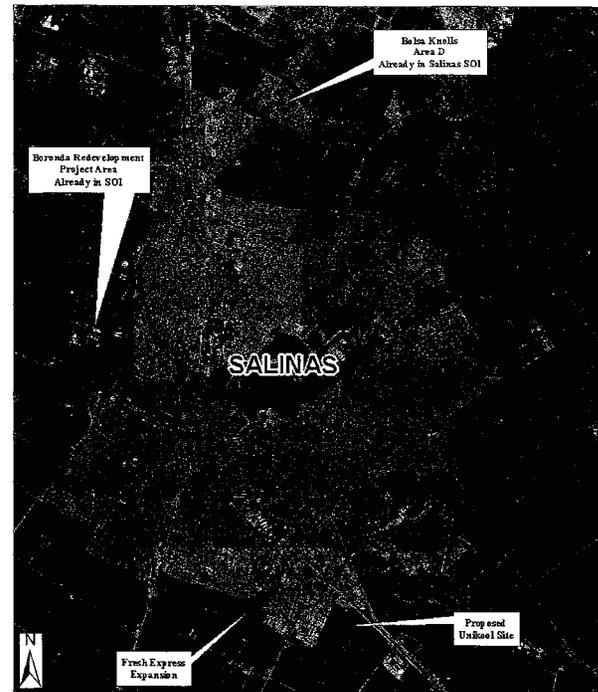


EXHIBIT A

Salinas 2005 Preliminary Sphere of Influence (SOI)
Annexation Proposal Map

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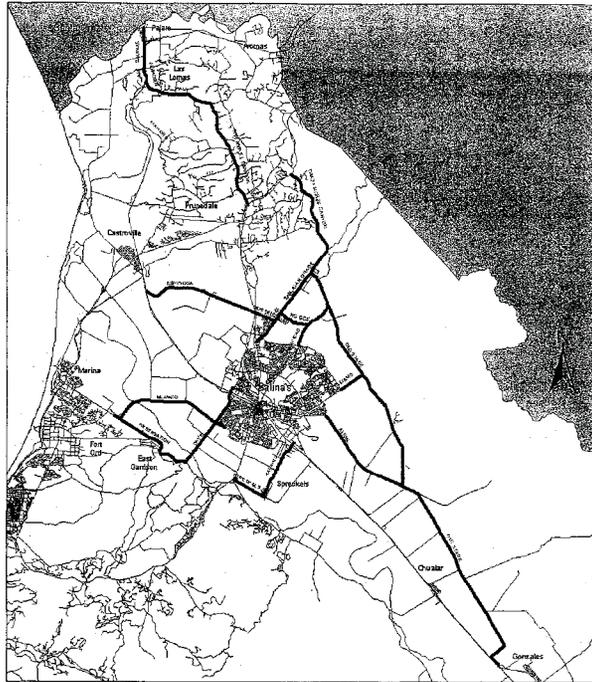


EXHIBIT B

Salinas Area Traffic Impact Fee
Affected Major or County Roads



L-5



EXHIBIT C

Westside Bypass Alignment
City Salinas 2002 General Plan



L-5

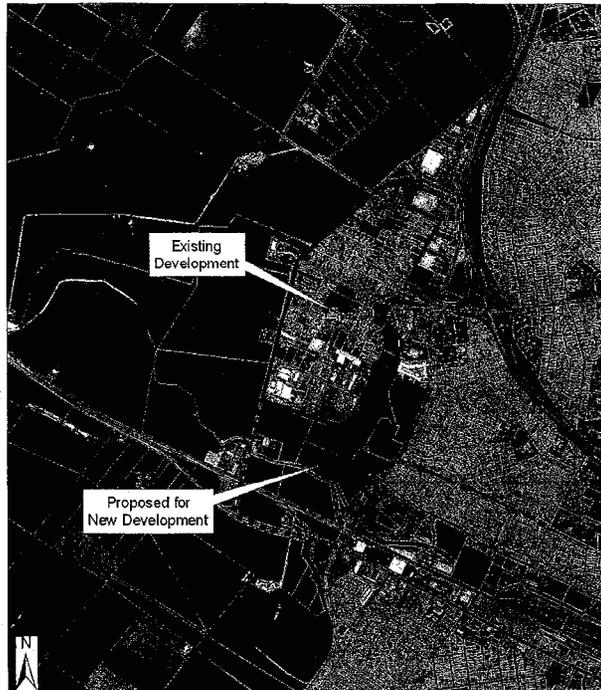


EXHIBIT D

North Boronda Redevelopment Project Area
South Boronda Redevelopment Project Area



L-5



City of Salinas

OFFICE OF THE CITY MANAGER
200 Lincoln Avenue Salinas, California 93901 (831) 758-7201 Fax (831) 758-7368

October 6, 2006

Mike Novo, Interim Planning Director
County of Monterey, Resource Management Agency
Planning Department
168 West Alisal Street, Second Floor
Salinas, CA 93901

SUBJECT: 2006 MONTEREY COUNTY GENERAL PLAN AND GENERAL PLAN EIR

Dear Mr. Novo:

The August 15, 2006 Monterey County staff presentation to the Salinas City Council was beneficial and assisted the City Council to identify areas of importance to the City of Salinas and its residents. The City's primary considerations pertain to policies in support of City Centered Growth and the Greater Salinas Area. It is acknowledged that the Greater Salinas Area Memorandum of Understanding (GSA-MOU), approved by the Monterey County Board of Supervisors and the Salinas City Council on August 29, 2006 (copy attached) establishes a framework of guiding principles to ensure orderly and appropriate development for the Greater Salinas area.

The following comments provide an overview of the policy considerations that the City of Salinas would like the County of Monterey to address in the 2006 Monterey County General Plan (2006 GPU). In general, the City of Salinas expects the adopted County General Plan to be consistent with the GSA-MOU.

City Centered Growth

- Policies LU-2.1—LU-2.4 should cross reference City Centered Growth policies LU-2.15-2.19.
- Policy 2.15 does not acknowledge the sovereignty of local jurisdictions and reads as if it was a policy for other jurisdictions to implement. As such, an appropriate revision to this policy would be *encourage* rather than emphasize redevelopment and infill. Development proposals that are contiguous to current or planned city limits should be directed to the respective city for annexation and development.
- Policy LU-2.17a should be expanded to direct, to the greatest extent possible, development to the existing incorporated cities within the Salinas Valley *in accordance with the jurisdiction's adopted General Plan*.
- Policy LU-2.17b is overly broad. Establishing a "demonstrable benefit to the residents of the County as a whole" is quite vague and bears no relationship to the findings that LAFCO must establish for the determination of a jurisdiction's sphere of influence. The

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EXHIBIT



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Mike Novo
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City recommends that this policy be deleted.

- Policy LU-2.18. *"The County shall critically review development proposals and general plan amendments within cities to assure that the impacts of growth in cities on the County's infrastructure are adequately quantified and fully mitigated"* is expressed in an overbearing manner and does not reflect the spirit of cooperation embodied in the GSAMOU. It is recommended that this policy be either deleted or restated to indicate that the County will coordinate with cities to cooperatively evaluate development proposals both in the County and within the cities to discuss issues of mutual concern, and to mitigate, when feasible, impacts on infrastructure.
- Community Area Policies LU-2.20-2.27 establishing designated areas for urban uses is contrary to the fundamental principle of City Centered Growth.
- Policy LU-2.25 should be revised to prohibit development within designated Community Areas (including redevelopment areas) prior to the adoption of a Community Plan or Specific Plan.
- Agricultural Policies AG-2.1 and AG-23 prohibit the development of agricultural support and processing facilities in the unincorporated area on lands designated as Farmland, Permanent Grazing and Rural Grazing. These policies are contrary to City Centered Growth. These policies allow for the conversion of prime agricultural lands into industrial business parks. Agricultural support and processing facilities are a critical component of the regional economy, however, these industrial facilities are most appropriately located in the incorporated cities where infrastructure has been developed and where the workforce resides.

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Circulation

The discussion regarding public transit services should be expanded to address MST's service to South County.

- Policy C-1.1 implies that Levels of Service (LOS) may be reduced through a Community Plan. This policy should be reconsidered. If LOS cannot be maintained at the appropriate standard, the approving authority may make findings of overriding consideration in conjunction with its consideration of the environmental impact report for the Community Plan.

Policy C-1.8 is similar to Policy LU-2.18 discussed above. The City recommends that the policy be revised to indicate that the County will coordinate with cities to cooperatively evaluate development proposals both in the County and within the cities to discuss issues of mutual concern and to mitigate, when feasible, impacts on the circulation system.



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- Policy C-4.3 implies that agricultural uses take precedence over all other uses – the development of an efficient circulation system is a benefit for all including agricultural users. All public rights of way should include appropriate provisions for drainage and utilities; however, agricultural drainage should not be a part of the public infrastructure.
- Policies C-5.1-C-5.6 support scenic roads and highways. As such, all of the County's roads and highways should be considered scenic. Monterey County and its incorporated cities rely on the quality of the landscape to support its principal economic activities: agriculture and tourism. This also supports Policy LU-1.12 that discourages off site advertising. The City of Salinas has prohibited the erection of new billboards and off premise advertising structures for many years and recommends that Monterey County also consider such a prohibition.
- Policy C-6.5 is recommended to include a reference to City Centered Growth as urban development allows for more viable transit options.

Conservation & Open Space

- Policy OS-1.1 encouraging voluntary restrictions to the development potential of property located in a visually sensitive area is meaningless. Development in visually sensitive areas should be linked to an implementation program or mitigation measure as appropriate.

Emergency Services

- Policy S-6.5 (mislabelled as Policy P-6.5) indicates service levels for urban (Community Areas), suburban (Rural Centers) and rural areas. The response time for urban areas is established as 8 minutes or less, 90% of the time. The County may wish to consider a more aggressive response time similar to the City of Salinas. The emergency response service level adopted in the City's General Plan is 6 minutes, 90% of the time.

Public Services

- Policy PS-3.2.1 "in determining whether there is a long term sustainable water supply, credit may be given for a significant reduction in the historic water use on site. Up to 50% of the average annual water use of 10 of the previous 20 years may be conserved for the proposed development." The intent of this policy is unclear. As it reads, one is led to believe that the policy is intended to contravene the doctrine of correlative rights and reasonable use which gives an overlying property owner the right to the reasonable use of the basin supply. Establishing the "reasonable use" of the water basin is typically established by creating a water balance demonstrating that the new use will use no more water than the historic use. This policy seems to imply that the "reasonable use" for a new use is one-half that of the historic use on the property. This policy appears inequitable.

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Mike Novo
October 6, 2006
Page 4 of 6

- Policy PS-4.5: "New development proposed in the service area if existing wastewater collection, treatment and disposal should seek service from those facilities whenever possible." The City recommends that this policy, emphasize City Centered Growth and be strengthened to require annexation into a member agency's jurisdiction.

Agricultural

- The inconsistency of policies AG-2.1 and AG-2.3, that support the conversion of farmland and grazing lands to agricultural support and processing facilities with the fundamentals of City Centered Growth is discussed above. The use of farmlands and grazing lands should be limited to raising crops and grazing livestock. The addition of industrial uses in locations outside of incorporated jurisdictions exacerbates traffic conditions on rural roads not designed to accommodate significant movements of truck traffic. Further, these policies have the potential to create isolated work environments in locations bereft of appropriate urban services and housing to serve the workforce. Additionally, the conversion of farmlands and grazing lands to support industrial processing would result in the erosion of the scenic aspects of the open lands used for row crop production and livestock grazing to the detriment of the region's attractiveness as a tourist destination.

Economic Development

- Policies AG-2.1 and AG-2.3 policies conflict with Economic Development policy ED-2.3 which states: "Work with cities to place commercial and industrial development in the most appropriate locations."
- Policy ED-2.3 should reference and reinforce City Centered Growth.

Greater Salinas Area Plan Supplemental Policies

- FIGURE #10 Land Use Plan Greater Salinas
This map and inserts continue to reflect urban land uses in the area formerly designated as Ranch San Juan with significant portions of the property, designated for high density residential, industrial and commercial uses. The area is designated as a "Study Area," however the City recommends that the underlying land uses be designated as **Agricultural Farmlands** until the study is completed through either a Community Plan or Specific Plan in conjunction with the annexation into the City of Salinas.

Further, the City also recommends that the lands located northeasterly of the City's Future Growth Area (the generally triangularly shaped area formed by the extension of San Juan Grade road [both sides] and Old Stage Road as it extends to Crazy Horse Canyon Road be designated as a Study Area. Development within this area should be prohibited until the adoption of the required Community Plan or Specific Plan in conjunction with the annexation into the City of Salinas. The insert map entitled



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Mike Novo
October 6, 2006
Page 5 of 6

Butterfly Village and Rancho San Juan should be revised to include only the approved Butterfly Village project reflecting the Board of Supervisor's action. The inclusion of balance of the former Rancho San Juan area in this detail is misleading as Rancho San Juan is now limited to only Butterfly Village.

The Greater Salinas Area Land Use Map should also acknowledge the City's Future Growth Area initially adopted by the City in 1988, and affirmed with the City's adoption of its 2002 General Plan.

- Policy GS-1.1 discusses the requirement for a special study for the area located north of Russell Road between Harrison Road and San Juan Grade Road adjacent the 671-acre Butterfly Village (a.k.a. Revised Rancho San Juan Specific Plan). Included in the discussion is a list of affected participants — the City of Salinas must be included in this discussion as should opportunities for City Centered Growth.

In addition to the above referenced General Plan policies, the City of Salinas has a potentially significant concern with the traffic modeling assumptions prepared for the 2006 General Plan Draft Program Environmental Impact Report. The basis of this concern stems from the work recently conducted by Fehr & Peers Transportation Consultants to assess the transportation implications of the Salinas Future Growth Area proposal using the AMBAG Regional Traffic Demand Forecasting Model. Seemingly, this traffic model includes a number of assumptions regarding trip distribution that appear to be flawed. The "flaws" seem to undermine the validity of the "regional model." Fehr & Peers have indicated that the model may be able to be utilized, however, it will take a significant effort in time and resources to correct the problems. Given the controversial nature of transportation related concerns, the City of Salinas would urge the comment period for the Draft Environmental Impact Report be extended until the concerns with the AMBAG Regional Traffic Demand Forecasting Model can be resolved.

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L-5

Mike Novo
October 6, 2006
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Thank you for presenting these concerns and considerations to the Planning Commission and Board of Supervisors.

Sincerely,

/s/

DAVE MORA
City Manager

Cc: Mayor and City Council
Vanessa Vallarta, City Attorney
Robert C. Russell, PE, Deputy City Manager/City Engineer
Jorge Rifa, Deputy City Manager



L-5

RESOLUTION NO. 19422 (N.C.S.)

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALINAS
APPROVING THE AGRICULTURAL LAND PRESERVATION PROGRAM**

WHEREAS, the City of Salinas has adopted and implemented various policies and mitigation measures in its 2002 General Plan and General Plan Final Program EIR relating to the conversion of agricultural lands to urban uses;

WHEREAS, these policies and measures include cooperation and agreements with the County of Monterey to confirm the general growth direction of the City to the north and east, as memorialized in the 2006 Greater Salinas Area Memorandum of Understanding (GSA-MOU);

WHEREAS, these policies and measures adopted in the 2002 General Plan also include priority to redevelopment and infill projects, as well as City-Centered growth principles, right to farm notices to ensure respect for farming rights; and buffers between agricultural and non-agricultural uses, amongst other General Plan policies and City codes that support and preserve agricultural lands.

WHEREAS, the City in the 2002 General Plan and in the 2006 GSA-MOU expressed its commitment to the development of an agricultural land conservation easement program.

NOW THEREFORE, **BE IT RESOLVED** that the City Council of the City of Salinas wishes to clarify and state the basic elements of the City's Agricultural Land Preservation Program.

NOW THEREFORE, **BE IT FURTHER RESOLVED** that the Council approves adopts the attached Agricultural Land Preservation Program attached hereto and incorporated by reference.

PASSED AND ADOPTED this 8th day of April 2008, by the following vote:

AYES: Councilmembers Barnes, Barrera, Sanchez, Villegas, and Mayor Donohue

NOES: Councilmember Lutes

ABSENT: Councilmember De La Rosa

Handwritten signature of Dennis Donohue, Mayor, with a horizontal line underneath.

ATTEST:

Handwritten signature of Ann Camel, City Clerk, with a horizontal line underneath.
Ann Camel, City Clerk

L-5

CITY OF SALINAS
AGRICULTURAL LAND PRESERVATION PROGRAM

The City adopted and accordingly commits to, the following mitigation measures in 2002 General Plan Final Program EIR relating to the conversion of agricultural lands to urban uses:

Cooperation with the County

AG-1. The City will implement Implementation Program COS-9, which requires the City to continue to cooperate with the County of Monterey to implement the Boronda Memorandum of Understanding [Greater Salinas Area-MOU], which directs that City growth occur generally to the north and east away from the most productive farmland.

Priority to Redevelopment and Infill

AG-2. The City will implement Implementation Program LU-7, which requires the City to give priority to redevelopment and infill projects that reduce development pressure on agricultural lands. Establish an incentive program to promote these projects, such as priority permit processing and density bonuses for such developments.

Right to Farm Notices

AG-3. The City will implement the Implementation Program COS-11, which requires the City to be consistent with the County of Monterey's "Right-to-Farm" Ordinance, and the policies with respect to farming rights found in the 2007 County of Monterey Draft General Plan, revise the City's Zoning Ordinance to require the recordation of a Right-to-Farm Notice as a condition of discretionary permit approval for residential development within 1,000 feet of an established agricultural operation. The purpose of the Notice is to acknowledge that residents in the area may experience inconveniences and discomfort associated with the normal farming and grazing activities, such as noise and dust. The Notice shall specifically state that a variety of activities may occur that may be incompatible with the proposed development and that an established agricultural operation in full compliance with applicable laws, shall not be considered a nuisance due to changes in the surrounding area. The Notice shall also state that a person's right to recover under a nuisance claim against those activities may be restricted.

Buffers between Agricultural and Non Agricultural Uses

AG-4. The City will implement Implementation Program COS-10, which requires the City to encourage the provision and maintenance of buffers, such as roadways, topographic features, and open space, to prevent incompatibilities between agricultural and non-agricultural land uses. A number of factors shall be used to determine the appropriate buffer, including type of agricultural use, topography, and pesticide and machinery use, among others.

L-5

City of Salinas
Agricultural-Land Preservation Program

Agricultural Land Conservation Easement Program

AG-5. The City will work with the County of Monterey, and other local jurisdictions, to create and implement an agricultural land conservation easement program including such measures as securing the dedication of easements or by paying a mitigation fee that could be used to purchase easements through a mitigation bank.

200 Greater Salinas Area Memorandum of Understanding (GSA-MGU)

#4. City and County agree to the creation and implementation of agricultural conservation easements in the unincorporated areas to the west and south of the City's Sphere of Influence insofar as the easements are consistent with the adopted General Plans of the two jurisdictions. (Emphasis added)

Program will include (in addition to AG1-AG5 noted above):

- Tax Sharing Agreement that confirms the growth-direction of the City and contains severe fiscal penalties for growth that is not consistent with the City's established 2002 adopted General Plan and/or City-County policy (i.e., GSA-MOU).
- For development to the west and south of City, the City shall require the dedication of agricultural conservation easements to provide for the permanent protection of agricultural land. For example, the proposed Salinas Ag-Industrial Business Park (UniKool property) includes agricultural conservation easements that will be established prior to final approval by the City, consistent with GSA-MOU paragraph #3. All other GSA-MOU identified growth areas to the south and west of Highway 101, including the Fresh Express annexation project area, the Westside Bypass area as generally shown on Exhibit C to the GSA-MOU and development in the Boronda Redevelopment project area shall be subject to their own separate environmental review and appropriate mitigation measures.
- For development of lands within the GSA-MOU identified growth areas to the north and east of Highway 101, no agricultural mitigation easement shall be required and a mitigation fee of \$750 per acre shall be assessed for agricultural lands currently designated by the California Department of Conservation's Farmland Mapping and Monitoring Program as "Prime" or "of Statewide Importance."

April 8, 2008

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L-5

City of Salinas
Agricultural Land Preservation Program

- For purposes of this program, "GSA-MOLT identified growth areas" means annexations or changes in organization in the following areas: the north and east of the City limits that existed in 2005 and that are referenced in Figure LU-1 of the 2002 City General Plan, as well as the other areas identified in the GSA-MOU, including but not limited to Balsa Knolls and the Salinas Future Growth Annexation and Sphere of Influence (SOI) Area, the Chapin Rogge Road property, areas within the boundary of the final alignment of the Westside Bypass, the proposed Fresh Express expansion and the proposed Unikool Site to the south of Highway 101, and the Boronda Redevelopment Project Area, all as shown on Exhibits A and C to the GSA-MOU. A copy of the GSA-MOU is attached to this Program as Exhibit A.
- Any agricultural mitigation fees assessed by the City pursuant to this Program may, in the City's sole discretion, be applied toward the following types of activities designed to preserve and promote agriculture in the Greater Salinas Area (list is not intended to be all inclusive):
 - o University level agricultural research, e.g. scientific research for solving agriculture's needs (e.g., food safety).
 - o Increased agricultural educational programs in local high schools and community colleges.
 - o Programs for expanding markets for local agricultural products.
 - o Promoting careers in agriculture (e.g., scholarships).
 - o Contributions to non-profit associations dedicated to agricultural education, promotion or preservation.
 - o Contributions to USDA and the University of California Cooperative Extension.

The City of Salinas Agricultural Land Preservation Program shall apply to all lands subject to the 2002 Salinas General Plan, and the GSA-MOU identified growth areas noted above.

April 8, 2008

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10/28/2008 13:22 FAX 831898211

CITY OF SEASIDE

002/004

L-6



RESOURCE MANAGEMENT SERVICES

440 Harcourt Avenue
Seaside, CA 93955

Telephone (831) 899-6737
FAX (831) 899-6211
TDD (831) 899-6207

October 28, 2008

Monterey County
Attn: Carl Holm
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

RE: City of Seaside Comments on General Plan Update 5

Dear Mr. Holm:

The following comments provide an overview of the policy considerations that the City of Seaside believes should be considered by the County of Monterey in its review of the recirculation of the Environmental Impact Report for General Plan Update 5.

Water

Page 4.3-35: EIR references inter basin transfer of water for affordable housing overlay in the Seaside Basin. Under what authority would be an inter basin transfer occur?

Page 4.3-91: All new projects should be required to retain all stormwater on-site per 100-year storm event.

Page 4.3-96&97: New development should be required to include on-site drainage system; same on-site drainage should apply to the Greater Monterey Peninsula

Page 4.3-115: What is footnote (4) referencing in Table 4.3-8.

Page 4.3.138: Reference to proposal by Cal-Am for the construction of injection wells should be noted and how much additional water would be diverted with the establishment of Cal-Am ASR wells.

Page 4.3-140: EIR should reference proposed development on Ft. Ord Master Plan and identify how existing infrastructure is adequate to serve projected build-out.

Page 4.3-179: Amend mitigation measure to require retention of storm water for new development per 100 year storm event.

Greater Monterey Peninsula Master Plan

The County should coordinate with Caltrans to determine what information must be submitted with the application for the designation of a Scenic Highway between the City of Seaside and the City Marina and how Monterey County and applicable jurisdictions must coordinate on the application.

1972872008 13:22 FAX 6516356211 CITY OF SEASIDE 004/004

L-6

Monterey County General Plan Update 5 EIR Comments
Page 2 of 3

Land Use

The City of Seaside has the following concerns related to the Fort Ord Master Plan Area:

Residential Land Use Policies

The Fort Ord Master Plan should acknowledge and discuss the City's future growth potential west of the urban boundary line. The City of Seaside is considering the following projects within its city limits:

1. Relocation of City of Seaside Corporation Yard to Polygon 18 on Figure 2; and
2. Development of a Veterans Cemetery on Polygon 20c on Figure 2; and
3. Surplus II Specific Plan on Polygon 20e on Figure 2.

Circulation Element

Of particular concern to the City of Seaside are the potential impacts that could be generated by residential and commercial development within the Fort Ord Area Master Plan and designated Affordable Housing Overlays within the Greater Monterey Peninsula. The City of Seaside recommends that the traffic study for the General Plan Update 5 include an evaluation of the cumulative impacts associated with the City of Seaside's and City of Marina's approved and planned projects in relation to the build-out of the County lands on Fort Ord and Fort Ord Business and Operations Plan (Appendix B of Reuse Plan) and study the following intersections/roadways:

Intersections

- General Jim Moore and Light Fighter Drive
- General Jim Moore and Giggling Road
- General Jim Moore and Coe Avenue
- General Jim Moore and Broadway
- Light Fighter Drive and Second Avenue
- Highway 1 and Light Fighter Drive
- Highway 1 and SR 218
- Del Monte Boulevard and SR 218 (Canyon Del Rey Blvd.)
- Del Monte Boulevard and Broadway Avenue
- Del Monte Boulevard and Plays Avenue
- Fremont Boulevard and SR 218 (Canyon Del Rey Blvd.)
- Fremont Boulevard and Broadway Avenue
- Fremont Boulevard and Ord Grove Avenue
- Fremont Boulevard and Del Monte Avenue
- Giggling Road and 8th Avenue
- Monterey Road and Fremont Boulevard
- Monterey Road and Coe Avenue

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L-6

Monterey County General Plan Update 5 EIR Comments
Page 3 of 3

Roadways

- Broadway Avenue between Del Monte Boulevard and General Jim Moore Road
- Del Monte Boulevard between Canyon Del Rey Boulevard and Fremont Boulevard
- Fremont Boulevard between Canyon Del Rey and Broadway Avenue
- Fremont Boulevard between Broadway Avenue and Highway 1
- General Jim Moore between SR 218 and Light Fighter Drive
- Eucalyptus Road
- Giggling Road between 8th Avenue and General Jim Moore Road
- Light Fighter Drive between General Jim Moore and Highway 1

Hydrology and Water Quality

- Update EIR to include identification of potential reservoir and water impoundment sites that would be located within the City of Seaside on the former Fort Ord and/or its sphere of influence as designated by LAFCO.
- The Marina Coast Water District shall be included in list of water agencies to mitigate further seawater intrusion.

If you have any questions or comments regarding the City of Seaside's comments on the recirculation of the Environmental Impact Report for General Plan Update 5, you can contact me at (831) 899-6726.

Sincerely,

Rick Medina
Senior Planner

CC: Diana Ingersoll, Deputy City Manager-Resource Management Services
Barbara Nelson, Planning Services Manager

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Oct 28 08 03:58p S B C

8316375334

p. 2

L-7



COUNTY OF SAN BENITO
PLANNING & BUILDING INSPECTION SERVICES

3224 Southside Road
Hollister, CA 95023
e-mail: sbcpplan@planning.co.san-benito.ca.us

Phone: 831-637-5313
Fax: 831-637-5334

October 28, 2008

Cari Holm, Planning Manager
Monterey County Planning Department
168 W Alisal St., 2nd Floor
Salinas, CA 93901-2438

Subject: Comments regarding Monterey County's 2007 General Plan Update (5) DEIR

Dear Mr. Holm:

Thank you for the opportunity to review and comment on the 2007 Draft Environmental Impact Report for the Monterey County General Plan. Staff would like to express its support for the continued effort to complete this General Plan update. As a neighboring agency, San Benito County has a continued interest in this process. Decisions made within your jurisdictional boundaries may have significant effects on our County. Therefore, listed below are some comments submitted by staff in October of 2006, related to General Plan update number 4, and new concerns staff believes that the document should address in more detail. While past the official comment period, our Board will be reviewing this matter on November 4 and may also have some comments.

The County's previous comments regarding the 2006 General Plan update (update 4) Draft Environmental Impact Report, and subsequent comments follow.

- We encourage Monterey County to work with San Benito County in improving locations along our shared border in areas such as near Gonzales, Soledad and King City in addition to the Aromas and Prunedale areas.

Although this comment does not need to specifically be addressed in this EIR document, San Benito would like to emphasize the ongoing need for governmental cooperation when considering development projects or policies for development for which the effects would reach across County boundaries and potentially conflict with current San Benito County policies.

- We are also interested in better coordinating public safety and transportation planning especially in those areas in particular along La Gloria Grade Road as some problems occur there from time to time.

This comment relates directly to transportation corridor planning. Monterey County is in a unique position as it borders San Benito County, which has a number of recognized outdoor recreation areas. One area in particular, The Pinnacles, is working toward National Park status and as such may require increased attention from both San Benito and Monterey Counties in order to ensure access to the park is convenient, safe, and desirable.

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p. 3

L-7

- We also would like to cooperate with you again in protection of the ridgeline areas that we share and in minimizing the impact of nighttime lighting in the rural areas.

Land Use Element Policy LU-1.13 appears to appropriately address light and glare. Open Space and Conservation Element OS-1.12 appears to prohibit ridgeline development. Therefore, staff believes this 2006 comment has been adequately addressed. Thank you.

Staff requests the final EIR for the 2007 General Plan update address the following additional concerns:

Transportation:

Regional transportation impacts are addressed in Section 4.6 of this document. TRAN-1A, TRAN-2B, TRANS-3B describe that implementation of the 2007 General Plan would have significant impacts to roads within and external to Monterey County. In addition, TRAN-1A describes that neither the County nor TAMC projects listed as capital improvement projects, which are to be funded by regional impact fees, will fully mitigate the impacts of the 2007 plan. Staff feels that the development of policies should reach outside the established benchmarks of Monterey's policies. In addition, if regional traffic created by an authority's planning guidelines may substantially degrade neighboring jurisdiction roadways for which higher standards are in place, the governing authority has the responsibility to ensure traffic impacts are mitigated accordingly. Currently, San Benito County has established policy describing a minimum LOS of C for roadways within our County. Areas within San Benito which may be affected by Monterey County traffic impacts primarily include the Aromas area and State Highway 101. Monterey County's planning guidelines may have a significant effect on surrounding jurisdictions and should be restrictive in nature in order to provide continuity with all surrounding regional planning guideline standards. By encouraging full mitigation of any potential impacts Monterey County would not place additional burden on neighboring jurisdictions.

Air Quality:

Both San Benito and Monterey Counties are located within the Monterey Bay Unified Air Pollution Control District's jurisdiction. Being that we are in a common air basin, a discussion should be included in the environmental document that addresses this concern and the possible significant effects such as high levels of traffic congestion along the 101 corridor could have on attainment levels within either jurisdictions.

Thank you again for the opportunity to comment.

Sincerely,

Art Henriques
Director of Building and Planning

Cc: Susan Thompson, CAO
Board of Supervisors

Monterey County
2007 General Plan Update DEIR

Page 2 of 2

October 28, 2008

L-8 54



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT
701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123
TOM BURNS, PLANNING DIRECTOR

February 2, 2009

Carl Holm
RMA-Planning Salinas Permit Center
168 W. Alisal St. 2nd Floor
Salinas, CA 93901

Dear Mr. Holm,

Thank you for the opportunity to comment on the 2007 General Plan Update and the 2007 General Plan Draft EIR. The Planning Department has reviewed both documents. We wish to express our concerns regarding significant and unavoidable impacts to the Pajaro groundwater basin identified in the EIR, particularly as this may impact future development within Santa Cruz County.

As noted in Section 1.4 of the EIR, development consistent with the Monterey County 2007 General Plan would result in "significant and unavoidable impacts" to groundwater resources in the Pajaro basin, exacerbating existing groundwater overdraft and saltwater intrusion (Section 1, page 39 of EIR). Overdraft of the aquifer is anticipated, even with recycling and conservation measures.

To address significant and unavoidable impacts to the Pajaro groundwater basin, mitigation measure WR-1 would implement a regional group to identify and support a variety of new water projects, water management programs, and multiple agency agreements to provide additional domestic water supplies for Monterey Peninsula and Seaside basin, while continuing to protect the Salinas and Pajaro River groundwater basins from saltwater intrusion. However, even with the proposed mitigation measure, impacts to the Pajaro groundwater basin are anticipated to be "significant and unavoidable" (page 1-39).

We believe that mitigation measure WR-1 is inadequate to address the significant impacts to the Pajaro Groundwater Basin. The Santa Cruz County Planning Department is particularly concerned that the Pajaro area is proposed as one of five community areas, with development planned at an urban level. Such intensive development is likely to further exacerbate groundwater overdraft and saltwater intrusion within the Pajaro groundwater basin. Such impacts are likely to restrict future development in those portions of the Pajaro community within Santa Cruz County.

Monterey County
Planning and Building
Inspection Administration

FEB 02 2009
RECEIVED
Rec'd as CEQA
Comments 2/2/09

11: 57am

L-8

Calderon, Vanessa A. x5186

From: Annie Murphy [PLN400@co.santa-cruz.ca.us]
Sent: Monday, February 02, 2009 11:57 AM
To: ceqacommments
Subject: Comments from County of Santa Cruz Planning Department on the 2007 General Plan Update and Draft EIR



Letter to Monterey
County.doc...

Hello Carl,

Hope you and everyone in the Department are doing well!

Attached are the comments from the Santa Cruz County Planning Department regarding the Monterey County 2007 General Plan Update and Draft EIR.

Sincerely,

Annie Murphy
Planner, Policy Section
Santa Cruz County Planning Dept.
Phone: (831) 454-3111
Fax: (831) 454-2131
Email: pln400@co.santa-cruz.ca.us

<<Letter to Monterey County.doc>>

Monterey County
Planning and Building
Inspection Administration

FEB 02 2009
RECEIVED

Message Page 1 of 2
L-9
See I-22

Holm, Carl P. x5103

From: Holm, Carl P. x5103
Sent: Thursday, October 16, 2008 8:58 AM
To: 'Hagan, Kristin A.'
Cc: 'Powers, Briana'
Subject: RE: 2007 General Plan Update

The ALUC asked for further information on a site near the Monterey Airport..it is planned to return to the ALUC on October 27. The Commission was were not concerned with the area around King City because it had not changed from what they considered and accepted in GPU4. Figure 4 in GPU4 illustrated the location of planned Community Areas. Land use designations around King City are illustrated on the South County Area Plan Land Use map (Figure LU-9). In addition, the Agricultural Winery Corridor Plan (AWCP) includes area around King City. All of this is available for review on our website at: http://www.co.monterey.ca.us/planning/gpu/GPU_2007/gpu_2007.htm

If after reviewing this information you have questions, please feel free to contact me.

Sincerely,
Carl P. Holm, AICP
RMA - Planning Department
Assistant Director

-----Original Message-----
From: Hagan, Kristin A. [mailto:khagan@kmtg.com]
Sent: Wednesday, October 15, 2008 11:57 AM
To: Holm, Carl P. x5103
Cc: Powers, Briana
Subject: 2007 General Plan Update

Carl,

Thanks for you return call yesterday. Per your request I'm sending you an e-mail regarding my questions pertaining to the 2007 General Plan Update. As indicated in my messages, I practice airport land use planning and have a number of clients with projects near the King City Airport. I noticed that the Monterey County Airport Land Use Commission received at its last meeting on September 22, 2008, an update regarding the status of the 2007 General Plan Update. I was wondering if at that meeting the Commission voted to take any action with respect to reviewing and considering the 2007 General Plan Update.

I also noticed that in the 2006 General Plan Update (GPU4), there is a reference to a Figure 4, which illustrates the proposed land uses within two-miles of the King City Airport. I'm trying to confirm whether that same figure is referenced and used in the 2007 General Plan Update. If so, I would like to get a copy of this figure.

Any assistance you can provide is greatly appreciated. Thanks for your time.

Take care,
Kristin

11/06/2008

Page Page 2 of 2
L-9
See I-22

Kristin A. Hagan
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11/06/2008

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MONTEREY BAY
Unified Air Pollution Control District
serving Monterey, San Benito, and Santa Cruz counties
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February 2, 2009

Mr. Carl Holm, Assistant Planning Director
Monterey County RMA / Planning Department
168 West Alisal Street, 2nd Floor
Salinas, Ca 93901

SUBJECT: 2007 MONTEREY COUNTY GENRAL PLAN DRAFT EIR (GPU5)

Dear Mr. Holm:

The Air District submits the following comments for your consideration:

4.7.2 ENVIRONMENTAL SETTING:

P. 4.7-2. Air Pollutants
Please note the Table 4.7-1, which is referenced in this section, is missing. This table was to summarize current State and federal Ambient Air Quality Standards (AAQS). Table 4.7-1 on page 4.7-6 of the DEIR presents the distribution of statewide wine fermentation emissions by month rather than information in a format that could be compared to applicable AAQS. Current AAQSs are summarized in the attached PDF table and can be accessed at <http://www.arb.ca.gov/research/aaqs/aaqs2.pdf>.

P. 4.7-3. Ozone, Natural vs. Man-Made VOC
This section blends a discussion of natural and anthropogenic (man-made) emissions. The first and second sentences on this page indicate that current NCCAB emissions of VOC are estimated to be 100 to 125 tons per day and that most of the emissions come from the oak and coastal chaparral environment. As described in the first paragraph on page 4-7 of 2008 AQMP, these figures actually refer to naturally occurring VOC emissions and not man-made or anthropogenic emissions. The 2008 AQMP focuses on man-made emissions, which is the category of emissions subject to regulation. As illustrated in Figure 4-3 in the 2008 AQMP, 2007 NCCAB anthropogenic emissions of VOC are estimated to be 70 tons per day.

P. 4.7-3. Ozone, Natural vs. Man-Made NOx
Similarly, the third sentence indicates that NCCAB emissions of NOx are in the 1 to 5 ton per day range and are highest during wildfire events. Again, these figures pertain to naturally occurring emissions and not regional man-made NOx emissions. Man-made emissions of NCCAB NOx are illustrated in Figure 4-7 of the 2008 AQMP and are estimated to be 81 tons per day. The District would be glad to provide additional information on this subject.

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P. 4.7-3. Ozone, Discussion of Federal Standard
The first sentence of the first full paragraph on this page indicates that on June 15, 2004 the EPA replaced the 1979 one-hour standard with more stringent 8-hour standard. The EPA adopted the 0.08 ppm 8-hour standard in 1997 and on June 15, 2004 the EPA designated the NCCAB as an attainment area for the 8-hour standard. The 1979 one-hour standard was then revoked one year later on June 15, 2005. The eight-hour federal standard adopted by EPA in 1997 is 0.08 ppm. Please refer to pages 5 through 7 of the District's 2007 Federal Maintenance Plan for further discussion. This can be accessed at <http://www.mbuapcd.org/index.cfm?Doc=451>. After the Maintenance Plan was prepared, EPA adopted a more stringent eight-hour standard of 0.075 ppm on March 12, 2008.

P. 4.7-3. Ozone, Discussion of State Standard
The second sentence of the second full paragraph on this page indicates that the new State 8-hour standard is 0.07 ppm. It should be noted that the State standard is 0.070 ppm, with three significant figures. This is important because it reduces round-off play when averaging data. Currently, the State ozone standard is more stringent (health protective) than the corresponding federal standard.

P. 4.7-3. Carbon Monoxide
State and federal standards were not exceeded during 2005-2007, which is the most recent three years of data. As part of the Environmental Setting discussion, it should be mentioned that ambient CO readings in the NCCAB are low and have a history of being well within applicable standards.

P. 4.7-3. Nitrogen Oxides
In order to relate this section to the NCCAB, the Draft EIR should have specified that major sources of NO_x in the NCCAB include exhaust emissions from on-road motor vehicles, off-road mobile sources and industrial sources. These are illustrated in Figure 4-5 of the 2008 AQMP. There are no refineries in the NCCAB.

The NCCAB is designated attainment for the State NO₂ standard and Unclassified/Attainment for the federal NO₂ standard. Current NCCAB designations for all criteria pollutants are presented in Table 2-2 on page 2-5 of the 2008 AQMP.

P. 4.7-4. Particulate Matter
To relate this section to the NCCAB, please note that primary sources of particulate matter in the NCCAB include fugitive dust from unpaved roads, agricultural tilling, agricultural wind-blown fugitive dust, prescribed fires and construction dust. These are summarized in Table 4-2 of the District's 2005 Particulate Matter Plan, which is available at <http://www.mbuapcd.org/index.cfm?Doc=358>.

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P. 4.7-4. Volatile Organic Compounds

The third sentence indicates that major sources of VOCs include oil refineries, and oil-fired power plants. There are no oil refineries or oil fired power plants in the NCCAB. Major sources of VOCs in the NCCAB include exhaust emissions from on-road motor vehicles, solvent evaporation, and exhaust emissions from off-road mobile sources (See Figure 4-3 from the 2008 AQMP). Wineries are a minor contributor to regional VOCs representing less than 1% of the NCCAB VOC inventory.

9

P. 4.7-5. Wine Fermentation Discussion

The sixth paragraph on this page ends in a comma. Please complete the sentence or make the necessary typographical correction.

10

P. 4.7-5. Discussion on Wine Making Process

The extended discussion on how wine is made, while informative, deviates from the general discussion on VOCs and would fit better in a separate section.

11

P. 4.7-6. Table 4.7-1. Statewide Wine Fermentation

The monthly distribution of wine fermentation emissions shown in the table would be more informative if they were specific to the amount of wine actually fermented in Monterey County. Also, the discussion introduces the fermentation figures as being harvest figures. Because wine grapes can be exported to other areas, the amount of wine grapes harvested in Monterey County is not relevant unless the Draft EIR specifies

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- the amount of grapes that are grown locally
- the amount and increase of the local harvest that is fermented locally
- the amount and increase / decrease of local harvest that is shipped outside Monterey County
- and a comparison of the potential increase in emissions from Monterey County fermentation and wine aging, compared to the decrease in emissions (VMT) that would be avoided by a decrease in shipment of local grapes to out-of-County grape processors / winemakers and wine agers.

P. 4.7-7. Table 4.7-1. Toxic Air Contaminants

The first sentence in the third paragraph on this page indicates that CARB has listed particulate matter as a TAC. The sentence should be corrected to specify that this listing pertains to diesel particulate matter (diesel exhaust) and not particulate matter in general.

13

P. 4.7-7. Attainment Status

Many of the designations described in this section are dated. Please refer to Table 2-2 on page 2-5 of the 2008 AQMP for current designations. For instance, in relation to the State ozone standard, the ARB's most recent designation (July 26, 2007) shows that the NCCAB is nonattainment. The moderate nonattainment and nonattainment transitional designations are no longer applicable. The first sentence of the second paragraph under Attainment Status states that EPA has designated the NCCAB as a moderate maintenance

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area for ozone. There is no such thing as a moderate maintenance area and EPA has designated the NCCAB as an attainment area for ozone.

14

P. 4.7-8. Air Quality Monitoring Data

Please note that Table 4.7-2 referenced in this section is missing. This table was to summarize the most recent three years of data for Monterey County. Table 4.7-2 in the DEIR (page 4.7-11) summarizes wine fermentation and aging emissions.

15

P. 4.7-8. Air Quality Monitoring Data

The third sentence in this section indicates that the Salinas station is the monitoring station for Monterey County. Please note that the Salinas site is not the only air monitoring station operated in Monterey County as there are two other air monitoring stations: one in King City and one in Carmel Valley. Including data from these sites would more accurately portray air quality in Monterey County.

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4.7.3 REGULATORY FRAMEWORK:

P. 4.7-8. EPA

The second sentence in this section states that the NAAQS are set to the maximum ambient (background) level considered safe. The NAAQS are set according to the maximum safe level in the ambient breathable outdoor air, and according to background. Background is typically a much lower concentration than levels that include man-made emissions.

17

P. 4.7-8. CARB

It should be noted that State law vests California Air Resources Board (CARB) with direct authority to regulate pollution from motor vehicles registered in California, as well as fuels and consumer products sold in the State.

18

P. 4.7-9. MBUAPCD

The overall role of the MBUAPCD should be mentioned before introducing the specific construction mitigation measures. For reference, as required by the California Clean Air Act and Amendments (HSC Section 40910 et seq.) and the Federal Clean Air Act and Amendments (42 U.S.C. Section 7401 et seq.), the District is responsible for air monitoring, permitting, enforcement, long-range air quality planning, regulatory development, education and public information activities related to air pollution. California Health and Safety Code Sections 39002, et seq. and 40000, et seq. require local air districts to be the primary enforcement mechanism for controlling pollution from local business and industry. Air districts must have rules and regulations for the attainment and maintenance of federal and state ambient air standards.

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P. 4.7-10. MBUAPCD

The first header indicates that the MBUAPCD has mitigation measures for heavy duty equipment. The measures listed are specific to heavy duty diesel equipment. Also, a typo in the hyphenated word "non-zone season" in the 4th bullet in this section needs to be corrected to read "non-ozone season".

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P. 4.7-11. MBUAPCD Air Quality Management Plan

The operative Air Quality Management Plan (AQMP) was adopted by the Air Board in August 2008. It integrated the Association of Monterey Bay Area Government's "Monterey Bay Area 2008 Regional Forecast" for population, housing and employment. Before discussing the District's 2008 AQMP for ozone, it would be helpful to mention two other important air plans the District has developed for the region:

21

SB 656 Particulate Matter Plan (December 2005)

This plan outlines measures to make progress toward achieving the State PM₁₀ standard by reducing fugitive dust, especially along the ag/urban interface, as well as emissions of particulate matter from diesel exhaust through education about Best Management Practices and grant incentives.

2007 Federal Maintenance Plan

This plan describes how the federal ozone standard will be maintained in our area.

P. 4.7-11. Table 4.7-2, AQMP VOC Aging & Fermentation Emissions

A numerical artifact (16510.8257) appears in this table for the year 2030 Wine Aging category. The number from the AQMP is 0.8257 tons per day.

22

P. 4.7-12. Rules 201 and 417

In the second bullet, please correct the text following the rule name for Rule 207, which makes this sentence hard to follow. Also, in the following paragraph, wineries may be subject to prohibitory Rule 417, Storage of Organic Liquids, whether or not they are exempt from Rule 201. While Rule 417 applies primarily to storage of petroleum based liquids, it would be applicable to wineries if vapor pressure and tank size met the criteria of the rule.

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4.7.4 PROJECT IMPACTS:

P. 4.7-12. Thresholds of Significance

It should be noted that the 137 lbs/day construction related threshold for NO_x only applies to non-typical construction equipment (page 7-2 District's 2008 CEQA Guidelines). Typical equipment, which includes scrapers, tractors, dozers, graders, loaders and rollers, are accommodated in the District's emission inventory.

24

P. 4.7-13. Thresholds of Significance

Similar to the prior comment, the last paragraph under 4.7.4.1 should be modified to state that emissions of ozone precursors, including NO_x and VOC, from typical construction equipment are accommodated in the inventory.

25

P. 4.7-15. AQ-1. Table 4.7-3. Population Consistency

This section concludes that the 2007 General Plan is consistent with the population

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growth projected in the MBUAPCD's AQMP and therefore impacts associated with AQ-1 are less than significant. However, the comparisons are based on the outdated 2004 AMBAG population figures for Monterey County for 2030, which were used in the 2004 AQMP. AMBAG's 2008 population forecast for 2030 is 515,549 and is lower than the 602,790 population figure for 2030 shown in Table 4.7-3 for the 2007 General Plan. The 2007 General Plan population forecast for 2030 is 87,241 persons greater than the applicable 2008 AMBAG forecasts for 2030, and would make the General Plan Update inconsistent with the applicable AQMP and a significant impact to air quality in the region.

26

P. 4.7-15. AQ-1, Table 4.7-3, Demographic Figures

Please explain why the Population, VMT, Housing Units and Employment "With Project" figures decrease between 2000 and 2030, despite the General Plan Update's accommodating greater population, housing and VMT.

27

P. 4.7-15 & 16. AQ-1. MBUAPCD AQMP

The significance determination section uses the generic name Clean Air Plan for the District's AQMP for ozone. Please specify which plan is being referred to (2004 or 2008) and note that the actual name of the document is the Air Quality Management Plan. As already specified, herein, the operative AQMP was approved in August 2008.

28

P. 4.7-16. AQ-1. Table 4.7-4, VOC Fermentation Emissions

Please note that the fermentation emission factors for red and white wine used in Table 4.7-4 are actually from ARB (ARB Area Source Methods, Chapter 5.1, March 2005) and not EPA. The factors in the table are higher than those used in the AQMP, which were from Chapter 9.12.2 of EPA's AP-42 document. The AQMP used EPA's factors of 4.6 and 1.8 lbs/kgal for red and white respectively, rather than the 6.2 and 2.5 lb/kgal factors shown in the table. If the same factors were applied as used in the 2008 AQMP, estimated fermentation emissions associated with 10 full scale and 40 artisan wineries would be lower than the 905.3 lbs/day shown in the table.

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P. 4.7-16. AQ-1. Table 4.7-4, VOC Aging Emissions

The calculations for the red and white aging related emission factors (0.02782 and 0.02583 lbs/kgal) given in the table appear to be off by a factor of 1,000 and do not work out as shown in the table. Please verify the units of the factors and make any necessary corrections to the table.

30

P. 4.7-17. AQ-1. Buildout Significance Conclusion

It is concluded that air quality impacts associated with buildout by 2092 would be less than significant because of the beneficial policies in the 2007 General Plan and Area Plans. However, consistency with the AQMP is determined by consistency with the population forecasts in the AQMP, not area plans. Also, the expected air quality benefits of the 2007 General Plan and local Area Plans are not quantified. Since the 2092 buildout date is beyond the forecast horizon of the 2008 AQMP and AMBAG population forecasts, the significance conclusion cannot be supported.

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Moreover, even if the "encouragement" and "promotion" activities cited as mitigation in various policies in pages 4.7-13 et seq. were actually undertaken, encouragement and promotion do not guarantee that anything quantifiable or enforceable would result, so this text and any implied mitigation should be eliminated from the EIR.

Mobile Source Emissions Associated with Growth

The Air District does not have regulatory authority over mobile sources. Without stable funding to ensure the availability of public transit, the air quality benefits of this alternative to single-occupancy automobiles should be constrained; this potential mitigation should be better evaluated. What evidence exists to support an inference that employees would bike or walk to work (how many people, how often, and what amount of VMT would be reduced)?

Area Source Emissions Associated with Growth

A significant reduction to ozone precursors and particulate matter could be accomplished by restricting the installation and operation of wood-burning fireplaces and stoves. Many cities have adopted this strategy to reduce their project's air quality impacts to less-than-significant levels. The following is suggested for implementation by the County as a standard condition:

"The construction, installation or operation of a wood-burning fireplace or a wood-burning stove shall be prohibited in perpetuity on all residential properties. Only EPA-certified natural gas/liquefied petroleum gas (LPG) fireplaces/ stoves shall be constructed, installed or operated. This restrictive covenant shall be recorded on the title of all parcels in the project and shall run with the land. All Building Plans and Building Permits shall include this express condition."

P. 4.7-20. AQ-2. Significance Determination – The second paragraph is rather disjointed and should be rewritten. 32

P. 4.7-20. AQ-2. Mitigation Measure AQ-1
The disjointed sentence following OS-10.5 should also be rewritten. 33

P. 4.7-20. AQ-2. 2030 Significance Conclusion
Implementation of MBUAPCD's mitigation measures by policy for construction activities and equipment is a very good idea. However, there is no guarantee that they would reduce emissions unless they are quantified and enforced to reduce emissions to a less-than-significant level... Consequently, the conclusion of a less than significant impact is speculative at this time. Also, the construction related mitigation measures referenced should read AQ-1 and AQ-2 rather than AQ1 though AQ-3 and the referenced planning horizon should be 2030 rather than buildout. 34

P. 4.7-21. AQ-2. Buildout Significance Conclusion
The same comments as applied to the 2030 planning horizon also apply here. 35

P. 4.7-22. AQ-3. Appendix A EMFAC Calculation 36

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The third full sentence on this page indicates that the methodology and traffic data input to the EMFAC2007 on-road motor vehicle emission model are provided in Appendix A of the DEIR. However, Appendix A contains the Notice of Preparation and the referenced calculations cannot be found or reviewed. As a result, it was not possible to evaluate this information. 36

P. 4.7-22. Table 4.7-5. Entrained Paved Road Dust
The EMFAC model only estimates exhaust emissions for PM10 and PM2.5, but not entrained road dust for paved road dust. Since entrained road dust emissions increase with VMT, the entrained road dust calculations should be added to the exhaust emissions and the corresponding conclusions updated to reflect the revised totals. 37

P. 4.7-23. Table 4.7-6. Year 2000 Existing Environment
The year of the existing environment in this table is taken as the year 2000, which is no longer representative of the existing environment. The existing environment should be a year closer to the time the Notice of Preparation for GPU5 was submitted, which was 2007. 38

P. 4.7-24. Table 4.7-7. VOC Winery Emissions
The same comments as applied to Table 4.7-4 apply here. Please verify the units of the factors and make any necessary corrections to the table. 39

P. 4.7-33. MM AQ-6. Construction Contracts
As written, this mitigation measures does not ensure that emissions would be less than significant. One-size-fits-all does not work, especially in an industry that uses various models, model years and configurations of equipment on each job. IN addition, project location and meteorological conditions are factors that affect air quality; a project in a remote area that would not result in unhealthful emissions would be evaluated differently from a project in an area of dense urban development. The Air District suggests that construction equipment should comply with applicable State laws and regulations, and Air District thresholds of significance. 40

P. 4.7-33. AQ-7. Development of Sensitive New Land Uses
As written, this mitigation measures is precatory; it is not enforceable. Given the County's authority over land use decisions, if the County chooses not to implement the siting recommendations in the California Environmental Protection Agency / California Air Resources Board's "Air Quality and Land Use Handbook: A Community Health Perspective, it would be more helpful to simply notify prospective residents of the potential long-term health impacts, as in being done in Fresno County. 41

Section 4.16, Climate Change
Inasmuch as the narrative in Chapter 4.16 is based on Appendix B - Methodology, comments are focused on it. 42

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Vehicular Emissions

Off-road vehicular emissions are not included. Agricultural off-road emissions are estimated but the methodology used is very limiting.

Trying to establish the "unincorporated-only" emissions (see above) all VMT on County roads and 25% of the VMT on state highways have been included. This appears to be based on a 75%/25% split in population between City and County residents. Please explain the basis for this split.

Initially, there seems to be a "source" mix-up. In the text it refers to Brusco but the table refers to Fomey. Please explain.

Please explain why they fugitive CH4 emissions from gas transmission were not included.

Landfill Emissions

Emission factors from ICLEI/CACP Software are cited but there is not relation to the emission factor, or its derivation. ICLEI does not generate emission factors. What methodology was used?

The document states that 97% of the solid waste goes to landfills that are flared, or have landfill gas to energy technologies. It also specifies that EPA has estimated flaring efficiency to be 75%. This efficiency factor was used to estimate all of Monterey's net CH4 emissions. This generates a couple of concerns:

It did not differentiate between the flaring and the landfill gas to energy technologies. These efficiencies are different.

The flaring efficiency states that the 75% of CH4 is converted to CO2. What are the resulting CO2 emissions?

Agricultural Equipment Fuel Use

The method compares the proportion of agricultural acreage in Monterey to that in all of California and then apportions the state GHG emissions for agriculture proportionately. The use of this method should be explained. (The ARB has a model (OFFROAD) which is used to estimate criteria emissions from off-road motor vehicle sources, including agricultural equipment. It has already apportioned this usage by county and air basin and have projected the growth and controls out to the future. This model is for criteria pollutants and does not include factors for CO2, CH4, or N2O like the on-road equivalent (EMFAC), but it does include estimated fuel usage. At least the CO2 (which is the majority of the associated GHG emissions) could be estimated by using the fuels usage and the CCAR's fuel-based emission factor.)

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The ARB method would be doubly useful in that it would also allow for the estimation of all off-road equipment, including construction, industrial, and recreational. Please explain why this method was not used.

General Comments on Forecasting Methodology

The document states that fuel efficiency and low carbon fuel standards were used in estimating future, but this did not include reduction on GHG emissions from heavy-duty vehicles. Please explain.

The document concludes that an 8% increase in renewables forecasted by PG&E would result in an equivalent 8% reduction in CO2. This assumes that renewables have no CO2 emissions, which is not accurate. Renewables have reduced CO2 emissions, not zero CO2 emissions. Please explain.

Thank you for the opportunity to review the document.

Sincerely,

Jean Getchell
Supervising Planner
Planning and Air Monitoring Division

Attachment: Ambient Air Quality Standards

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Ambient Air Quality Standards							
Pollutant	Averaging Time	California Standards ¹		Federal Standards ²			
		Concentration ³	Method ⁴	Primary ^{3,5}	Secondary ^{3,6}	Method ⁷	
Ozone (O ₃)	1 Hour	0.09 ppm (180 µg/m ³)	Ultraviolet Photometry	—	Same as Primary Standard	Ultraviolet Photometry	
	8 Hour	0.070 ppm (137 µg/m ³)		0.075 ppm (147 µg/m ³)			
Respirable Particulate Matter (PM ₁₀)	24 Hour	50 µg/m ³	Gravimetric or Beta Attenuation	150 µg/m ³	Same as Primary Standard	Inertial Separation and Gravimetric Analysis	
	Annual Arithmetic Mean	20 µg/m ³		—			
Fine Particulate Matter (PM _{2.5})	24 Hour	No Separate State Standard		35 µg/m ³	Same as Primary Standard	Inertial Separation and Gravimetric Analysis	
	Annual Arithmetic Mean	12 µg/m ³	Gravimetric or Beta Attenuation	15.0 µg/m ³			
Carbon Monoxide (CO)	8 Hour	9.0 ppm (10 mg/m ³)	Non-Dispersive Infrared Photometry (NDIR)	9 ppm (10 mg/m ³)	None	Non-Dispersive Infrared Photometry (NDIR)	
	1 Hour	20 ppm (23 mg/m ³)		35 ppm (40 mg/m ³)			
	8 Hour (Lake Tahoe)	6 ppm (7 mg/m ³)		—			
Nitrogen Dioxide (NO ₂)	Annual Arithmetic Mean	0.030 ppm (57 µg/m ³)	Gas Phase Chemiluminescence	0.053 ppm (100 µg/m ³)	Same as Primary Standard	Gas Phase Chemiluminescence	
	1 Hour	0.18 ppm (339 µg/m ³)		—			
Sulfur Dioxide (SO ₂)	Annual Arithmetic Mean	—	Ultraviolet Fluorescence	0.030 ppm (80 µg/m ³)	—	Spectrophotometry (Pararosaniline Method)	
	24 Hour	0.04 ppm (105 µg/m ³)		0.14 ppm (365 µg/m ³)			
	3 Hour	—		—			0.5 ppm (1300 µg/m ³)
	1 Hour	0.25 ppm (655 µg/m ³)		—			—
Lead ^a	30 Day Average	1.5 µg/m ³	Atomic Absorption	—	Same as Primary Standard	High Volume Sampler and Atomic Absorption	
	Calendar Quarter	—		1.5 µg/m ³			
	Rolling 3-Month Average ^b	—		0.15 µg/m ³			
Visibility Reducing Particles	8 Hour	Extinction coefficient of 0.23 per kilometer — visibility of ten miles or more (0.07 — 30 miles or more for Lake Tahoe) due to particles when relative humidity is less than 70 percent. Method: Beta Attenuation and Transmittance through Filter Tape.		No Federal Standards			
Sulfates	24 Hour	25 µg/m ³	Ion Chromatography				
Hydrogen Sulfide	1 Hour	0.03 ppm (42 µg/m ³)	Ultraviolet Fluorescence				
Vinyl Chloride ^c	24 Hour	0.01 ppm (26 µg/m ³)	Gas Chromatography				

See footnotes on next page...
For more information please call ARB-PIO at (916) 322-2990 California Air Resources Board (11/17/08)

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- California standards for ozone, carbon monoxide (except Lake Tahoe), sulfur dioxide (1 and 24 hour), nitrogen dioxide, suspended particulate matter—PM₁₀, PM_{2.5}, and visibility reducing particles, are values that are not to be exceeded. All others are not to be equaled or exceeded. California ambient air quality standards are listed in the Table of Standards in Section 70700 of Title 17 of the California Code of Regulations.
- National standards (other than ozone, particulate matter, and those based on annual averages or annual arithmetic mean) are not to be exceeded more than once a year. The ozone standard is attained when the fourth highest eight hour concentration in a year, averaged over three years, is equal to or less than the standard. For PM₁₀, the 24 hour standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m³ is equal to or less than one. For PM_{2.5}, the 24 hour standard is attained when 98 percent of the daily concentrations, averaged over three years, are equal to or less than the standard. Contact U.S. EPA for further clarification and current federal policies.
- Concentration expressed first in units in which it was promulgated. Equivalent units given in parentheses are based upon a reference temperature of 25°C and a reference pressure of 760 torr. Most measurements of air quality are to be corrected to a reference temperature of 25°C and a reference pressure of 760 torr; ppm in this table refers to ppm by volume, or micromoles of pollutant per mole of gas.
- Any equivalent procedure which can be shown to the satisfaction of the ARB to give equivalent results at or near the level of the air quality standard may be used.
- National Primary Standards: The levels of air quality necessary, with an adequate margin of safety to protect the public health.
- National Secondary Standards: The levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.
- Reference method as described by the EPA. An "equivalent method" of measurement may be used but must have a "consistent relationship to the reference method" and must be approved by the EPA.
- The ARB has identified lead and vinyl chloride as 'toxic air contaminants' with no threshold level of exposure for adverse health effects determined. These actions allow for the implementation of control measures at levels below the ambient concentrations specified for these pollutants.
- National lead standard, rolling 3-month average: final rule signed October 15, 2008.

For more information please call ARB-PIO at (916) 322-2990

California Air Resources Board (11/17/08)

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Monterey County
Planning and Building
Inspection Administration

FEB 06 2009

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10:41 am

-----Original Message-----

From: Tim Jensen [mailto:tjensen@mprpd.org]
Sent: Friday, February 06, 2009 10:41 AM
To: Holm, Carl P. x5103
Subject: GPU5 Comments

Good Morning Carl;

I apologize for the late submission. Could you review the District's comments and reply with a short summary opinion on their validity. Thx. If I don't hear back from you these are what the District will submit.

Tim Jensen
Planning & Conservation Manager

Monterey Peninsula Regional Park District
80 Garden Court, Suite 325
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State Planning and Zoning Law (Government Code Section 65302(a)) establishes the requirements for the land use element of the general plan. The Land Use Element guides decision makers, planners and the general public as to the ultimate pattern of development within the unincorporated areas of the county. It designates the general distribution, location and extent of land uses, such as housing, business, industry, open space, agriculture, natural resources, recreation, and public/quasi-public uses. The Land Use Element also discusses the standards of residential density and non-residential intensity for the various land use designations.

The Land Use Element governs how land is to be utilized. Many of the issues and policies contained in other plan elements are linked in some degree to this element. For example, the amount, distribution, and timing of growth expressed within the Land Use Element must correlate with the anticipated road capacity and performance standards established in the Circulation Element. Similarly, the location and density of uses prescribed by this Element are integrally linked to policies for the protection of environmental resources included in the Conservation/Open Space Element. This element must establish the ability to provide adequate land use in order to meet regional housing needs. Housing Elements are mandated by State law to be updated every five years, so the General Plan must set the land use context for continued coordinated implementation of subsequent required updates to the Housing Element over the life of this Plan.

Monterey County's Land Use Element establishes policies to designate the general distribution and intensity of residential, commercial, industrial, agricultural, public facilities, and open space uses of the land in the County. The main vision of this Element is to create a general framework that encourages growth within or near developed/developing areas in order to reduce impacts to agricultural production, natural resources, or public services. Areas where development would be encouraged include incorporated cities and designated community areas where existing services are available (*Figure 4, next page*). These areas would be subject to additional levels of planning consisting of city general plans adopted by cities and community plans or specific plans to be adopted by the Board of Supervisors for the community areas. In addition, the Plan designates rural centers where development has started and that will be allowed to develop in a semi-rural character (*Figure 5, next page*).

Monterey County's General Plan consists of policies that apply countywide and policies unique to a specific region. Countywide policies are applicable to the entire unincorporated area and are included within this Land Use Element. More focused policies that address specific regional or local issues are found in Area Plans. The Land Use Maps and land use designation descriptions in this general plan cover all inland, unincorporated, areas of the county. Due to the size of the County, Land Use Maps are divided by Planning Areas and are included as part of this Land Use Element (*Policy LU-1.11*).

Approximately one percent of Monterey County has been developed with residential (0.7%), commercial (0.03%), and industrial (0.3%) uses. Most of this development is concentrated in the northern one-third of the County. Agriculture is the largest land use representing almost 60% of the total land area. The second largest land use consists of public and quasi-public uses (about 28%) such as educational, transportation, and military facilities as well as religious, recreational/cultural and community facilities.

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DRAFT - November 6, 2007

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Summary of Comments on Policy LU-9

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Author: Tim Bishop, R. K. Longo Date: 10/20/09 11:43:33 AM -08'00'
Author: Tim Bishop, Longo Date: 10/20/09 11:46:50 AM -08'00'
"Voluntary resolution" and other appropriate techniques shall be solicited and encouraged in cooperation with other public and private conservation agencies and organizations.

GOALS AND POLICIES
LAND USE

GENERAL LAND USE

GOAL LU-1

PROMOTE APPROPRIATE AND ORDERLY GROWTH AND DEVELOPMENT WHILE PROTECTING DESIRABLE EXISTING LAND USES.

Policies

- LU-1.1 The type, location, timing, and intensity of growth in the unincorporated area shall be managed.
- LU-1.2 Premature and scattered development shall be discouraged.
- LU-1.3 Balanced development of the County shall be assured by designating adequate land for a range of future land uses.
- LU-1.4 Growth areas shall be designated only where an adequate level of services and facilities such as water, sewerage, fire and police protection, transportation, and schools exists or can be assured concurrent with growth and development. Phasing of development shall be required as necessary in growth areas in order to provide a basis for long-range services and facilities planning.
- LU-1.5 Land uses shall be designated to achieve compatibility with adjacent uses.
- LU-1.6 Standards and procedures to assure proper levels of review of development siting, design, and landscaping, shall be developed.
- LU-1.7 Clustering of residential development to those portions of the property which are most suitable for development and where appropriate infrastructure to support that development exists or can be provided shall be strongly encouraged. Lot line adjustments among four lots or fewer, or the re-subdivision of more than four contiguous lots of record that do not increase the total number of lots may be allowed pursuant to this policy without requirement of a general plan amendment.

1

LU-1.8 Voluntary reduction or limitation of development potential in the rural and agricultural areas through dedication of scenic or conservation easements, Transfer of Development Rights (TDR), and other appropriate techniques shall be encouraged. The Transfer of Development Credit (TDC) in the Big Sur Land Use Plan is a separate program to address development within the critical viewshed. A TDR Program shall be established to provide a systematic, consistent, predictable, and quantitative method for decision-makers to evaluate receiver sites in areas of the unincorporated County with priority for locations within

	Author	Title/Subject	Rectangles	Date
2	Author	Residential development shall be limited in areas that are susceptible for more intensive development due to physical hazards and development constraints, the need to protect natural resources, or the lack of public services and facilities.		1/23/2009 11:47:54 AM -08'00'
	Author	Residential development, such as physical hazards, the need to protect natural resources and common public viewing areas of parks and open spaces, or the lack of		1/23/2009 11:49:44 AM -08'00'
	Author	Residential development, such as physical hazards, the need to protect natural resources and common public viewing areas of parks and open spaces, or the lack of		1/23/2009 11:50:21 AM -08'00'
	Author	Residential development, such as physical hazards, the need to protect natural resources and common public viewing areas of parks and open spaces, or the lack of		1/23/2009 11:51:51 AM -08'00'
	Author	Residential development, such as physical hazards, the need to protect natural resources and common public viewing areas of parks and open spaces, or the lack of		1/23/2009 11:54:07 AM -08'00'
	Author	Residential development, such as physical hazards, the need to protect natural resources and common public viewing areas of parks and open spaces, or the lack of		1/23/2009 11:52:31 AM -08'00'
	Author	Residential development, such as physical hazards, the need to protect natural resources and common public viewing areas of parks and open spaces, or the lack of		1/23/2009 11:18:56 AM -08'00'
	Author	Residential development, such as physical hazards, the need to protect natural resources and common public viewing areas of parks and open spaces, or the lack of		1/23/2009 11:22:53 AM -08'00'
3	Author	New land use activities or changes in land use designations that may potentially be nuisances or hazards shall be discouraged within and in close proximity to residential areas.		1/23/2009 11:22:53 AM -08'00'
4	Author	Open space should be provided in and/or on the fringes of residential areas.		1/23/2009 11:22:53 AM -08'00'
5	Author	In areas designated for agricultural uses where development of legally subdivided land would promote incompatible residential development, the County shall solicit and encourage the voluntary donation of conservation easements or other development restrictions to the County or to a qualified private nonprofit organization in order to preserve the agricultural		1/23/2009 11:22:53 AM -08'00'
	Author	In areas where Adequate Public Facilities are not available, a second or accessory dwelling unit shall be allowed on a residentially designated lot if it meets the following criteria:		1/23/2009 11:22:53 AM -08'00'
		a. adequate water and sewer facilities exist, which may include on site wells and septic;		1/23/2009 11:22:53 AM -08'00'
		b. the lot is zoned for single family or multi family use;		1/23/2009 11:22:53 AM -08'00'
		c. the lot contains an existing single family dwelling;		1/23/2009 11:22:53 AM -08'00'
		d. the increased floor area of an attached second unit does not exceed 30% of the existing living area of the main dwelling unit;		1/23/2009 11:22:53 AM -08'00'
		e. the total area of floor area for a detached second unit does not exceed 1,200 square feet.		1/23/2009 11:22:53 AM -08'00'
		f. height, setback, lot coverage and other applicable zoning regulations are met.		1/23/2009 11:22:53 AM -08'00'

Author: TimSubject: Reactions	Date: 1/2/2009 10:29:36 AM -08'00'
Author: TimSubject: Nds	Date: 1/2/2009 10:30:56 AM -08'00'
Author: TimSubject: Nds	Date: 1/2/2009 10:32:30 AM -08'00'
Author: TimSubject: Reactions	Date: 1/2/2009 10:31:52 AM -08'00'

LU-5.9 The proximity of other compatible land uses having similar levels of utility and service requirements shall be considered when designating industrial areas.

PUBLIC/QUASI-PUBLIC

6

GOAL LU-6
ENCOURAGE USES ON PUBLIC LANDS THAT ARE COMPATIBLE WITH EXISTING AND PLANNED USES ON ADJACENT LANDS.

Policies

LU-6.1 The *Public Quasi-Public* (PQP) land use designation accommodates publicly or privately owned uses such as schools, parks, regional parks, public works facilities and hospitals that serve the public at large.

LU-6.2 Lands that are owned by a federal, state, or local public agency may be designated as *Public/Quasi Public* (PQP). Regulations for those lands will be established accordingly.

LU-6.3 The County's planning activities shall be coordinated with the planning efforts undertaken by other public agencies with landholdings in Monterey County.

7

LU-6.4 The planning for public lands adjacent to private lands should be undertaken as a joint effort between all of the affected agencies and private property owners.

LU-6.5 In determining the impact of general plan land use designation amendments for land adjacent to military bases, installations, operating training areas, or underlying designated military aviation routes and airspace, information from the military and other sources shall be considered.

WATER BODIES

GOAL LU-7

ENCOURAGE THE USE OF THE COUNTY'S MAJOR INLAND WATER BODIES FOR MULTIPLE PURPOSES SUCH AS WATER SUPPLY, FLOOD CONTROL, AND HYDROELECTRIC GENERATION.

Policies

LU-7.1 Priorities for multiple uses of the major water bodies shall be established. Recreation shall be secondary to water supply, flood control and hydroelectric generation.

LU-7.2 Compatibility between multiple uses of major water bodies and surrounding land uses shall be considered.

OPEN SPACE

GOAL LU-8

ENCOURAGE THE PROVISION OF OPEN SPACE LANDS AS PART OF ALL TYPES OF DEVELOPMENT INCLUDING RESIDENTIAL, COMMERCIAL, INDUSTRIAL, AND PUBLIC.

Policies

LU-8.1 The open space needs of the community and new development shall be reviewed and addressed through the planning process.

LU-8.2 Clustering, consistent with the other policies of this Plan, shall be considered as a means of maximizing permanent open space within new development.

LU-8.3 As part of development review and approval, on-site development density credit consistent with the underlying land use designation shall be given for developable lands placed in permanent open space as part of a development. Use of the on-site development density credit will be allowed only if environmental, health and public safety factors permit.

8 LU-8.4 Wherever possible, open space lands provided as part of a development should be integrated into an area-wide open space network.

9 LU-8.5 Development should consider use of open space buffers on the perimeter and integrated into the development.

LU-8.6 Creation of private, nonprofit land trusts and conservation organizations to receive development rights on any lands to be preserved and maintained as open space shall be supported.

GENERAL PLAN CONSISTENCY WITH ZONING

GOAL LU-9

MAINTAIN CONSISTENCY BETWEEN THE GENERAL PLAN AND ITS IMPLEMENTING REGULATIONS.

Policies

LU-9.1 Within three months after adoption of the updated General Plan, the Director of Planning shall bring to the Board of Supervisors for their approval a work

- Author: Tim Gatzert; Rectangle; Date: 1/3/2009 10:33:29 AM -0200
- Author: Tim Gatzert; Note; Date: 1/3/2009 10:37:20 AM -0200
"Wherever possible" into an area-wide open space network through contiguous lands or inter-connecting trail and conservation easement corridors
- Author: Tim Gatzert; Rectangle; Date: 1/3/2009 10:37:52 AM -0200
- Author: Tim Gatzert; Note; Date: 1/3/2009 11:28:55 AM -0200
"Development should consider" into the development. When development is adjacent to a public park or open space the buffer shall be at least 1,000 feet reference

Author: Tim Sturgeon; Tracy, CA	Date: 1/23/2009 12:19:40 PM -0800
Author: Tim Sturgeon; Tracy, CA	Date: 1/23/2009 12:22:19 PM -0800
Description: Small updates improved bicycle routes where the corridor and route are identified in the comprehensive bicycle plan and considered for all other roadways.	

WATER TRANSPORTATION

GOAL C-9

TO PROMOTE SAFE, CONVENIENT, AND APPROPRIATE WATER TRANSPORTATION FOR MONTEREY COUNTY.

Policies

- C-9.1 Land use activities in the immediate vicinity of harbors shall be compatible with the continued optimum commercial and recreational operations of the harbor.
- C-9.2 Plans for significant increases in harbor and adjacent activities shall address environmental and transportation impacts
- C-9.3 Any construction or operation of mooring facilities that may pose significant hazards or threats to marine or coastal resources shall be opposed.

BICYCLE TRANSPORTATION

GOAL C-10

PROMOTE A SAFE, CONVENIENT BICYCLE TRANSPORTATION SYSTEM INTEGRATED AS PART OF THE PUBLIC ROADWAY SYSTEM.

Policies

- C-10.1 An integrated system of suggested bicycle routes for Monterey County shall be established.
- C-10.2 A comprehensive bicycle plan consistent with *Policy C-10.1* shall be coordinated among all appropriate private and public interests and agencies.
- 10 C-10.3 Construction or expansion of roadways within major transportation corridors shall consider improved bike routes.
- C-10.4 The integration of bicycle systems with other public transportation modes shall be promoted.
- C-10.5 Bicycling shall be encouraged as a viable transportation mode for visitor-serving areas.
- C-10.6 Visitor-serving facilities shall be encouraged to provide adequate and secure bicycle parking facilities.

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Author: TFWSubject_Estimate Date: 1/20/09 12:22:53 PM -0500
Author: TFWSubject_Note Date: 1/20/09 12:25:34 PM -0500
C-10.7: New and improved multi-modal transfer facilities, such as transit centers, shall include adequate and secure bicycle parking facilities.

C-10.7 New and improved multi-modal transfer facilities, such as transit centers and park-and-ride lots, shall include adequate and secure bicycle parking facilities.



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Author: Tim Subject: Redding Date: 11/1/2009 12:59:56 PM -0800

Author: Tim Subject: Redding Date: 11/1/2009 1:00:32 PM -0800

Author: Tim Subject: Redding Date: 11/1/2009 1:05:37 PM -0800

Author: Tim Subject: Redding Date: 11/1/2009 1:03:36 PM -0800

Author: Tim Subject: Redding Date: 11/1/2009 1:05:09 PM -0800

The Conservation and Open Space Element guides the County in the long-term conservation and preservation of open space lands and natural resources while protecting private property rights. The County's intent is not to alter existing regional, State or Federal laws and regulations, but rather to enable greater cooperation among public agencies and the public to share management responsibilities in accomplishing the shared goal of conserving and protecting the resources of the region.

This Element incorporates the state-mandated requirements for the Open Space and Conservation Elements and also addresses scenic resources, cultural and historic resources, and energy and mineral resources. Policies regarding natural environmental hazards, such as flooding, are addressed in the Safety Element, and recreational policies are addressed within the Public Services Element.

Among the more prominent features within Monterey County are the Santa Lucia and Gabilan Mountain Ranges, the Salinas and Carmel Valleys, and about 100 miles of coastline. Of special note are such features as the Elkhorn Slough (North County), sandy beaches of Monterey and Carmel Bays, and the rocky shores/cliffs of the Monterey Peninsula and the Big Sur coast.

Granite and metamorphic rocks form the Gabilan and Santa Lucia mountains, characterized by steep slopes and complex drainage patterns. The Salinas Valley, although underlain by granite, contains several thousand feet of sediment that have a greater seismic hazard but are the source of productive agricultural soils. Although the County contains useful minerals, the tremendous complex geology caused by extensive faulting and deformation makes investigation difficult and inconclusive.

Plants representative of almost all parts of California (except for the highest mountains and driest deserts) are found in Monterey County. Monterey is the biological center of California; many plant species that find either their northern or southern limits can be found in Monterey County. In addition, a high number of plant species are native only to Monterey County.

The County's coast offers a wide range of habitats, including sandy beaches, rocky shoreline, kelp beds, estuaries, wetlands, and sub-marine canyons. An abundance of sea life and coastal marine life off of the Monterey County coast is directly related to the variety and quality of habitat. Although a few broad policies are provided in this General Plan, most policies addressing coastal resources are included separately as part of the Local Coastal Program.

The County has recognized the need to discover and identify places of historical and cultural significance and to preserve the physical evidence of its historic past. A countywide historic preservation ordinance is implemented by the Parks Department's Historical Coordinator and Historic Resources Review Board. Policies of this ordinance stress incentives to preserve sites which have proven historical or cultural significance as part of the County's Historic Preservation Plan.

Monterey County, along with the Counties of Santa Cruz and San Benito, lies within the North Central Coast Air Basin. Air quality within this basin is monitored by the Monterey Bay Unified Air Pollution Control District (MBUAPCD). The District maintains three air

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GOALS AND POLICIES
CONSERVATION AND OPEN SPACE

SCENIC RESOURCES

GOAL OS-1
RETAIN THE CHARACTER AND NATURAL BEAUTY OF MONTEREY COUNTY BY PRESERVING, CONSERVING, AND MAINTAINING UNIQUE PHYSICAL FEATURES, NATURAL RESOURCES, AND AGRICULTURAL OPERATIONS.

- 13 Policies
- 14 OS-1.1 Voluntary restrictions to the development potential of property located in designated visually sensitive areas shall be encouraged.
- 15 OS-1.2 Development in designated visually sensitive areas shall be subordinate to the natural features of the area.
- 16 OS-1.3 To preserve the County's scenic qualities, ridgeline development shall not be allowed. An exception to this policy may be made only after publicly noticed hearing and provided the following findings can be made:
 - a. The ridgeline development will not create a substantially adverse visual impact when viewed from a common public viewing area; and,
 - b. That the proposed development better achieves the goals, policies and objectives of the Monterey County General Plan and applicable area plan than other development alternatives; or,
 - c. There is no feasible alternative to the ridgeline development.
 Pursuant to Policy OS-1.6, in areas subject to specific plans, the ridgeline policies and regulations of the applicable specific plan shall govern.
- 17 OS-1.4 Criteria shall be developed to guide the design and construction of ridgeline development where such development has been proposed pursuant to Policy OS-1.3.
- OS-1.5 New subdivisions shall avoid lot configurations which create building sites that will constitute ridgeline development. Siting of new development visible from private viewing areas may be taken into consideration during the subdivision process.
- 18 OS-1.6 In areas subject to specific plans, the ridgeline policies and regulations of the applicable specific plan shall govern. Each specific plan shall address viewshed issues, including ridgeline development as part of the plan, including but not limited to provisions for setbacks, landscaping, height limits, or open space buffers.

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- Author: Tim Subject: Rectangles Date: 11/12/2009 1:04:53 PM -08'00'
- Author: Tim Subject: Note Date: 11/2/2009 12:12:20 PM -08'00'
- OS-1.1 "Land uses that would interfere with routine and ongoing park and open space operations on Public/Open-Public conservation lands shall be prohibited. (Taken from AG-1.1)
- OS-1.2 The County shall require that well-defined buffer areas be provided as partial mitigation for new development proposals which are located adjacent to public parks and open spaces and other conservation lands. The following criteria shall be used to establish development buffers to prohibit existing park, open spaces, and conservation operations:
 - a. Factors to consider include the type of development proposed, site conditions and anticipated impacts, especially to common public viewing areas;
 - b. Encourage shading, vegetation, and erosion control shall be considered in the establishment of the buffer area and be made beneficial to the adjacent park, open spaces, or conservation uses;
 - c. Buffers shall be designed to comply with applicable state and local laws regulating school buffers, pesticide setbacks, and other controls;
 - d. Development buffers and/or easements shall be provided on the land designated for the proposed new use or development and not on the adjacent park, open spaces, or conservation land unless by mutual agreement between the two landowners;
 - e. Conservation buffers are designed to be used for the purposes and manner described in this policy and for no other purposes unless agreed to by the County and the adjoining landowners;
 - f. Buffer maintenance will be the responsibility of the underlying fee title owner and shall be enforced by the County of Monterey.
- Reimburse...
- Author: Tim Subject: Note Date: 11/2/2009 12:15:09 PM -08'00'
- "The County shall adopt and enforce minimum restrictions in designated visually sensitive areas.
- The Park District would like to have the County designate Gardner Ranch Regional Park and Palo Corona Regional Park as visually sensitive areas so that views from the so regionally significant areas can be recognized as sensitive and protected.
- Author: Tim Subject: Rectangles Date: 11/12/2009 1:07:43 PM -08'00'
- Author: Tim Subject: Rectangles Date: 11/12/2009 1:12:04 PM -08'00'
- Author: Tim Subject: Note Date: 11/2/2009 12:52:31 PM -08'00'
- How will subordinate be determined? Does the County have a list of "visually sensitive natural features"?
- 50 minimum setbacks of 1000 feet shall be established for all properties abutting Regional Park and Open Space Preserves, especially Gardner Ranch Regional Park and Palo Corona Regional Park. No exceptions may be granted unless:
 - a. an analysis of where sensitive areas exist is completed by January 1, 2009 would approve non-conforming; or
 - b. a minimum 200-foot setback is established for all relevant non-conforming. (From CV-3.1)
- Author: Tim Subject: Rectangles Date: 11/12/2009 1:14:41 PM -08'00'
- Author: Tim Subject: Note Date: 11/12/2009 1:31:50 PM -08'00'
- Need to read "a"
- Author: Tim Subject: Note Date: 11/2/2009 10:46:45 AM -08'00'
- Adding a definition of "substantial", this policy provides reasonable clarity for both developer and those responsible for protecting "common public viewing areas", like parks and open spaces.
- Author: Tim Subject: Rectangles Date: 11/12/2009 1:19:20 PM -08'00'
- Author: Tim Subject: Note Date: 11/12/2009 1:23:23 PM -08'00'
- The criteria need to be included in the plan or at least spelled-out in a supplemental document so they may be reviewed, related to, and referenced. Park, open space, land trusts, and other non-profit organizations should be party to drafting the criteria since they are the agencies and organizations upholding the Public Trust values of viewshed.
- Author: Tim Subject: Rectangles Date: 11/12/2009 1:25:26 PM -08'00'
- Author: Tim Subject: Note Date: 11/12/2009 1:30:15 PM -08'00'
- hearing process OS-1.1 - OS-1.6. Ridgeline development only apply to the unincorporated areas OUTSIDE specific Plan boundaries.

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OS-1.7 A voluntary transfer of development rights program to direct development away from areas with unique visual or natural features, critical habitat, or prime agricultural soils shall be established.

OS-1.8 Programs to encourage clustering development in rural and agricultural areas to maximize access to infrastructure, protect prime agricultural land, and reduce impacts to designated visually sensitive and critical habitat areas shall be established.

OS-1.9 Development that protects and enhances the County's scenic qualities shall be encouraged. All routine and ongoing agricultural activities are exempt from the viewshed policies of this plan, except as noted in *Policy OS-1.12*.

OS-1.10 Recognizing the value of trails in Monterey County, policies to establish a trails program, including bike paths (Class 1), walking and equestrian facilities used by the general public, shall be addressed in each Area Plan within the following parameters:

- Public lands shall be used as the primary source for establishing non-motorized trails. Cooperation between public agencies and the public in the creation of trails is encouraged.
- Dedication of public trails or trail easements on private property shall be voluntary except as may be required by State Law.
- Crop protection and food safety of agricultural crops shall be a primary factor in disallowing trails.
- Potential new trails on private land or public land are subject to appropriate design including location, screening, safety, reducing potential for trespass onto private property, protection of the public health and safety, and protection of agricultural products.
- The location and design of trails on public or private land shall be done in consultation with affected public agencies, landowners, and other interested parties.
- New commercial development and residential subdivisions shall mitigate significant adverse disruption of views from common viewing points on public trails through a variety of strategies including but not limited to the use of appropriate materials, scale, lighting and siting of development. This policy shall not apply to existing residential development or to any agricultural activity or operation.
- The design and development of the Monterey Bay Sanctuary/Scenic Trail is exempt from this policy.

OS-1.11 Maintain GIS mapping for all lands containing visually sensitive resources and corridors. Mapped information shall be reanalyzed and updated at least every five (5) years, as necessary.

- Author: Tin Subject: Note Date: 1/12/2009 1:36:06 PM -0800
Delete the comma
- Author: Tin Subject: Rechange Date: 1/12/2009 1:32:51 PM -0800
- Author: Tin Subject: Note Date: 1/12/2009 1:35:15 PM -0800
Why not an incentive program to encourage voluntary transfer of development away from...? This section should also include "common public viewing areas" as one of the listed areas
- Author: Tin Subject: Note Date: 1/12/2009 12:17:01 PM -0800
The "incentive" program would be the appropriate language here
1.9 The policy is stating two distinct intentions, one broad and overarching and the other specific. Separate the first sentence and make it a stand alone policy as 1.7 and reworded, it better fits as the transition between ridge policies and scenic policies. The ag lands exception policy can then stand on its own as a distinct intention.
- Author: Tin Subject: Rechange Date: 1/12/2009 1:38:45 PM -0800
- Author: Tin Subject: Rechange Date: 1/12/2009 1:58:49 PM -0800
- Author: Tin Subject: Note Date: 1/12/2009 3:49:41 PM -0800
if public trail have a road right of way in Monterey County then why is it nearly impossible under the policy to actually provide any of any value?
(4) What is the intent of segregating non-motorized and non-motorized trails? Is the County implying that private lands are the primary source for motorized trails?
if any trail program is to have value it is going to have to rely on private lands to connect the public lands that are the primary source of trails. This policy makes that almost impossible. Intentionally, the policy is "not" giving anyone preference to ag lands without ever defining them. Ag land owners and protections are given veto opportunity for trails and easements on ag-lands while the trail users of the county do not have the reciprocal privilege of weighing in on activities on ag-lands that may have an impact on adjacent non-ag-land property owners. public interests, the playing field needs definition and leveling.
Suggest changing the second sentence to read, "Incentives for cooperation between public agencies and private land owners in the creation of connector trails between public properties will be developed." Encouragement is meaningless.
(3) The County is already clearly stated that new public trails on private property will be voluntary OS-1.10(b). So it follows that any public trails on private ag-land will be by consent of the owner. The language here is vague and subject to broad interpretation. It does not add clarity but instead adds uncertainty. It could be interpreted to apply to all trails throughout the entire county. The language here could be less hostile and more clear by maintaining internal language consistency with "Crop protection and food safety policies shall be a primary factor in disallowing trails" and "Crop protection and food safety policies shall be a primary factor in disallowing trails on a agriculturally zoned lands." This is of course based on the presumption that there may be a private ag-land owner who voluntarily supports a public trail or easement on their ag-zoned land (OS-1.10(b)). Otherwise, if the intent of the policy is to prevent any trail or easements from ever being established on ag-zoned land in the county then the language could be less oblique and clearly state that "Dedication of public trails or trail easements will not be allowed in agriculturally zoned private lands without the consent of the property owner, except as may be required by State Law. If adjacent ag-land owners oppose the ag-land neighbor's support for a public trail or easement then that conflict is addressed in OS-1.10(d)(e).
(2) Public and private do not need to be separated here, the issue is the trail and not whether it is on public or private land. "Potential new trails are subject to appropriate design."
(1) See (1), (2) and (3) "The location and design of trails shall be done."
(4) The policy limits the quality of existing commercial and residential re-development and is too oblique on the agricultural issue. Suggest: "New commercial and residential development (by definition this includes subdivisions) and existing commercial and residential re-development shall mitigate... This policy shall not apply to... any agricultural activity or operation on corner agricultural lands."
(5) This exception should refer to the California Coastal Trail, all new side-paths associated with a County or State road way improvement project.
- Author: Tin Subject: Note Date: 1/12/2009 1:57:01 PM -0800
delete the comma and add "and"

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Author: Tim Subject, Rectangle Date: 1/17/2009 9:25:06 PM -08'00'

Author: Tim Subject, Note Date: 1/17/2009 9:25:55 PM -08'00'

This should be reserved for the "Quality Timeline Revisions" GIS map.

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22

Reserved for Figure 7
NO MAP AT THIS TIME

23

OS-1.12 The significant disruption of views from designated scenic resources shall be mitigated through use of appropriate materials, scale, lighting and siting of development. Routine and On-going Agricultural activities shall be exempt from this policy, except:

1. large-scale agricultural processing facilities, or
2. facilities governed by the Agricultural Winery Corridor Plan

MINERAL RESOURCES

GOAL OS-2

PROVIDE FOR THE CONSERVATION, UTILIZATION, AND DEVELOPMENT OF THE COUNTY'S MINERAL RESOURCES.

Policies

- OS-2.1 Potentially significant mineral deposits and existing mining operations identified through the State Division of Mines and Geology, including idle and reserve properties, shall be protected from on-site and off-site land uses that would be incompatible with mineral extraction activities.
- OS-2.2 Mineral extraction operations shall be in keeping with sound conservation practices consistent with the Surface Mining and Reclamation Act (SMARA) and other applicable standards and adequate financial security shall be required to insure reclamation of the extraction site to a condition consistent with the surrounding natural landscape and environmental setting.
- OS-2.3 Efforts to conserve raw mineral resources through recycling shall be supported.
- OS-2.4 Lands containing known valuable mineral deposits shall be mapped in the County GIS system. Mapped information shall be updated as needed.
- OS-2.5 The County shall inventory, assess, and characterize the location and condition of identified pre-SMARA abandoned gold, mercury and coal mines and implement such measures as may be necessary to ensure that such mines do not contribute to a significant risk to public health or safety or non-compliance with water quality standards and criteria.

24

SOILS

GOAL OS-3

PREVENT SOIL EROSION TO CONSERVE SOILS AND ENHANCE WATER QUALITY

- Author: Tim Subject: Rectangles Date: 11/12/09 3:24:32 PM -08'00'
- Author: Tim Subject: Note Date: 11/20/09 10:54:56 AM -08'00'
- This is extremely inconsistent and should read as: "The significant disruption of views from common public viewing areas shall be mitigated."
- The County should include criteria such as a certain disruption percent of view based on a baseline view from known "common public viewing areas". Subsequent visual analysis can then easily include a percent impact to view and measure it against whatever threshold is established for "significant". This will give the County an objective criteria to measure against.
- The second sentence should be more specific: "Routine activities on agriculturally zoned land shall be exempt."
- (1) Large-scale shall be defined, perhaps by square footage or percent land cover or some other measurable criteria and not left so obtuse.
- Author: Tim Subject: Note Date: 11/12/09 3:35:57 PM -08'00'
- Issue: case, "off-going"
- Author: Tim Subject: Note Date: 11/12/09 3:36:46 PM -08'00'
- Issue: case, "agricultural"
- Author: Tim Subject: Note Date: 11/20/09 10:59:38 AM -08'00'
- OS-2.1 Mineral extraction operations identified through the State Division of Mines and Geology, including idle and reserve properties, shall be protected from on-site and off-site land uses that would be incompatible with mineral extraction activities.
- Author: Tim Subject: Rectangles Date: 11/20/09 10:57:14 AM -08'00'

CARMEL VALLEY MASTER PLAN
SUPPLEMENTAL POLICIES

1.0 - Land Use

- CV-1.1 Policies relative to the Carmel Valley Area are intended to retain a rural character.
- CV-1.2 When an ownership is covered by two or more land use designations, the total allowable development should be permitted to be located on the most appropriate portion of the property.
- CV-1.3 Open space uses shall be located between the development areas in order to clearly define them and maintain a distinction between the more rural and more suburban areas of the valley. Small and large open space areas should be created with preference given to those that add open space to existing open space areas.
- CV-1.4 Existing higher intensity residential and recreational uses in the Valley are intended to be recognized by this Plan.
- CV-1.5 In the residential areas, maximum densities are as shown on the Carmel Valley Master Plan Land Use Map. However, attainment of maximum density in these areas is dependent upon conformity of the proposed project to plan goals and policies.
- CV-1.6 New residential subdivision in Carmel Valley shall be limited to creation of 266 new lots with preference to projects including at least 50% affordable housing units. The County shall develop a tracking system and shall present an annual report before the Planning Commission.
- CV-1.7 Subdivision for conservation purposes which is in the public interest is exempt from any quota and allocation system where such subdivision does not create additional residential building sites. It is preferable that parcels thus created shall be owned by an appropriate public entity or a non-profit public benefit corporation.
- CV-1.8 Cluster development:
 - a. must meet the objectives of the Master Plan.
 - b. shall be used to protect visible open space in sensitive visual areas or to protect natural resources.
 - c. Clustering adjacent to vertical forms, although preferable to development in open spaces, will be considered in light of the visual sensitivity of the building site.
 - d. should be consistent with wastewater application rates of the Carmel Valley Wastewater Study that generally would require clustering of five units or less on a minimum of five acres of land.

25

Author: Tim E. Spector, Inc. Date: 11/12/2009 3:51:23 PM -0800

Author: Tim E. Spector, Inc. Date: 12/22/09 12:27:18 PM -0800

Comment: "Structures proposed in Carmel Valley Ranch Regional Park is the most significant public viewing area in the entire Specific Plan and needs to be recognized and protected as such." "Structures proposed in other grassland areas that would be highly visible from Carmel Valley Road, Laureles Grade, or Carmel Ranch Regional Park, shall..."

- e. may be permitted only where it will result in the preservation of visible open space and is in compliance with other applicable policies.
- f. Open space for clustered developments shall be dedicated in perpetuity.

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CV-1.9 Structures proposed in open grassland areas that would be highly visible from Carmel Valley Road and Laureles Grade shall be minimized in number and be clustered near existing natural or man-made vertical features.

CV-1.10 The Val Verde Drive area is planned for residential use at a basic density of one (1) unit per acre. With suitable clustering, up to two (2) units per acre may be allowed. However, a density of up to four (4) units per acre may be allowed provided that 25% of the units are developed for individuals of low and moderate income or for workforce housing. This policy is intended to be independent from Policy CV-1.11, and not counted in conjunction with the density bonus identified in that policy.

CV-1.11 Projects for low or moderate income family housing shall be exempt from any annual allocation provisions, but shall be subtracted from the 20-year buildout quota on a basis of one such unit reducing the remaining buildout by one unit. Projects for senior citizens of low or moderate income may have up to twice the number of units normally allowed on a site. Such increased density shall only be allowed where it is determined to be feasible and consistent with other plan policies. Such projects shall be subtracted from the 20-year buildout quota on a basis of two such units reducing the remaining buildout by one unit.

CV-1.12 Areas designated for commercial development in the valley shall:

- a. be placed in design control overlay districts ("D"),
- b. have planted landscaping covering no less than 10% of the site, and
- c. provide adequate parking.

CV-1.13 To preserve the character of the village, commercially designated lots in Carmel Valley shall not be used for exclusive residential purposes.

CV-1.14 Provision should be made for service centers in Carmel Valley. They shall be limited to urbanized areas such as the mouth of the Valley, Carmel Valley Village or mid-Valley area. Sites shall meet the following criteria:

- a. Low visibility
- b. Safe and unobtrusive access away from pedestrian traffic areas
- c. Low noise impact on surrounding uses
- d. Conform to all other Plan requirements

Service centers shall be limited to those enterprises which provide services and facilities for persons engaged in the construction, maintenance and repair trades and not allow enterprises whose chief business is on-site retail sales.

Author: Tim Sipecki, Planner Date: 1/11/2009 4:00:20 PM -0800
Author: Tim Sipecki, Aule Date: 1/20/2009 10:50:12 AM -0800
(S) PDF MAY BE PRINTED OR FILED FOR PUBLIC COMMENT ONLY

- CV-1.15 Visitor accommodation uses shall follow the following guidelines:
- a. Expansion of existing hotels, motels and lodges should be favored over the development of new projects.
 - b. Visitor accommodation projects must be designed so that they respect the privacy and rural residential character of adjoining properties.
 - c. Bed and breakfast facilities shall be counted as visitor accommodation units and be limited to a maximum of five (5) units clustered on five (5) acres in accord with Monterey County Code *Section 15.20.060.M* unless sewerage by public sewers.

CV-1.16 Applications for service and special use facilities (including in Carmel Valley, Hidden Valley Music Seminars), as defined by the General Plan, are to be considered on their merits and shall not automatically be deemed inconsistent with the Plan. They must, however, conform to all applicable plan policies.

CV-1.17 Publicly used buildings and areas should be encouraged to be oriented to views of the river.

- CV-1.18 Facilities classified as either Public/Quasi-Public or Special Use (such as schools, churches, hospitals, convalescent homes, rehabilitation centers, hospice facilities, emergency facilities and public facilities such as community halls) may be considered in any land use category provided that they meet the following criteria:
- a. Low visibility
 - b. Safe and unobtrusive access away from pedestrian traffic areas.
 - c. Low noise impact on surrounding uses.
 - d. Development should follow a rural architectural theme with design review.
 - e. Conform to all other Plan requirements.

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- CV-1.19 Mines or quarries shall:
- a. be screened from public view by use of natural terrain, vegetation, or artificial screening compatible with the environment;
 - b. have safe and unobtrusive access;
 - c. minimize noise impact on surrounding areas; and
 - d. conform to all other Plan requirements except the restriction on development on slopes over 30% within the limits of quarry operations.

- CV-1.20 Design ("D") and site control ("S") overlay district designations shall be applied to the Carmel Valley area. Design review for all new development throughout the Valley, including proposals for existing lots of record, utilities, heavy commercial and visitor accommodations but excluding minor additions to existing development where those changes are not conspicuous from outside of the property shall consider the following guidelines:
- a. Proposed development encourages and furthers the letter and spirit of the Master Plan.

Author: Tom Stappert, Kelly Davis Date: 1/14/2009 4:03:43 PM -0800
Author: Tom Stappert, Kelly Davis Date: 1/20/2009 12:29:06 PM -0800

- b. Development either shall be visually compatible with the character of the valley and immediate surrounding areas or shall enhance the quality of areas that have been degraded by existing development.
- c. Materials and colors used in construction shall be selected for compatibility with the structural system of the building and with the appearance of the building's natural and man-made surroundings.
- d. Structures should be controlled in height and bulk in order to remain an appropriate scale.
- e. Development, including road cuts as well as structures, should be located in a manner that minimizes disruption of views from existing homes.
- f. Minimize erosion and/or modification of landforms.
- g. Minimize grading through the use of step and pole foundations.

CV-1.21 Commercial projects shall meet the following guidelines:

- a. Buildings shall be limited to 35 feet in height and shall have mechanical apparatus adequately screened, especially on the roofs.
- b. Commercial projects shall include landscaping that incorporates large-growing street trees. Parking areas shall be screened with exclusive use of native plants or compatible plant materials. Land sculpturing should be used where appropriate.

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CV-1.22 Special Treatment Area: Carmel Valley Ranch – The Carmel Valley Ranch shall be designated as a "Special Treatment Area." The Amended Carmel Valley Ranch Specific Plan, dated 11/3/76, is incorporated by reference into this Plan and the provisions of this Specific Plan shall continue to apply. However, attainment of densities authorized by this Specific Plan is dependent upon conditions existing at the time each future increment of development is sought and is further dependent upon conformity with the Specific Plan Amended Conditions of Approval as well as the goals and policies of this General Plan, whichever is most restrictive. Any amendment of the Specific Plan must be consistent with the policies and provisions of this General Plan. APNs 416-522-020-000 and 416-522-017-000.

CV-1.23 Special Treatment Area: Condon/Chugach Property – The Condon/Chugach property shall be designated as a Special Treatment Area. In recognition of the unique circumstances of the property, including the past gift conveyances of several hundred acres to Garland Park, the Condon/Chugach property shall be allowed to be subdivided into four parcels consistent with the 2004 Subdivision Ordinance Standards. (approximately 51 acres; APN's 189-111-022 and 189-111-024)

CV-1.24 The property located between the end of Center Street and north of the Carmel River within the mid-valley area shall be retained as one building site (APN: 169-131-024, 169-131-025).

CV-1.25 **Special Treatment Area: Rancho San Carlos** - Residential development is permitted on the portions of the Santa Lucia Preserve (formerly Rancho San Carlos) within the Greater Monterey Peninsula Planning Area, and shall follow densities and policies as specified in Board of Supervisor *Resolution No. 93-115*, "Comprehensive Planned Use" Overlay for Rancho San Carlos and the Comprehensive Development Plan for the Santa Lucia Preserve (See also *Policy GMP-1.6*).

CV-1.26 **Study Area: Gardiner/Tennis Club** - The County shall establish a study area near the Carmel Valley Village where there is a mix of visitor serving uses. A Study will be performed to evaluate the potential for development in light of the environmental conditions of the area (traffic, water quantity, water quality, wastewater disposal). If deemed appropriate and resource constraints have been resolved, the County may establish a Special Treatment Area and adopt specific land use policies that would apply to new development. (APNs: 189-121-001-000, 189-201-003-000, 189-201-013-000, 189-251-014-000, 189-251-015-000, 189-251-016-000, 189-252-002-000, 189-261-001-000, 189-261-005-000, 189-261-006-000, 189-261-009-000, 189-261-010-000, 189-261-011-000, 189-261-012-000, 189-261-013-000, 189-261-015-000, 189-261-016-000, and 189-261-017-000).

CV-1.27 **Special Treatment Area: Rancho Canada Village** - Approximately 45 acres consisting of properties located generally between Val Verde Drive and the Rancho Canada Golf Course clubhouse, from the Carmel River to Carmel Valley Road, excluding portions of properties in floodplain shall be designated as a Special Treatment Area. Residential development may be allowed with a density of up to 10 units/acre in this area and shall provide a minimum of 50% Affordable/Workforce Housing. Prior to beginning new residential development (excluding the first unit on an existing lot of record), projects must address environmental resource constraints (e.g.; water, traffic, flooding). (APN: 015-162-017-000, 015-162-025-000, 015-162-026-000, 015-162-039-000 and 015-162-040-000)

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2.0 - Circulation

CV-2.1 Public transit should be explored as an alternative to the use of private automobiles and to help preserve air quality. Whenever feasible all new development shall include a road system adequate not only for its internally generated automobile traffic but also for bus (both transit and school), pedestrian, and bicycle traffic, which should logically pass through or be generated by the development.

CV-2.2 Consideration should be given to locating a County road and utility maintenance facility in the Carmel Valley area. Such facility would provide for storage of equipment as well as materials.

- Author: Tim Subject Note Date: 1/22/2009 12:29:25 PM -0800
CV-1.26 Special Treatment Area, Rancho San Carlos Regional Park -
Monterey Planning Regional Park District would like to discuss "Special Treatment Area" status for Garland Ranch Regional Park.
- Author: Tim Subject Package Date: 1/12/2009 4:05:48 PM -0800
- Author: Tim Subject Note Date: 1/11/2009 4:11:09 PM -0800
Transits need to be addressed in this section
- Author: Tim Subject Package Date: 1/11/2009 4:10:35 PM -0800

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- Author: Tim Subject Package Date: 11/02/09 4:13:45 PM -0800
- Author: Tim Subject Note Date: 11/02/09 12:31:33 PM -0800
*A minimum setback of 100 feet shall be established for all properties abutting Garland Ranch Regional Park. An exception may be granted ...
- Author: Tim Subject Package Date: 11/02/09 4:12:57 PM -0800
- Author: Tim Subject Note Date: 11/02/09 4:13:20 PM -0800
Excavate

3.0 - Conservation/Open Space

31

CV-3.1  A minimum setback of 100 feet shall be established for all properties abutting Carmel Valley Road. An exception may be granted in cases where:

- a. an existing structure permitted for construction prior to adoption of the original Carmel Valley Master Plan (December 16, 1986) would become non-conforming, or
- b. implementation would render an existing lot of record unbuildable.

CV-3.2 Public vista areas shall be provided and improved.

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CV-3.3  Development (including buildings, fences, signs and landscaping) shall not be allowed to significantly block views of the viewshed, the river or the distant hills as seen from key public viewing areas such as Garland Ranch Regional Park, along Carmel Valley Road, and along Laureles Grace Road. This policy applies to commercial and private parcels including existing lots of record. Removal of existing solid fences and rows of Monterey Pine trees which block views of the river and the mountains shall be encouraged.

CV-3.4 Alteration of hillsides and natural landforms caused by cutting, filling, grading or vegetation removal shall be minimized through sensitive siting and design of all improvements and maximum feasible restoration including botanically appropriate landscaping. Where cut and fill is unavoidable on steep slopes, disturbed areas shall be revegetated.

CV-3.5 Signs should be low-key and shall not be allowed to block views, cause visual clutter, or detract from the natural beauty. Commercial signs shall not be constructed of plastic or be internally lighted. Neon signs shall not be permitted where visible from the street.

CV-3.6 No off-site outdoor advertising is allowed in the Plan area.

CV-3.7 Areas of biological significance shall be identified and preserved as open space. These include, but are not limited to:

- a. The redwood community of Robinson Canyon;
- b. The riparian community and redwood community of Gattas Creek;
- c. All wetlands, including marshes, seeps and springs (restricted occurrence, sensitivity, outstanding wildlife value).
- d. Native bunchgrass stands and natural meadows (restricted occurrence and sensitivity).
- e. Cliffs, rock outcrops and unusual geologic substrates (restricted occurrence).
- f. Ridgelines and wildlife migration routes (wildlife value).

When a parcel cannot be developed because of this policy, a low-density, clustered development (but no subdivision) may be approved on these portions of

Page: 84

Author: Tim Subject: Recangle Date: 8/17/2008 4:20:12 PM -08'00'
Author: Tim Subject: Note Date: 8/17/2008 4:23:22 PM -08'00'
Public area - Monterey (El Estero) Regional Park District - may acquire - biological, agricultural, open, or other...

- CV-3.12 Open space areas should include a diversity of habitats with special protection given to areas where one habitat grades into another (these ecotones are ecologically important zones) and areas used by wildlife for access routes to water or feeding grounds.
- CV-3.13 Historic and Archaeological Resources, including buildings and sites of historical significance, located in Carmel Valley shall:
 - a. be reviewed on a site by site basis.
 - b. be rezoned to the "HR" District as a condition of permit approval for any development impacting such sites.
 - c. require preservation of the integrity of historic sites and/or structures.A committee to evaluate the current condition of each and recommend deletions, additions or other measures shall be drawn from members of local historical, architectural, and/or educational societies as determined by the Planning Commission.
- CV-3.14 Wherever possible a network of shortcut trails and bike paths should interconnect neighborhoods, developments and roads. These should be closed to motor vehicles and their intent is to facilitate movement within the Valley without the use of automobiles.
- CV-3.15 Public and private agencies such as the Big Sur Land Trust, the Monterey Regional Park District and others may acquire development rights and/or accept easements and dedications for significant areas of biological, agricultural or other open space land.
- CV-3.16 Lighting for outdoor sports shall not be allowed where it would be visible from off-site.
- CV-3.17 Street lighting shall be designed to promote traffic safety and be unobtrusive and harmonious with the local character. Such lighting must be constructed and located to illuminate only the intended area and prevent off-site glare.
- CV-3.18 Except where inconsistent with sound environmental planning, new aboveground transmission facilities shall incorporate the following design guidelines:
 - a. follow the least visible route (e.g., canyons, tree rows, and ravines),
 - b. cross ridgelines at the most visually unobtrusive locations,
 - c. follow, not compete with, either natural features of the terrain or man-made features in developed areas,
 - d. Create a simple and unobtrusive in appearance,
 - e. minimize the bulk of structures,
 - f. use the minimum number of elements permitted by good engineering practice, and
 - g. incorporate colors and materials compatible with local surroundings.

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CV-3.19 As development of bike paths and a coordinated, area-wide trails system are essential for circulation, safety and recreation in the Carmel Valley Planning Area, dedication of trail easements may be required as a condition of development approval, notwithstanding *Policy OS-1.10(b)*.

4.0 - Safety

- CV-4.1 In order to reduce potential erosion or rapid runoff:
- a. The amount of land cleared at any one time shall be limited to the area that can be developed during one construction season.
 - b. Motorized vehicles shall be prohibited on the banks or in the bed of the Carmel River, except by permit from the Water Management District or Monterey County.
 - c. Native vegetative cover must be maintained on areas that have the following combination of soils and slope:
 - 1. Santa Lucia shaly clay loam, 30-50% slope (SIF)
 - 2. Santa Lucia-Reliz Association, 30-75% slope (Sg)
 - 3. Cienega fine gravelly sandy loam, 30-70% slope (CcG)
 - 4. San Andreas fine sandy loam, 30-75% slope (ScG)
 - 5. Sheridan coarse sandy loam, 30-75% slope (SoG)
 - 6. Junipero-Sur complex, 50-85% slope (Jc)

CV-4.2 A comprehensive drainage maintenance program should be established by either sub-basins or valley-wide watershed zones.

CV-4.3 In addition to required on-site improvements for development projects, a fee shall be imposed to help finance the improvement and maintenance of the drainage facilities identified in the Master Drainage Plan for Carmel Valley.

CV-4.4 The County shall require emergency road connections as necessary to provide controlled emergency access as determined by appropriate emergency service agencies (Fire Department, OES). The County shall coordinate with the emergency service agencies to periodically update the list of such connections.

5.0 - Public Services

CV-5.1 Pumping from the Carmel River aquifer shall be managed in a manner consistent with the Carmel River Management Program. All beneficial uses of the total water resources of the Carmel River and its tributaries shall be considered and provided for in planning decisions.

CV-5.2 Water projects designed to address future growth in the Carmel Valley may be supported.

CV-5.3 Development shall incorporate designs with water reclamation, conservation, and new source production in order to:

Author: Tim/Subject: Maps Date: 1/15/09 4:55:02 PM -08'00'
By: Elizabeth a network of riding, bicycling, and walking trails that interconnect the villages, educational facilities, neighborhoods, and conservation lands.
Author: Tim/Subject: Redevelopment Date: 1/15/09 4:52:21 PM -08'00'

**COUNTY OF MONTEREY
FORT ORD MASTER PLAN
LAND USE ELEMENT**

The Fort Ord Land Use Element is part of the Greater Monterey Peninsula Area Plan and the Monterey County General Plan and consists of those portions of the County of Monterey Land Use Concept (Figure 1) adopted by the Fort Ord Reuse Authority (FORA) on June 13, 1997, that pertain to the areas of Fort Ord currently under the jurisdiction of the County and located east of Highway 1, and includes the following text. The Land Use Element contains land use designations specific to Fort Ord. These land use designations are consistent with the land use designations (as base designations) included in the adopted FORA Reuse Plan. For each of the Planning Districts, overlay designations are included that provide additional description and clarification of the intended land uses and additional design objectives for that specific Planning District. The Fort Ord land use designations also include the applicable land use Goals, Objectives, Policies and Programs directly from the Reuse Plan. These will constitute all the policies and programs to be applied to the Fort Ord Land Use Element. Background information, land use framework and context discussions, as they relate to the subject area are hereby incorporated by reference into the Fort Ord Land Use Element from the FORA adopted Reuse Plan. In addition, the Land Use Map contained in this plan is the County of Monterey Land Use Concept (Figure 1) adopted by FORA into the Reuse Plan.

Land Use Goal: Promote orderly, well-planned, and balanced development to ensure educational, housing and economic opportunities as well as environmental protection.

Design Principals:

1. Create a unique identity for the community around the educational institutions.
2. Reinforce the natural landscape setting consistent with the Monterey Peninsula character.
3. Establish a mixed-use development pattern with villages as focal points.
4. Establish diverse neighborhoods as the building blocks of the community.
5. Encourage sustainable practices and environmental conservation.
6. Support the adoption of Regional Urban Design Guidelines by FORA.
7. Create an appropriate range of housing types attainable to the residents and workers of Monterey County.

35

Author: Tim Subject: None Date: 11/10/09 5:04:51 PM 4/0/07
 This is the only change to make. It got produced by "How Good, The Open Space Recreation Base Designation allows public parks and recreation activities, habitat management, public amphitheaters, environmental education facilities, trails, and limited commercial recreation and recreation-based convenience retail."
 Author: Tim Subject: Rectangle Date: 11/10/09 4:56:48 PM 4/0/07

Business Park/Light Industrial. The Business Park/Light Industrial Base Designation allows business parks, light industrial uses, professional office, research and development uses, convenience retail, and food service establishments. Commercial recreation and visitor serving uses are allowed as designated in the overlay designations.

Visitor Serving. The Visitor Serving Base Designation allows hotels and resorts, conference centers, restaurants, commercial recreation, and retail support uses.

Open Space/Recreation. The Open Space Recreation Base Designation allows public parks and recreation activities not prohibited by overlay designations, habitat management, public amphitheaters, environmental education facilities, and commercial recreation. Convenience retail is allowed as designated in the overlay designations.

Habitat Management. The Habitat Management Base Designation allows habitat management, ecological restoration, environmental educational activities and facilities, and passive recreational activities, such as hiking, bike riding, horse riding, and picnicking in accordance with adopted habitat plans.

School/University. The School/University Base Designation allows public primary and higher educational facilities, habitat management, environmental education and support uses such as offices, sport facilities, maintenance uses, university housing, and convenience retail.

Public Facility/Institutional. The Public Facility/Institutional Base Designation allows facilities having public institutional ownership or benefit. Such uses may include habitat management, light industrial and R&D, corporation and maintenance yards, public utilities, training grounds, offices, educational facilities, and youth camps.

Military Enclave. The Military Enclave Base Designation is for lands retained by the United States armed forces for on-going military-related activities.

DESCRIPTION OF PLANNING AREAS AND OVERLAY PLANNING DISTRICTS

The following descriptions of the Planning Areas and Planning Districts are compatible with and consistent with those contained in the adopted Reuse Plan. The location and boundaries of the Planning Areas and Planning Districts are found in Figure 2. In some cases the descriptions of future development have been simplified and clarified, particularly if a Planning District is subject to a Master Plan or Habitat Plan to be adopted and implemented by another agency. In addition, General Development Character and Design Objectives from the adopted Reuse Plan have been supplemented for the East Garrison, University Corporate Center, and Parker Flats Planning Districts to provide a more refined development vision for those areas as guidance in preparing the required Specific Plans or other appropriate planned development mechanism.

36

Author: Tim Subject: Note Date: 1/10/2009 5:14:32 PM -0800
 Needs to address compatibility recreational and connectivity BLS, bike, bicycle paths and sidewalks, especially along the Hwy 68 corridor (and proposed new highway),
 Leavitts Gravel and Corral de Tierra/San Benito need to be added here.
 Author: Tim Subject: Rectangle Date: 1/10/2009 5:06:46 PM -0800

**TORO AREA PLAN
SUPPLEMENTAL POLICIES**

1.0 - Land Use

- T-1.1 Development proposals on Corral de Tierra Road from "Four Corners" to Corral del Cielo shall complete safety improvements concurrently with development.
- T-1.2 Industrial land uses other than utilities shall not be permitted in the Toro area.
- T-1.3 The designated agricultural lands as shown on the Toro Area Plan Land Use Map (Figure LUI0) shall be conserved and, where feasible, expanded.
- T-1.4 **Special Treatment Area: Greco** - The Greco property on River Road across from the Indian Springs Ranch Subdivision shall be designated as a "special treatment" area to be zoned Heavy Commercial. Although the use of the property for the removal of sand and gravel ceased in the year 2000, use of the property for a contractor's yard, shop, and residence may continue pursuant to PLN980448 as approved August 29, 2001 or as that permit may be amended or extended. (APN: 139-021-005-000)
- T-1.5 Subdivision shall be designed so that new lots have building sites located outside of the critical viewshed.
- T-1.6 Existing legal lots of record located in the critical viewshed may transfer density from the acreage within the critical viewshed to other contiguous portions of land under the same ownership, provided the resulting development meets all other Toro Area and General Plan policies.
- T-1.7 Development on properties with residential land use designations located within the Toro Area Plan along the Highway 68 corridor shall be limited to the first single family home on a legal lot of record. The County shall conduct a comprehensive review of infrastructure constraints regarding circulation, wastewater, and water supply. Said restriction shall not apply to development within adopted Community Areas, Rural Centers, or Affordable Housing Overlays.

2.0 - Circulation

- T-2.1 Employers in surrounding areas should be encouraged to stagger employees' work hours in order to ease peak hour traffic congestion on Highway 68 and in other areas.
- T-2.2 Davis and Reservation Roads shall be encouraged as alternate routes between the Monterey Peninsula and Salinas to alleviate traffic on Highway 68.

37

Author: Tim Subject: Backstage	Date: 1/11/2009 5:15:02 PM -0800'
Author: Tim Subject: Note	Date: 1/14/2009 5:16:00 PM -0800'
Author: Tim Subject: Backstage	Date: 1/14/2009 5:16:24 PM -0800'
Author: Tim Subject: Note	Date: 1/14/2009 5:22:59 PM -0800'

T-3.2 Land use, architectural, and landscaping controls shall be applied and sensitive site design encouraged to preserve Toro's visually sensitive areas and scenic entrances:
 a. River Road/Highway 68 intersection; and
 b. Laureles Grade scenic vista overlooking the Planning Area.

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T-3.3 Portions of County and State designated scenic routes shall be designated as critical viewshed as shown on the Toro Visual Sensitivity Map. Except for driveways, pedestrian walkways and paths, a 100-foot building setback shall be required on all lots adjacent to these routes to provide open space and landscape buffers. This setback may be reduced for existing lots of record that have no developable area outside the setback and to accommodate additions to existing structures that become non-conforming due to this policy. New development shall dedicate open space easements over set back areas established by this policy.

T-3.4 Placement of existing utility lines underground shall be encouraged, particularly along Laureles Grade Road, Corral de Tierra, San Benancio, River Road, and Highway 68.

T-3.5 Exterior/Outdoor lighting shall be located, designed and enforced to minimize light sources and preserve the quality of darkness. Street lighting shall be as unobtrusive as practicable and shall be consistent in intensity throughout the Toro area.

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T-3.6 Large acreages in higher elevations and on steeper slopes shall be preserved and enhanced for grazing, where grazing is found to be a viable use.

T-3.7 The preservation of oak trees within Toro Area Plan shall be promoted by discouraging removal of healthy trees with diameters in excess of 6-inches d.b.h.

4.0 - Safety

T-4.1 Land uses and practices that may contribute to significant increases of siltation, erosion, and flooding in the Toro area shall be prohibited.

5.0 - Public Services

T-5.1 To ensure cost-effective and adequate levels of wastewater treatment, the County shall promote relatively higher densities in areas where wastewater treatment facilities can be made available.

6.0 - Agriculture

No supplemental Agricultural policies at this time.

GREATER MONTEREY PENINSULA AREA PLAN
SUPPLEMENTAL POLICIES

1.0 - Land Use

GMP-1.1 The County shall overlay properties north and south of Highway 68 and west of Laureles Grade with a Visually Sensitive District ("VSD") and/or other appropriate zoning designation to regulate the location, height and design of structures within this unique scenic corridor.

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GMP-1.2 The undeveloped portion of *High Meadow I* (APNs: 015-451 to 045 and APNs: 015-461-001 to 017) shall receive density credit for the open space originally dedicated as part of the entire *High Meadow I* development approval not to exceed a total of 18 units.

GMP-1.3 Bed and breakfast uses may be considered in any land use category provided that such use is compatible with existing land uses in the area.

GMP-1.4 Development proposals should include compatible open space uses located between other developed areas in order to maintain a rural atmosphere and to protect scenic resources.

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GMP-1.5 Open space, low intensity educational and recreational uses should be considered to be appropriate and compatible land uses in environmentally sensitive areas and areas of high visual sensitivity.

GMP-1.6 Special Treatment Area: Rancho San Carlos - Residential development is permitted on the portions of the Santa Lucia Preserve (formerly Rancho San Carlos) within the Greater Monterey Peninsula Planning Area, and shall follow densities and policies as specified in Board of Supervisor Resolution No. 93-115, "Comprehensive Planned Use" Overlay for Rancho San Carlos and the Comprehensive Development Plan for the Santa Lucia Preserve (See also *Policy CV-1.25*).

GMP-1.7 Special Treatment Area: White Rock Club - The White Rock Club shall be designated as a "Special Treatment Area." The following specific policies shall regulate uses within the White Rock Club Special Treatment Area. Development shall be subject to the policies of the Rural Grazing land use designation. (APN: 417-041-014-000)

- a. The existing recreational facilities, consisting of 100 cabin sites and one gatehouse, allows the construction and remodeling of the existing 100 cabin sites. No additional cabin sites shall be allowed.
- b. Conversion of the cabins to permanent residential units shall not be permitted. The purpose of the cabins is transient recreational use, however, no more than eight of the 100 cabin sites may be occupied year round for the maintenance and operations of White Rock Club.

- Author: Tim Subject (Rectangle) Date: 11/10/09 4:26:44 PM -08'00'
- Author: Tim Subject (Note) Date: 11/10/09 4:26:43 PM -08'00'
Is this consistent with the intent and purpose of the original dedication? Is this doc be dipping into the dedication?
- Author: Tim Subject (Rectangle) Date: 11/10/09 4:29:25 PM -08'00'
- Author: Tim Subject (Note) Date: 11/10/09 4:31:06 PM -08'00'
"are not allowed" - does not seem compatible and comparable."

Author: Tim Subject: None Date: 11/22/09 10:51:15 AM -0800
 GMP-1.18 Special Treatment Area: San Clemente Ranch
 The Plan Director received special permits for the status and discuss what that means.
 Author: Tim Subject: Recreates Date: 11/22/09 4:32:31 PM -0800

- c. Further expansion of accessory uses at White Rock Club may be granted upon approval of a Use Permit. The Use Permit shall conform to the policies of the Rural Grazing land use designation.

GMP-1.8 Special Treatment Area: San Clemente Ranch - The San Clemente Ranch shall be designated as a "Special Treatment Area." The following specific policies shall regulate uses within the San Clemente Ranch Special Treatment Area. Development shall be subject to the policies for the Rural Grazing land use designation.

- a. The existing recreational facilities, consisting of 101 cabin sites, 5 permanent residents, tennis courts, swimming pool and fishing ponds are allowed uses. No additional cabin sites shall be allowed. Cabin sites may be moved only with consent of the Hearing Officer subject to consistency with the policies of this Plan. The reconstruction, remodeling or rebuilding of approved cabins or development of new cabins on approved cabin sites shall be allowed, with appropriate Planning and Building Inspection Department and Health Department permits.
- b. Further expansion of accessory uses, not including cabins, is subject to the requirements of Rural Grazing land use designation.
- c. Conversion of the 101 cabins to permanent residential units shall not be permitted. The use of the cabins shall remain a recreational use, and occupancy shall be limited to no more than 45 consecutive days.
- d. Agricultural uses on the property shall be allowed.

GMP-1.9 Special Treatment Area: Jefferson: Residential development shall be permitted at the maximum equivalent density of 2.5 acres per unit on 40 acres (16 units total) in order to contribute to meeting the affordable housing goals on the peninsula (APN: 175-011-047-000, 175-011-029-000, 414-014-014-000). The following specific policies shall regulate uses within the Jefferson Special Treatment Area:

- a. Development shall meet minimum setback requirements and provide adequate buffers from the Marina landfill.
- b. Development shall meet all requirements of the Marina Airport Comprehensive Land Use Plan (CLUP) and letter from the Airport Land Use Commission (ALUC) to the Board of Supervisors dated December 20, 2006. Proposed development shall be considered by the ALUC prior to approval.
- c. A minimum of 50-percent (50%) of the units developed on this site shall meet Affordable/Workforce Housing criteria.
- d. Future development will address environmental constraints.
- e. Development may occur on the bluffs above the Salinas Valley floor. No new residential development may occur on prime valley farmland. (also see Policy GS-1.12)

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Editor: Tim Subject: Note Date: 11/12/09 4:35:43 PM -08'00'
Title and page-paths need to be addressed here
Editor: Tim Subject: Rectangle Date: 11/12/09 4:34:48 PM -08'00'

2.0 - Circulation

43

- GMP-2.1 Improvement of Highway 68 intersections, construction of alternate passing lanes, public transit roadway improvements, and improved bicycle safety measures shall be given priority for funding.
- GMP-2.2 Employers should stagger employee work hours in order to ease peak hour traffic congestion on Highway 68 and in other areas.
- GMP-2.3 Improvements to Laureles Grade should consist of the construction of shoulder widening, spot realignments, passing lanes and/or paved turn-outs. Heavy vehicles should be discouraged from using this route.
- GMP-2.4 To minimize traffic safety hazards, creation of new direct access points from single-family residences onto Highway 68 or Laureles Grade shall be prohibited, unless there is no other feasible access.
- GMP-2.5 The County shall promote the use of Davis and Reservation Roads as alternate routes between the Monterey Peninsula and Salinas to alleviate traffic on Highway 68.
- GMP-2.6 State Scenic Highway designation should be pursued for Highway 1 north of the Highway 68 junction, and County Scenic Route designations should be pursued for Carmel Valley Road, Robinson Canyon Road and Reservation Road.
- GMP-2.7 New sites for office employment, services, and local conveniences should incorporate designs and be located to allow use of alternate modes of transportation such as public transit buses, bicycles and walking. Features to encourage the use of public transit should include a road system sufficient to allow reasonable access by transit buses and should also include provision for bus pullouts, bus stops, pedestrian access, wheel chair access, transit information signs and passenger shelters.
- GMP-2.8 Development directly beneath runway approaches of the Monterey Peninsula Airport and Marina Municipal Airport shall:
 - a. be of low intensity,
 - b. not generate electrical interference to radio communication between pilots and the air traffic control tower,
 - c. not contain sources of glare which would blind or confuse pilots and, and
 - d. be required to grant aviation easements to the Monterey Peninsula Airport District or other appropriate entity as a condition of development approval.

GMP-2.9 Construction and expansion of all highways and major arterials should provide for bike paths. It is desirable that bike paths be physically separate from motorized traffic.

GMP-2.10 Work with the United States Coast Guard to assure that sea lanes for tanker traffic off the Monterey County coast are well marked the three-mile limit in order to protect the entire shoreline from possible spills or coincidental pumping of bilges.

3.0 - Conservation/Open Space

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GMP-3.1 The County shall encourage creative public and private efforts to restore the scenic beauty of visually impacted areas.

GMP-3.2 Development on canyon edges and hilltops shall be designed to minimize the visual impact of the development.

GMP-3.3 The Greater Monterey Peninsula Scenic Highway Corridor and Visual Sensitivity Map (Figure 14, next page) shall be used to designate visually "sensitive" and "highly sensitive" areas generally visible from designated Scenic Highways. The following policies shall apply to areas that have one of these designations:

- a. All areas designated as "sensitive" or "highly sensitive" shall be interpreted within the meaning of this policy and are to be protected.
- b. Landowners will be encouraged to dedicate scenic easements to an appropriate agency or non-profit organization over portions of their land shown as "sensitive" or "highly sensitive" on the Map.
- c. Areas shown as "highly sensitive" on the Map should be preserved as open space to the maximum extent possible through scenic easements or, if necessary, fee acquisition.
- d. New development should not be sited on those portions of property which have been mapped as "highly sensitive." Where exceptions are appropriate to maximize the goals, objectives and policies of this plan, development shall be sited in a manner which minimizes visible effects of proposed structures and roads to the greatest extent possible and shall utilize landscape screening and other techniques to achieve maximum protection of the visual resource.
- e. New development to be located in areas mapped as "sensitive" or "highly sensitive" and which will be visible from a designated scenic route shall maintain the visual character of the area. In order to adequately mitigate the visual impacts of development in such areas, the following shall be required:

Page: 166

Author: Tim Subject: Rectangle Date: 1/11/2009 4:43:53 PM -0200

Author: Tim Subject: Note Date: 1/11/2009 4:49:37 PM -0200
Title: Location and trail link should

(It is Carmel River Parkway Trail within and connecting Santa Park property at Carmel River State Beach and Carmel Hill (Hutton Canyon) with Palo Corona Regional Park and Jacks Peak County Park and the lower Carmel River

GMP-3.9 Critical habitat areas should be preserved as open space. When an entire parcel cannot be developed because of this policy a low intensity, clustered development may be approved. However, the development should be located on those portions of the land least biologically significant so that the development will not upset the natural function of the surrounding ecosystem.

GMP-3.10 Work with appropriate state and federal agencies to ensure that oil transport activities near the Monterey County coast include adequate procedures to protect marine bird and mammal (particularly sea otter) populations and to clean up oil spills.

GMP-3.11 Riding and hiking trails should be acquired and developed with the intent of creating a coordinated, area-wide trails system. All motorized vehicles shall be prohibited from using these trails. In supporting a coordinated area-wide trails system, the highest priority should be given to establishing the following trails systems:

- a) a permanent riding and hiking trail from Roach Canyon to Jacks Peak Park;
- b) an easterly ridgeline trail from Jacks Peak Park to Laureles Grade;
- c) a major trail link which generally traverses in a southeasterly direction from Carmel Valley and forms a trail connection with the Los Padres National Forest trail system; and
- d) a connection trail from the Jacks Peak Park/Laureles Grade ridgeline trail to the entrance of Laguna Seca Recreation Area to be used as a point of departure to Toro Regional Park along Highway 68.

GMP-3.12 The County, through the Parks Department, shall address the following fundamental elements with regard to trail acquisition, development and use as expeditiously as possible:

- a) design standards,
- b) trail location,
- c) construction standards,
- d) liability questions,
- e) patrol and enforcement,
- f) restrictions or limitations on types of use appropriate to specific trails or trail segments,
- g) maintenance and operation plan, and
- h) burden of cost.

GMP-3.13 As development of bike paths and a coordinated, area-wide trails system are essential for circulation, safety and recreation in the Greater Monterey Peninsula Planning Area, dedication of trail easements may be required as a condition of development approval, notwithstanding *Policy OS-1.10(f)*.

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MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

5 HARRIS COURT, BLDG. G POST OFFICE BOX 85 MONTEREY, CA 93942-0085 • (831) 658-5600 FAX: (831) 644-9560 • http://www.mpwmd.dist.ca.us

February 12, 2009

Carl Holm, Project Manager Monterey County Resource Management Agency - Planning Department 168 West Alisal Street, Second Floor Salinas, CA 93901

SUBJECT: Comments on 2007 Monterey County General Plan Draft EIR

Dear Mr. Holm:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the 2007 Monterey County General Plan Update project (State Clearinghouse Number 2007121001/County file # PLN070525). The Monterey Peninsula Water Management District's (MPWMD or District) comments are as follows.

Specific Comments

Page 4.3-11, fourth bullet: The text indicates that MPWMD is currently evaluating the feasibility of a desalination plant in Sand City, which would take 15 million gallons per day (mgd) of saline groundwater from the coastal beachfront and produce 7.5 mgd of potable water. This text should be updated to reflect the fact that MPWMD is no longer investigating the feasibility of a desalination plant in Sand City, but is investigating the feasibility of a desalination facility in the former Fort Ord area, north of Sand City. Specifically, the District is investigating the feasibility of a feedwater system extracting water from the shallow dunes sands on Fort Ord State Park. The expected yield of a desalination facility in this location, if feasible, will be determined as part of the current investigation.

Page 4.3-11, second paragraph: The tributaries to Tularcitos Creek should be "Chupines and Rana Creeks", not Choppiness and Rana Creeks.

Page 4.3-14, third bullet: The text should be revised as suggested above. Also, in the first paragraph, the last sentence should read "In 2006, Cal-Am obtained ...", not Calm obtained.

Page 4.3-31, Table 4.3-4: For the Fort Ord "Community Area", the Seaside Groundwater Basin Watermaster should be included under the "Management Authority" heading, "WPWMD" should be "MPWMD", and Cal-Am should be included under the "Water Supplier" heading. Also, the text in the third paragraph regarding the District's current desalination investigations should be revised as suggested above.

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Carl Holm, Project Manager Monterey County Resource Management Agency - Planning Department February 12, 2009 Page 2

Page 4.3-36, first paragraph: The fourth sentence should read "Total usable storage in the Coastal Subarea of the Seaside Groundwater Basin is estimated to be approximately 7,500 acre-feet".

Page 4.3-36, second paragraph: The first sentence should read "Because of a 1995 State Water Resources Control Board Order (Order No. WR 95-10) that ruled Cal-Am did not have a legal right to roughly 70% of the surface and groundwater it was presently diverting from the Carmel River and underlying Carmel Valley Alluvial Aquifer (refer to Carmel River Conflicts) ...". The fifth sentence should read "The judgment requires a 10% decrease in operating yield for the basin every three years beginning in Water Year 2009, unless replenishment supplies are secured or groundwater levels are sufficient to prevent seawater intrusion". The last sentence should read "The watermaster adopted the Seaside Monitoring and Management Program in 2006, as directed by the court.; the Monitoring and Management Program did not implement any decreases.

Page 4.3-38, fifth paragraph: The last sentence should read "The primary water supplier in the Carmel River Basin is Cal-Am, an investor-owned public utility that provides water to approximately 40,000 connections within the MPWMD".

Page 4.3-39, fourth paragraph: The second sentence should read "As a result, Cal-Am was charged by the State Water Resources Control Board with diverting water from the Carmel River and underlying aquifer unlawfully (Order 95-10, as amended by Orders 98-04 and 2002-0002)." The third sentence should be revised to reflect the fact that Order 2001-04 was rescinded in March 2002 by Order 2002-0002 and is not in effect.

Page 4.3-40, second paragraph: The second sentence should be revised to read "The State Water Resources Control Board granted ten temporary permits to MPWMD to allow diversions of water from the Carmel River between December and May for the years 1998 through 2007. In November 2007, the State Water Resources Control Board issued a permanent permit to MPWMD and Cal-Am to allow diversions of up to 2,426 acre-feet of water from the Carmel River between December and May". The last sentence should be revised to read "Under the proposed operational plan, the maximum extraction would be approximately 1,500 AFY, leaving a portion of the injected water in the Seaside Basin available for recovery during extended dry periods".

Page 4.3-46, fourth paragraph: The third sentence should be revised to read "The order further established an interim annual production goal of no more than 11,285 AFY from Carmel River sources and directed Cal-Am to secure permits for its unauthorized water use (10,730 AFY) ...". The order recognized that Cal-Am had valid rights for its authorized diversions from the Carmel River, i.e., 3,376 AFY.

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L-12

Carl Holm, Project Manager
Monterey County Resource Management Agency - Planning Department
February 12, 2009
Page 3

Page 4.3-47, third bullet: The requirement that Cal-Am cease withdrawals of water from San Clemente Reservoir and reduce diversions from production wells in the Upper Carmel Valley during low-flow periods of the year, except during an emergency was specified in Order 2002-0002, not Order 98-04. See following paragraph in text. 11

Page 4.3-47, third paragraph: The first sentence should be revised to read "In addition, because of growing concerns regarding the sustainable yield of the Seaside Groundwater Basin and the threat of seawater intrusion, Cal-Am filed a lawsuit to adjudicate the pumping and storage rights of the various groundwater pumpers in the Seaside Basin". Cal-Am's lawsuit was not filed in response to a SWRCB Order. In addition, it should be noted that 5,600 AFY is the amount of recent basin pumping, and is not 500 AFY less than the recent pumping maximum. 12

The second sentence should be revised to read "In a final ruling on March 27, 2006, the Court directed that current pumping in the basin, i.e., 5,600 AFY, be reduced by 10% every three years unless replenishment supplies are secured. Under the ruling, Cal-Am, which is the major pumper in the basin, is responsible for approximately 92% of the reduction in pumping".

Page 4.3-65, last paragraph: The first sentence should be revised to read "The MPWMD began the process of preparing a long-term *Seaside Basin Groundwater Management Plan* following AB 3030 guidelines in March 2004. This effort was superseded by the Seaside Basin adjudication proceedings and decision that was issued in March 2006". 13

Page 4.3-130, first paragraph: In addressing the environmental impact on water resources in the Monterey Peninsula area during the 2030 planning horizon, the document proposes a general mitigation measure:

WR-1: Support a Regional Solution for the Monterey Peninsula in addition to the Coastal Water Project,

and indicates that the draft 2007 General Plan will be revised to include a new policy: 14

PS-3.16 The County will participate in the Water for Monterey County Coalition , or similar regional group, for the purpose of identifying and supporting a variety of new water supply projects, water management programs, and multiple agency agreements that will provide additional domestic water supplies for the Monterey Peninsula and Seaside basin, while continuing to protect the Salinas and Pajaro River groundwater basins from saltwater intrusion. The County's general objective, while recognizing that timeframes will be dependent upon the dynamics of the regional group, will be to complete the cooperative planning of these water supply alternatives within five years of the adoption of the general plan and to implement the selected alternatives within five years after that time.

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Carl Holm, Project Manager
Monterey County Resource Management Agency - Planning Department
February 12, 2009
Page 4

Mitigation Measure WR-1 lacks specificity and is inadequate. To be considered adequate, a mitigation measure should be a specific, feasible action that will actually improve adverse environmental conditions and should be measurable to allow monitoring of its implementation. Mitigation measures consisting only of further studies, or consultation with regulatory agencies that are not tied to a specific action should be avoided. The proposed mitigation measure should specify who is responsible for its implementation, how the measure will be implemented and when it will be implemented. 14

Section 4.9.4.3 page 52, Regulatory Framework, Local Policies and Regulations: Please include a reference to MPWMD Rule 124 concerning Carmel River Management and Regulations. This rule requires that property owners obtain a valid River Work Permit issued by MPWMD for any work within the riparian corridor, which is defined as within 25 lineal feet of the 10-year flood waterline defined by the Nolte and Associates analysis for the 1984 Flood Insurance Study for Monterey County. The following link describes MPWMD's Rules and Regulations regarding River Work Permits: http://www.mpwmd.dst.ca.us/programs/river/CARMEL_RIVER_MGT_RULES.htm. 15

Other Comments:

Control of Runoff from Developed Areas In the Water Resources section of the DEIR (Section 4.3), there is a description of the alteration of drainage patterns associated with the 2030 horizon and build out. MPWMD recommends that consideration be given to collection of runoff from developments that now discharge to open river channels. These discharges are, in effect, unnatural tributaries that cause localized destabilization of streambanks and permanent loss of riparian vegetation. Collection of this type of runoff would reduce the potential for streambank erosion and loss of riparian vegetation. 16

In addition, the Water Resources section talks about water quality being impacted by runoff associated with development. All development projects should consider using pervious pavement and other techniques to promote infiltration.

Care of Riparian Vegetation

In Carmel Valley, it is the responsibility of property owners to maintain in good condition the riparian areas of their property. With increased water use and development, irrigation and maintenance of the riparian corridor will need to continue, especially during times of drought, reduced streamflow, and lowered groundwater levels. The groundwater table in normal to dry years is annually drawn down below the root zone of riparian trees. Therefore, irrigation is necessary to maintain healthy riparian vegetation as long as this condition continues. 17

If you have any questions regarding these comments, you may contact Andy Bell, MPWMD District Engineer, at 658-5620 or andy@mpwmd.dst.ca.us.

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Carl Holm, Project Manager
Monterey County Resource Management Agency - Planning Department
February 12, 2009
Page 5

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Sincerely,



Darby Fuert
General Manager

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L-13



JOINT POWERS AGENCY MEMBERS:
City of Carmel-by-the-Sea • City of Del Rey Oaks • City of Marina • City of Monterey • City of Pacific Grove
City of Salinas • City of Seaside • County of Monterey • City of Gonzales (ex. officio)
October 24, 2008

Carl Holm
Assistant Director
County of Monterey
168 W. Alisal Street, 2nd Floor
Salinas CA 93901

Dear Mr. Holm:

Thank you for the opportunity to provide comments on the GPU draft EIR. Please amend the EIR document, Sections 4.6.2.3 and 4.6.2.8, to reflect the latest changes with MST services.

4.6.2.3 Tourism Traffic

Tourism is the county's second largest industry, and the continued expansion of the tourism industry in Monterey County will further exacerbate this source of impact. Present alternatives to the automobile are not attractive to casual weekend travelers or to long-distance tourists. Although visitors comprise a high percentage of commercial airline passengers arriving at Monterey Peninsula Airport (62 percent, according to a 1996 AMBAG study), the relatively low number of airline trips in and out of the Peninsula accounts for only a very small percentage of the annual tourist volume. Monterey-Salinas Transit's popular MST Trolley service is an example of a non-impact transportation mode specifically tailored to tourist demand. Line 22 is another bus route that is tailored to tourist demand as it serves the Big Sur coastline with a limited number of daily roundtrips year around. MST's Line 24 Carmel Valley Grapevine Express also is attractive with visitors and provides a safe alternative to driving between wine tasting venues while reducing congestion on Carmel Valley Road. 1

4.6.2.8 Public Transit Services

The Monterey-Salinas Transit (MST) system is an inter-city and intra-city bus service. MST serves a 280 square-mile area of Monterey County, Southern Santa Cruz County, and Santa Clara County. Intercity bus service is provided between Monterey-Salinas, Watsonville-Salinas, Watsonville-Marina, Monterey-San Jose, and Salinas-King City. Intra-city service is provided by in Carmel, Gonzales, Greenfield, King City, Marina, Monterey, Pacific Grove, Salinas, Seaside and Soledad. MST offers 37 routes 2

One Ryan Ranch Road • Monterey, California 93940-5795 USA • Fax 831.899.3954 • Phone 831.899.2558 or 424.7695
www.mst.org • e-mail: mst@mst.org

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that serve an estimated 352,000 people residing within three-quarters of a mile from a fixed-route bus line. Three MST bus routes connect with Santa Cruz Metropolitan Transit District buses at the Watsonville Transit Center. One MST route offers daily express service to cities in southern Santa Clara County as well as downtown San Jose and provides convenient connections to Santa Clara Valley Transportation Authority (VTA) bus and light rail transit lines. This express route serves Diridon Station in San Jose with direct connections to AMTRAK, Altamont Commuter Express (ACE), as well as CALTRAIN commuter rail service. MST's rural service is provided to Carmel Valley and to Big Sur as well as to unincorporated areas of the county such as Castroville, Prunedale and Chualar. The MST Trolley offers locals and tourists service to popular tourist destinations within the City of Monterey.

Monterey County's paratransit program, MST RIDES, provides transportation for individuals with disabilities who are unable to use MST's regular fixed route transit services. The MST RIDES program also provides RIDES Special Transportation (RIDES ST) service for persons living outside of the ADA-required service corridor (up to three-quarters mile from any MST fixed route bus line). MST RIDES serves 14 municipalities in two counties and 10 additional communities in the unincorporated area of Monterey County. Service coverage spans the Monterey Peninsula, Salinas Valley and the Watsonville Transit Center in Santa Cruz County. As of October 2008, there are 3,171 people certified as ADA Paratransit eligible within the service area. About one half of that population resides in either Monterey or Salinas. The MST RIDES ST service area includes the unincorporated areas of Prunedale, Castroville, and Aromas for North Monterey County as well as the area along River Road from State Hwy 68 to, and including, Las Palmas Ranch II. The MST RIDES ST service area extends one mile on either side of Highway 101 from Salinas to Bradley including the unincorporated communities of San Lucas and San Ardo for South Monterey County. MST RIDES ST services are provided when MST RIDES and MST's regular bus services are in operation. Table 4.6-7 lists each of MST bus route. Exhibit 4.6.3 shows MST bus routes in Monterey County.

If you have any questions regarding these changes, please do not hesitate to contact me.

Sincerely,

Michael Gallant
Planning Manager

Page 1 of 1

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Calderon, Vanessa A. x5186

From: Linda G. McIntyre [mcintyre@mosslandingharbor.dst.ca.us]
Sent: Wednesday, December 31, 2008 11:59 AM
To: ceqacommments
Subject: Water Transportation

Hi Carl – I'm not sure how critical it is to have accurate information on this one little tiny paragraph but will provide you with my info and you can decide:

Paragraph 4.6.2.11 Water Transportation. The info included in the second paragraph may apply to Monterey Harbor and may be accurate for them, but as for Moss Landing Harbor, a more accurate statement would be: "Most slip sizes are readily available with little or no waiting at Moss Landing Harbor".

Happy New Year and thanks, Carl!

- Linda G.

Linda G. McIntyre, Esq.
General Manager/Harbor Master
Moss Landing Harbor District
7881 Sandholdt Road
Moss Landing, CA 95039
Office: 831.633.5417
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01/05/2009

Students Learning For Life
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SALINAS UNION HIGH SCHOOL DISTRICT

Monterey County
Planning and Building
Inspection Administration

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L-15

Roger C. Antón, Jr.
Superintendent
superintendent@salinas.k12.ca.us

Nina Van Cleave
Administrative Assistant
nvanclave@salinas.k12.ca.us

October 28, 2008

Carl Holm
Monterey County Planning Department
168 W. Alisal St., 2nd Floor
Salinas, CA 93901

Re: Comments Regarding the "2007 Monterey County General Plan Draft Environmental Impact Report" (Sch. No. 2007121001)

Dear Mr. Holm:

This letter provides comments on behalf of Salinas Union High School District ("District") on the 2007 Monterey County General Plan Draft Environmental Impact Report (Sch. No. 2007121001) dated September 2008 ("DEIR"), prepared by ICF Jones & Stokes.

The DEIR provides an analysis of the environmental impacts of the County of Monterey's ("County") proposed updates to its general plan ("General Plan"). While the DEIR does not analyze the environmental impacts of specific development projects, it does analyze the environmental impacts of the County's general planning document, which guides and governs all future development in the County. Furthermore, according to the DEIR, the County will experience significant population growth between now and 2030 (the General Plan's planning horizon), and continued growth until the County reaches "full buildout" in 2092. The DEIR projects the Monterey County population to grow from 432,600 in 2005 to 602,731 in 2030, and the unincorporated county population to grow from 110,083 in 2005 to 135,375 in 2030 (in spite of city annexations of county property). (DEIR pp. 3-8 – 3-10.) This anticipated population increase of nearly 200,000 residents by the year 2030 will have a major impact on District facilities, and the District hopes to work closely with the County and developers to ensure that this impact is properly mitigated.

The District notes that while the DEIR does not analyze the environmental impacts of specific development projects, the General Plan does address the proposed development of up to 1,147 residential units (along with commercial development and a community center) on approximately 671 acres in the Greater Salinas area, known as "Butterfly Village," which may require school sites and/or athletic fields. (General Plan GS-1.) Furthermore, the District understands that the City of Salinas ("City") is also planning large residential developments in the near future. Thus, the population growth

1

(SR060655.DOC)

431 W. Alisal Street, Salinas, CA 93901 • P.O. Box 80800, Salinas, CA 93912
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anticipated by the DEIR is well on its way, and will need to be appropriately analyzed to ensure that the District can serve the students generated by new development.

Senate Bill 50 and CEQA

The District is concerned about language in the DEIR that states that new development is fully mitigated by developer fees paid pursuant to Senate Bill ("S.B.") 50, so that all future development has a "less than significant" impact on District facilities apparently with no further analysis needed. In particular, the District notes the following language in the DEIR:

- In 1998, the California State Legislature enacted SB 50, which made significant amendments to existing State law governing school fees. SB 50 prohibited state or local agencies from imposing school impact mitigation fees, dedications, or other requirements in excess of those provided in the statute. Government Code Section 65995(e) provides that where payment has been made to a school district in accordance with the school fee program that is considered full mitigation of any school impacts. The legislation also prohibits local agencies from denying or conditioning any project (including a general plan) based on the inadequacy of school facilities. (DEIR p. 4.11-10.)
- Impact PSU-3: Development and land use activities contemplated in the 2007 General Plan may result in the need for new or expanded school facilities. (Less-Than-Significant-Impact) (DEIR p. 4.11-19.)
- As discussed above in the regulatory section, Government Code Section 65995(h) provides that payment of development impact fees in accordance with its provisions constitutes "full and complete mitigation of the impacts" of new development. (DEIR p. 4.11-20.)
- Paying school impact fees mitigates the impact of new development on schools under Government Code Section 65995(h). Therefore, the policies of the 2007 General Plan will ensure that this impact will be less-than-significant. (DEIR p. 4.11-20.)
- Development under the 2007 General Plan will result in a less-than-significant effect on schools. Paying school impact fees, as required by state law and proposed Public Services Element policy PS-7.8, mitigates the impact of new development on schools under Government Code Section 65995(h). (DEIR p. 4.11-21.)
- Development under the 2007 General Plan will result in a less-than-significant effect on schools. Paying school impact fees, as required by state law and proposed Public Services Element policy PS-7.8, mitigates the impact of new development on schools under Government Code Section 65995(h). (DEIR p. 4.11-22.)

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The District objects to the concept that S.B. 50 removes the need for full analysis under the California Environmental Quality Act ("CEQA") of the impact of new development on school district facilities.

Environmental Impacts

S.B. 50 does not negate the County's responsibility under CEQA to analyze the environmental impacts of new development. Under CEQA, if a project "may" have a significant effect on the environment, a public agency must prepare an environmental impact report ("EIR"), giving a detailed analysis of all the effects on the environment by a proposed project. (Pub. Res. Code §§21061, 21080, & 21100.) One of the main purposes of the EIR is informational, to "provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment" (Pub. Res. Code §21061.) This includes impacts on local agencies, including school districts. (See 14 C.C.R. §15382; 14 C.C.R. Appendices G & H.) S.B. 50 does not allow the County to bypass providing this information, regardless of whether the environmental impacts are later mitigated to a level of less-than-significant. However, even though the DEIR projects a population increase of nearly 200,000 by the year 2030, an increase that will clearly have an impact on the District, the DEIR does not analyze the impact of this population increase on the District, and arguably also concludes that no analysis will be necessary in the future.

Mitigation Measures

In addition to analyzing the project's environmental impacts, CEQA requires the EIR to analyze possible mitigation measures for all significant environmental impacts. (Pub. Res. Code §21100.) Furthermore, CEQA requires the adoption of mitigation measures necessary to reduce the impact to a level of less-than-significant, unless findings are made that "specific economic, legal, social, technological, or other considerations" makes a mitigation measure "infeasible." (14 C.C.R. §15091; see also Pub. Res. Code §§21002, 21002.1 & 21081; 14 C.C.R. §§ 15021 & 15096.) Again, the purpose of this analysis is in part informational, and the infeasibility of a particular mitigation measure does not negate CEQA's requirement that the EIR provide information about the measure and why it is infeasible. (See Pub. Res. Code §21061.)

S.B. 50 does not nullify the need for this mitigation measure analysis. In fact, since developer fees are one possible mitigation measure to address the impact of overcrowding in school districts caused by new development, the EIR should specifically analyze developer fees and determine the amount necessary to mitigate the impact of school overcrowding to a level of less-than-significant. To the extent that S.B. 50 potentially precludes collecting this amount of developer fees, higher fees would be a legally infeasible mitigation measure and the EIR should then state that it is infeasible to collect the developer fees needed to fully mitigate overcrowding, and acknowledge an unmitigated impact on school districts remains. The District notes that, as a practical matter, developer fees are generally insufficient to fully mitigate overcrowding in school district facilities.

Moreover, S.B. 50 only regulates mitigation of the impact of school overcrowding. There are many other impacts of new development that are not limited by S.B. 50, and that can and should be fully mitigated. Common examples include the need to widen roads or put in other traffic controls to accommodate the increased flow of traffic (both from students and generally), safety measures to address pedestrian travel to school, and the need to add sound-proofing to offset noise increases from nearby development and resulting traffic.

The DEIR simply states that developer fees will be collected pursuant to S.B. 50. It does not analyze the amount of fees necessary to mitigate school overcrowding. It does not determine whether fees collected pursuant to S.B. 50 are sufficient to mitigate this impact. It does not analyze additional mitigation measures to address impacts other than school facility overcrowding. Furthermore, the DEIR arguably concludes that there will be no need for such analysis in the future, when specific development projects are being analyzed. This analysis is insufficient under CEQA.

Statement of Overriding Considerations

Finally, if the County determines that significant impacts remain even after the imposition of all feasible mitigation measures, such as developer fees under S.B. 50, the County must adopt an applicable statement of overriding consideration. (Pub. Res. Code §§ 21002, 21002.1 & 21081; 14 C.C.R. §§ 15021(a)(2), 15091(a) & 15096(g); see *Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30.) Thus, the County would have to acknowledge and adopt public findings that, for example, the escalation of timing of the development in question outweighs the public's need for adequate school facilities.

The DEIR

The District requests that the County revise the DEIR so that it analyzes the various environmental impacts of new development on the District and determines their level of significance, analyzes potential mitigation measures, and either adopts mitigation measures sufficient to reduce the impacts to a level of less-than-significant or adopts a statement of overriding considerations. If the County is unable to provide detailed analyses of new development at the General Plan level, the DEIR should at least state that such analysis must be provided when environmental analyses are performed for specific projects. Furthermore, any discussion of S.B. 50 in the DEIR should clarify that the bill addresses only adequacy of facilities to accommodate new students, and not other impacts that may directly or indirectly impact schools and the populations they serve.

Alternate Measures to Mitigate Impact of New Development on the District

The District notes that S.B. 50 does not preclude the County from requiring mitigation from developers in addition to developer fees. In fact, the County can assist the District to address the impact of new development in several ways.

Land Dedication

One legally available mitigation measure would be for the County to consider adopting findings requiring any developer building residential units to dedicate land and/or funding pursuant to Government Code sections 65970 et seq. (all subsequent code sections refer to the Government Code unless otherwise specified), which permit the County to require a developer to dedicate land to a school district. Section 65974 specifically states that "for the purpose of establishing an interim method of providing classroom facilities where overcrowded conditions exist, . . . a city, county, or city and county may, by ordinance, require the dedication of land, or the payment of fees in lieu thereof, or a combination of both, for classroom and related facilities for elementary or high schools as a condition to the approval of a residential development."

A land dedication requirement would be good public planning benefiting all residents of the community, including future residents of new development. As development occurs, land suitable for new school sites grows scarcer. Under sections 65352 and 65352.2, the County has a duty to help plan for adequate services to their residents by ensuring that future sites are set aside for schools. Failure to do so leads to inadequate services, future controversies, and the potential need for a school district to exercise its rights under eminent domain to displace existing residents.

Land dedication under sections 65970, et seq., remains a permissible mitigation measure under sections 65995, et seq., which are cited by the DEIR. Section 65995, subdivision (a), specifically states that "[e]xcept for a fee, charge, dedication, or other requirement authorized under Section 17620 of the Education Code, or pursuant to Chapter 4.7 (commencing with Section 65970), a fee, charge, dedication or other requirement for the construction or reconstruction of school facilities may not be levied . . ." Section 65995 expressly excludes Chapter 4.7, inclusive of section 65974, from this limitation, thus permitting a county to address conditions of overcrowding in school facilities or inadequately sized school sites by requiring, for example, the dedication of land.

Phasing

Another method by which the County can work cooperatively with the District within all legal constraints to ensure adequate school facilities with regard to new development is by requiring development to be phased and not permitted prior to availability of school facilities. Timing development so as to balance the availability of school facilities with new development can significantly aid the District in its attempt to provide for the additional students generated by new development. At the same time, it is not a denial of development.

Cooperative Use

The County and the District can also work together to ensure adequate school facilities to serve the residential units contemplated by new development by entering into a partnership to jointly use school and park land for recreation and educational purposes. It

is desirable for both public entities to have land set aside for both school and park use so that a single joint use facility of ten or more acres would be available to both the District and residents within new development.

Coordination with District to Mitigate Impact of New Development

The District also is concerned that the DEIR and the General Plan do not clarify the need for the County to coordinate planning of new development with the District. While the language regarding the need to reserve school sites "in consultation with the affected districts" in the General Plan policy PS-7.1 is helpful, sections 65352 and 65352.2 require local cities and counties to coordinate planning of school facilities with school districts. The Legislature also confirmed that the parties are meant to coordinate "[o]ptions for the siting of new schools and whether or not the local city or counties existing land use element appropriately reflects the demand for public school facilities, and ensures that new planned development reserves location for public schools in the most appropriate locations."

The Legislature recognized that new planned development should take into consideration and even "reserve" where schools would be located to serve the development because schools are as integral a part of planning for new development as is any other public service, such as fire, police, water and sewer. The intent behind sections 65350, et seq., supports the District's position that the County must analyze whether the current size of District schools is adequate to accommodate both its existing population and new development, particularly in light of cumulative impacts.

Specific Development Projects

The District requests that the County contact the District as early as possible in the planning process for specific new development projects. This will allow the District to take the projects into account in its facilities plans. It will also allow the District to give the County input regarding appropriate information to be included in project's environmental analyses, in order to fully analyze the project's impact on District facilities. Including such information in the project's environmental analysis will greatly facilitate the District's interaction with developers and will enable the District to better work with the County to ensure that the children residing in the area have appropriate educational facilities that may safely be accessed.

The District is prepared to provide the information necessary to assist the County in its preparation of specific environmental analyses for future development projects. For your information, we have attached the District's most recent "School Facilities Needs Analysis and Justification Report," the District's "School Facility Master Plan," and the District's demographic analysis and forecasts as examples of the type of documents that the District can provide to assist the County in its environmental analyses. District staff would be happy to provide the County with updated documents as necessary, and also provide any additional information needed for the County to fully and adequately analyze the impact of new development on the District.

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We note that we are aware of other cities and counties that have sometimes taken the position that S.B. 50 precludes either or both analysis of school impacts in an environmental analysis and mitigation of those impacts. Our attorneys, the law firm of Lozano Smith, have had success in meeting with local agencies and their attorneys to address these issues. This has helped to educate public agencies on what they can still do to address and assist public schools, and has allowed for correction of misinformation regarding the effects of S.B. 50. Correcting such misinformation assists cities and counties in ensuring that they are still meeting their CEQA obligations. Materials prepared by our attorneys on this subject are attached.

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Thank you for this opportunity to provide comments regarding the DEIR. The District looks forward to working with the County to ensure that the District's needs are met and that development in the County will be served by adequate and appropriate educational facilities. Please feel free to contact me if you have any questions.

Sincerely,



Karen L. Luna
Manager of Planning and Facilities

TM/kl

Enclosures:

School Impact Fees – Options Under S.B. 50
Salinas Union High School District School Facility Master Plan w/ Demographic
Analysis and Forecasts for Salinas Union High School District
School Facilities Needs Analysis and Justification Report for the Salinas Union
High School District

cc: Thomas Manniello, Lozano Smith
Jim Earhart – Associate Supt. – CBO w/o enclosures

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**School Impact Fees –
Options under S.B. 50**

February 2008

The following summary outlines options concerning mitigating the impact of new development on school facilities in the era of Senate Bill 50 ("S.B. 50"), which became effective in 1998. The summary provided here is necessarily general, and does not constitute legal advice; legal counsel should be consulted regarding these options.

Developer Fees Under S.B. 50

Prior to S.B. 50, a series of appellate court decisions allowed cities and counties to use their legislative "police power" over land use to assist school districts by requiring developer fees, land dedications, or other measures to mitigate fully the impacts of development on school facilities, even if the mitigation measures exceeded the then-applicable statutory school impact fee. (*Mira Development Corp. v. City of San Diego* (1988) 205 Cal.App.3d 1201; *William S. Hart Union High School v. Regional Planning Commission* (1991) 226 Cal.App.3d 1612; *Murrieta Valley Unified School District v. County of Riverside* (1991) 228 Cal.App.3d 1212.) Central to this line of cases was the duty of cities and counties to assess and mitigate the environmental effects of development under the California Environmental Quality Act ("CEQA") (Pub. Res. Code §§ 21000, *et seq.*), including the impacts on schools.

S.B. 50 now provides for three levels of statutory fees. The first is the existing statutory fee, which we refer to as a "Level 1" fee. (Gov. Code § 65995.) That fee is adjusted for inflation every two years by the State Allocation Board ("SAB"). The most recent increase was a substantial one, with the SAB approving an increase from \$2.63 to \$2.97 per square foot of residential development for unified districts in January of 2008. For a school district to implement the increase, it must take its own separate action, based on a developer fee justification study establishing a "nexus" between the impact of new development and the fee. (Gov. Code § 66001. See also *Warmington Old Town Assocs. v. Tustin Unified School District* (2002) 101 Cal.App.4th 840.)

S.B. 50 also established a basis for additional fees if certain criteria are met. The second, or "Level 2" fee – referred to in the legislation as a "supplemental" fee – is the equivalent of the statutory fee plus an additional amount that, when taken together, are assumed under state standards to equal roughly 50% of a district's actual facilities needs. (Gov. Code § 65995.5.) The final "Level 3" fee, which is roughly 100% of a district's need as established under the state standards, can be imposed only if state funds are no longer available. (Gov. Code § 65995.7.) The Level 2 and Level 3 fees must be justified by a "school facilities needs analysis" ("SFNA") that, unlike a Level 1 justification study, must utilize specific state criteria.

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As a tradeoff for the higher Level 2 and 3 fees, the Legislature in S.B. 50 also restricted the ability to impose still higher fees, under CEQA or otherwise. The law states that the payment of the development fees authorized by S.B. 50 constitutes "full and complete mitigation" of the impacts of any legislative or adjudicative act involving the planning, use, or development of real property "on the provision of adequate school facilities." (Gov. Code § 65995, subd. (h) (emphasis added).) The Code further provides that an agency is precluded from denying or refusing to approve a legislative or adjudicative act involving development "on the basis of a person's refusal to provide school facilities mitigation that exceeds the amounts authorized [by S.B. 50]." (Gov. Code § 65995, subd. (i).)

This tradeoff has caused impacted school districts that do not qualify for Level 2 fees to seek additional avenues for addressing the impacts of new development on schools. Similarly, some districts find that even if they are eligible for Level 2 fees, the required state formula results in a fee lower than the district's actual need.

Additional Options Available to School Districts

In addition to adopting the maximum justifiable Level 1 fee, there remain a number of options to seek additional means of addressing a school district's needs.

1. S.B. 50 Level 2 Fees

The first option is to seek Level 2 fees under S.B. 50. Our firm has published a handbook that includes detailed information, procedures, time lines, checklists, and forms to assist school districts in enacting both Level 1 and Level 2 developer fees, which can be ordered at <http://www.lozanosmith.com/briefs/pdf/other/DFHOrderForm.pdf>.

The remaining options described below are applicable primarily to districts that determine that they are not eligible for Level 2 fees, or whose Level 2 fees will be insufficient to address the impact of development upon school facilities.

2. Hardship Funds

If the District is heavily impacted, experiences unusual circumstances beyond its control, or faces extreme financial hardship, it may qualify for state hardship funding. (Ed. Code § 17075.10.) If the District meets all of the state's qualifying criteria (which include making all reasonable efforts to impose the maximum developer fees), it may be able to obtain additional state funding for new construction or modernization. However, due to the nature of the state's complex formula for hardship funding, eligibility is not a given, even when a district appears clearly to have needs justifying the funding.

3. Rely on The Possibility of Denying Development

As noted above, S.B. 50 states that no development project may be denied on the basis of inadequate school facilities. (Gov. Code §§ 65995, subd. (i) & 65996, subd. (b).) However, cities and counties maintain a general police power to approve or disapprove whatever

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development they feel is appropriate for their jurisdiction. While they may be limited in the ability to single out schools and inform a developer that his or her project is being denied on the basis of inadequate school availability or lack of adequate mitigation, cities and counties can still conclude that a project does not contribute overall to the well-being of the city, or that the developer had not shown sufficient commitment to the community, and on that basis consider denying the project.

Working with a cooperative city or county, a school district may thus be able to bring developers to the table to negotiate additional school mitigation, such as participation in a Mello-Roos Community Facilities District. As expressed in Government Code section 65995, subdivision (g)(2), a developer may still "voluntarily elect[] to establish, or annex into, a community facilities district . . ." Another option of how to address school issues is in a development agreement between the city or county and the developer.

Some cities and counties may provide support to schools in a tacit fashion, while other cities and counties may be more overt about their continued desire to support schools. Several years ago, the City of Livermore responded to arguments by developers that S.B. 50 precluded the City from imposing any extra-statutory school mitigation obligations by threatening a complete moratorium on new development. Such a moratorium would simply be a blanket halt of new construction, rather than a denial of particular developments on the basis of inadequate school facilities. Confronted with this threat, the developers agreed to continue mitigating school impacts as they had before the passage of S.B. 50. Generally, a moratorium comes through a voter referendum, but under Government Code section 65858, a city or county can also adopt an interim ordinance to prohibit uses in conflict with a contemplated general plan, specific plan or Zoning proposal if the approval of a development would result in a threat to the public welfare. This allows a city or county to delay development approvals while it studies the school issues, for a period that can extend up to almost two years.

In the City of Pleasanton, developers, based in large part on the support of the City for schools, have agreed to continue the extra-statutory payments that they had been making prior to S.B. 50's passage (see discussion below of voluntary mitigation agreements). As a result, the District continues to receive fees in the \$8.00 range, despite otherwise being ineligible for Level 2 fees.

As another example, San Ramon Unified School District worked with both of its local cities to establish agreements with developers for multiple developer-built schools. While the District's Level 2 fee is in the range of \$4.00 per square foot, the District estimates that the agreements reached carry a value in the \$8.00 per square foot range.

4. Phasing of Development

It is an open question under S.B. 50 whether a city or county can phase development to limit the impact of new construction on schools. It is not atypical for a city or county to phase development so that the next phase can proceed only if there are adequate utilities and infrastructure available. This is an avenue worth exploring, as developers often depend on bringing a relatively large percentage of their units on line at one time, so that the start-up costs of a project can quickly be covered. Confronted with delays, a developer may be willing to

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compromise so as to adequately resolve the school issue.

Many of the same considerations regarding limitations on denial of a project under S.B. 50 apply to phasing. The argument in favor of phasing, however, may be stronger, since the "denial" of projects based on inadequate school facilities is explicitly prohibited, while the legislation is silent regarding limitations on phasing. As a result, we contend that phasing is still allowed by S.B. 50.

5. Seek Revision of City/County Mitigation Program

One option is to revise the local government's mitigation program, whether through revisions to the General Plan or through changes to the school district's procedures under that plan. Some cities and counties have a system where the local government will only approve a certain amount of development within a specified time frame, largely in order to avoid uncontrolled growth. For example, a city may have a program in which development applications are approved based on a point system. For each commitment that the developer makes to the community – such as building parks, paying for sewer extensions, or funding schools – the developer's point total is increased. This is a way of rewarding the developers who make the greatest contribution to the community. Such a program might still be defensible on the basis that the developer's project is not being directly denied on the basis of inadequate school facilities.

6. Impose Conditions on Development Related to Issues Other Than School Overcrowding

While school districts have long focused on the need to mitigate the impact of new development because of resulting school overcrowding, there are also other impacts of new development that can and should be mitigated. S.B. 50 does not "limit or prohibit the ability of a local agency to mitigate the impact of land use approvals other than on the need for school facilities, as defined in this section." (Gov. Code § 65996, subd. (e); see also Gov. Code § 65998, subd. (b) (repeating similar language).) "School facilities," in turn, are defined as "any school-related consideration relating to a school district's ability to accommodate enrollment." (Gov. Code § 65996, subdivision (e) (emphasis added).)

There are numerous costly impacts associated with growth that do not directly relate to the ability to accommodate new students. Common examples include the need to widen roads or put in other traffic controls to accommodate increased traffic (both from students and generally), safety measures to address pedestrian travel to school, and the need to add sound-proofing to offset noise increases from nearby development and resulting traffic. To the extent that a school district can demonstrate that it confronts these or similar impacts that are unrelated to enrollment, the district can continue to seek conditions on the approval of development under CEQA that will mitigate the impact of such expenses. These conditions can also be used as a device to open negotiations for an agreed upon mitigation arrangement. For example, school districts represented by our firm successfully sued the City of Merced to overturn an environmental impact report for procedural errors, as opposed to issues relating to school overcrowding, in a successful effort to bring the City and developers back to the table to discuss school issues.

7. Maintain that School Facilities Are Not Available

The Government Code includes a process whereby a school district can find that conditions of overcrowding exist in "one or more attendance areas" that will impair educational programs. (Gov. Code § 65971, subd. (a)(1).) Note that this provision does not require that the entire district be overcrowded. A school district's board can further find that no reasonable, sufficient methods of mitigation are available. (Gov. Code § 65971, subd. (a)(2).) At that point, the local city or county can determine that fees or other obligations in addition to the statutory fees are appropriate in certain limited circumstances. (Gov. Code §§ 65972 & 65974.) S.B. 50 explicitly affirms that this remains a valid method of mitigation. (Gov. Code § 65996, subd. (a) ("the following provisions shall be the exclusive methods of considering and mitigating impacts on school facilities . . . (1) Section 17620 of the Education Code [developer fees]. (2) Chapter 4.7 (commencing with Section 65970) [of the Government Code]".)) We note, however, that these provisions are intended to fund only "interim" facilities which would be removed after 5 years. (Gov. Code § 65974, subd. (a)(3), (a)(4).)

8. Decline to Approve "Will-Serve" or Similar Letters

Many cities and counties ask that school districts provide "will-serve" letters or similar assurances that their facilities are adequate to accommodate new growth. In some cases, districts have refused to issue such a letter, potentially stopping the development project even while not "denying" the project based on inadequate school facilities.

There are also other opportunities for a school district to spell out that it has inadequate facilities. For example, real estate agents proposing to sell property through a subdivision must obtain a statement from the local school district indicating the "location of each high school, junior high school, and elementary school serving the subdivision." (Bus. & Prof. Code § 11010, subd. (11).) A school district could argue that there is no school available to "serve" a particular subdivision. This could help bring developers' representatives to the bargaining table to address school availability.

9. Referendum Process

There has been a movement statewide, primarily used by environmentalists and anti-growth groups, to use the referendum process to overturn decisions by cities and counties to approve development. Under this process, if a sufficient number of persons sign a petition, a development approval can be put to a general election. School districts and their supporters have not often attempted to utilize this process, but this may be an option that is worthy of exploration in light of the limitations of S.B. 50. Thus, while a city or county may be limited in its ability to deny development on the basis of inadequate school facilities, voters may be able to accomplish the same result.

10. Challenge The Validity of S.B. 50

One more severe option is to make a direct legal challenge to S.B. 50. Some have suggested that to the extent it can be shown that S.B. 50 does not provide for adequate school facilities, any

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provision capping fees violates the California Constitution and potentially other applicable law. One specific theory, which has been explored by the League of Cities, is whether S.B. 50, to the extent that it does not provide adequate mitigation, can legally be allowed to preempt local mitigation requirements, as it unconstitutionally infringes on a city's police powers. This approach yet may eventually succeed through litigation and the cooperation of a sympathetic city or county.

11. Seek Voluntary Mitigation Agreements/Gifts

Another option that remains open is to seek voluntary participation in a Mello-Roos or payment of additional fees under a negotiated agreement. S.B. 50 specifically leaves the option of Mello-Roos arrangements in place, so long as the developer is not being "required" to participate as a condition of project approval. (Gov. Code § 65995, subd. (f).)

S.B. 50 is silent as to whether a voluntary agreement not involving a Mello-Roos is appropriate. We maintain that such agreements can be undertaken, but there are risks involved whether the voluntary agreement involves a Mello-Roos or otherwise. In particular, there can be a potentially negative effect on the District's future qualification for state funds. We have developed various agreements that provide for a gift of funds that may help avoid the gift being tied into any future state facilities financing. At the same time, there may be tax advantages to the developer. Pleasanton Unified, Alameda Unified, Byron Union, and Huntington Beach Union High School Districts are among just a few of our clients currently utilizing this approach. We note that we continue to negotiate school impact agreements statewide despite the limitations of S.B. 50.

12. Land Dedication under the Subdivision Map Act

The Subdivision Map Act states that "a city or county may adopt an ordinance requiring any [developer who develops in a school district] to dedicate to the school district . . . such land as the local legislative body shall deem to be necessary for the purpose of constructing thereon such elementary schools as are necessary to assure the residents of the subdivision adequate public school service." (Gov. Code § 66478; emphasis added.) Thus, the Subdivision Map Act allows a city or county to require land dedication for an elementary school in order to help a school district address the educational needs of the children from a new development. Nothing in S.B. 50 expressly prohibits continued reliance on the Subdivision Map Act.

13. Additional CEQA Considerations

Despite the passage of S.B. 50, there has remained controversy regarding how an environmental impact report or other environmental analysis conducted under CEQA should treat school impacts. While S.B. 50 clarifies that a project may not be denied on the basis of inadequate school facilities, the legislation does not appear to relieve a city or county from analyzing schools and concluding that there are significant impacts. Furthermore, the environmental analysis may have to recognize that there are impacts that remain unmitigated based on the available data. While a city or county could then adopt a statement of overriding consideration, finding that the merits of the project outweigh the unmitigated impacts, this is tantamount to a

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city or county having to declare that a housing development is more important to its constituents than adequate schools.

Developers and local governments may argue that they no longer need to address school impacts in any detail or at all in CEQA analysis. We maintain that S.B. 50 has not changed CEQA requirements in this fashion. When cities and counties have analyzed this issue in more detail, they have often agreed with our conclusion. For example, legal counsel for the City of Gilroy conceded that the city should "carefully review and consider all information provided... as to the adequacy of school fees," and should include such information in its environmental documents, despite the terms of S.B. 50 regarding adequate mitigation.

For assistance regarding developer fees and other forms of addressing impacts on schools from new development, please feel free to contact any of Lozano Smith's offices.

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**SCHOOL FACILITY NEEDS ANALYSIS
AND JUSTIFICATION REPORT**
for the
SALINAS UNION HIGH SCHOOL DISTRICT
July 2008

Prepared by
School Facility Consultants

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**SCHOOL FACILITY NEEDS ANALYSIS
AND JUSTIFICATION REPORT**
for the
SALINAS UNION HIGH SCHOOL DISTRICT
July 2008

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Executive Summary

Pursuant to Government Code Section 65995.5, the Salinas Union High School District is authorized to collect Level II fees in the amount of \$2.17 per square foot of residential development located in the District’s 7-12 and 9-12 service areas. In addition, pursuant to Government Code Section 65995.7, when applicable, the District is authorized to collect Level III fees in the amount of \$4.34 per square foot of residential development located within the District’s 7-12 and 9-12 service areas.

The District meets the eligibility requirements in Government Code Section 65995.5(b) regarding the collection of Level II and III fees. The dollar amounts of the fees are based on the following facts and projections:

1. The student generation rates of residential housing units projected to be built in the District, calculated in accordance with Government Code Section 65995.6(a), are 0.347 for single-family units and 0.074 for multi-family units in the District’s 7-12 service area and 0.234 for single-family units and 0.055 for multi-family units in the District’s 9-12 service area.
2. The number of new residential housing units projected to be built in the District over the next five years is 782 single-family and 505 multi-family units, based on information provided by the City of Salinas and the County of Monterey.
3. Multiplying the appropriate terms in (1) and (2) shows that future residential development is projected to add 309 students.
4. The District has zero excess pupil capacity at the 9-12 grade levels available for students generated by future residential development and 374 seats of excess pupil capacity at the 7-8 grade levels.
5. The total number of unhoused pupils generated by future development equals 211 pupils in grades 7-12.
6. The per-pupil allowable costs for the Level II fee equation equal \$15,721.00 and \$19,892.00 for middle and high school students, respectively. These figures are equal to the per-pupil construction grant amounts in the State School Facility Program plus allowable per-pupil site acquisition and development costs calculated pursuant to Government Code Section 65995.5(c) and 65995.6(i).
7. Total allowable costs for the Level II/III fee equation equals \$4,197,212.00 (the District’s 9-12 facility cost) for both the District’s 7-12 and 9-12 service areas, as the District currently has capacity available to meet the 7-8 new development facility needs quantified in this Report.
8. The total amount of residential square footage projected to be built in the District over the next five years is 1,933,575 square feet for single- and multi-family units, based on an average square footage of 1,945 square feet and 817 square feet for single-family and multi-family units projected to be built in the District, respectively.
9. The District currently has capacity available to meet the 7-8 new development facility needs quantified in this Report. The District does not have local funds available to meet the school facilities needs of 9-12 pupils necessitated by future residential development.

As shown in the body of this Report, the District meets the requirements of Government Code Section 66001 regarding the collection of developer fees (the “reasonable relationship” or “nexus” requirements).

End of Summary

Introduction

The purpose of this Report is to calculate the fee amount that the Salinas Union High School District is authorized to collect on residential development projects pursuant to Government Code Sections 65995.5 and 65995.7. *School Facility Consultants* has been retained by the District to conduct the analysis and prepare this Report.

State law gives school districts the authority to charge fees on new residential developments, if those developments generate additional students and cause a need for additional school facilities. All districts with a demonstrated need may collect fees pursuant to Government Code Section 65995 (Level I fees). Level I fees are currently capped at \$2.97 per square foot of new residential development for grades K-12; this cap is adjusted bi-annually by the State Allocation Board, with the next adjustment scheduled for January 2010. The District currently shares developer fee revenue with feeder districts in its 7-12 and 9-12 service areas. The District receives 46.15 percent of fee revenue in its 7-12 service area, and 30.77 percent of fee revenue in its 9-12 service area. As a result, the District would be entitled to a Level I fee of \$1.37 per square foot of residential development in its 7-12 service area and \$0.91 per square foot of residential development in its 9-12 service area. Government Code Sections 65995.5 and 65995.7 authorize districts to collect fees in excess of Level I fees, provided that the districts meet certain conditions (Level II and Level III fees). Government Code Section 66001 requires that a reasonable relationship exist between the amount and use of developer fees and the developments on which they are to be charged.

The Salinas Union High School District provides seventh through twelfth grade education for the territory of the District served by the Salinas City Elementary and Alisal Union Elementary School Districts (the District's 7-12 service area). The District provides ninth through twelfth grade education only for the territory of the District served by the Graves Elementary, Lagunita Elementary, Santa Rita Union Elementary, Spreckels Union Elementary and Washington Union Elementary School Districts (the District's 9-12 service area). As a result, this Report calculates separate single- and multi-family Level II and Level III fees for both the District's 7-12 and 9-12 service areas as described above.

This Report is divided into three sections. The first summarizes the specific requirements in State law regarding Level II and Level III fees and establishes the District's authority to collect them. The second calculates the dollar amounts of Level II and Level III fees that the District is authorized to collect. The third explains how the District satisfies the requirements of Government Code Section 66001 with respect to Level II and III fees, summarizes other potential funding sources for school facilities and presents recommendations regarding the collection of developer fees.

End of Section

I. Authority to Collect Level II and Level III Fees

State law establishes several requirements in order for school districts to collect Level II fees. Specifically, districts must: (1) apply to the State Allocation Board and be deemed eligible for State funding for new school construction, (2) adopt a school facility needs analysis and (3) satisfy at least two of the four criteria set forth in Government Code section 65995.5(b)(3)(A-D).

The requirements for collecting Level III fees are the same as Level II fees. Before districts can collect Level III fees, however, the State Allocation Board must certify that it has no funds available to apportion to districts for construction of new school facilities.

The District has satisfied the three criteria for Level II fees as described below. If the State Allocation Board certifies that it has no funds available for apportionment, then the District will have satisfied the criteria for Level III fees as well.

A. Eligibility for State Funding for New Construction

The District has been deemed eligible to receive State funding for construction of new school facilities as outlined in Government Code Section 65995.5(b)(1). The District's most recent eligibility approval was at the July 25, 2007, meeting of the State Allocation Board (see Appendix A).

B. Adoption of School Facility Needs Analysis

This Report meets the requirements of Government Code Section 65995.6 for a school facility needs analysis, that is, a study that shall "determine the need for new school facilities for unhoused pupils that are attributable to projected enrollment growth from the development of new residential units over the next five years." By adopting this study, the District will satisfy this requirement.

C. Criteria in Government Code Section 65995.5(b)(3)(A-D)

The District meets the criterion outlined in 65995.5(b)(3)(C)(ii), that is, the District has issued debt or incurred allocations for capital outlay in an amount equivalent to 30 percent of the District's local bonding capacity. The District has issued debt equal to 39.4 percent of the District's bonding capacity (Outstanding general obligation bond debt of \$74,253,610 divided by the District's 2007/08 Bonding Capacity of \$188,430,258 equals 39.4 percent).

The District also meets the criterion outlined in 65995.5(b)(3)(D), that is, that at least 20 percent of the teaching stations within the District are relocatable classrooms. According to the District's current Office of Public School Construction Form SAB 50-02, 36.5 percent (168 out of 460) of the total teaching stations in the District are in relocatable classrooms. The District has also added capacity through the construction of (1) La Paz Middle School (37 permanent teaching stations), (2) an addition at Alisal High School (14 permanent teaching stations), (3) an addition at North Salinas High School (14 permanent teaching stations), (4) an addition at Harden Middle School (9 permanent teaching stations) and (5) an addition at Alvarez (Everett) High School (22 permanent

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teaching stations). Including these projects in the District's capacity indicates that 30.2 percent (168 out of 556) of the total teaching stations in the District are relocatable classrooms.

End of Section

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II. Amount of Level II and Level III Fees

State law outlines the method by which Level II fees are calculated. The intent of the law is that the Level II fee represents half the cost, as defined in the State School Facility Program, of providing new school facilities. The methods defined in State law for calculating the Level II fee, however, underestimate the District's true cost of providing school facilities.

The Level II fee is calculated by (1) determining the allowable cost for new school facilities as outlined in the State School Facility Program, and (2) dividing that cost by the amount of new residential square footage projected to be built in the District over the next five years.

A. Allowable Cost for New School Facilities

State law prescribes the following process for calculating the allowable cost for new school facilities:

- (1) determine the number of unhoused students attributable to future residential development;
- (2) multiply the number of unhoused students by the per-pupil construction costs of new elementary, middle or high schools as outlined in Education Code section 17072.10;
- (3) determine the amount of site acquisition and development costs to be included as allowed by Government Code Section 65995.5(h); and
- (4) subtract the amount of local funds dedicated to school facilities necessitated by future residential development from the sum of (2) and (3).

(1) Number of Unhoused Students

The number of unhoused students generated by future development in the next five years equals the total number of students generated by future development minus the District's existing excess pupil capacity.

As required by Government Code Section 65995.6(a), the student generation rate used to calculate the Level II fee is based on the historical generation rates of residential units constructed during the previous five years.

This Report estimates the number of students that will be generated by a new single- and multi-family housing unit by (1) counting the number of students in the District who live in housing units that paid developer fees between March 2003 and February 2008, and (2) dividing that number by the total number of housing units that paid developer fees over the same time period (see Appendix D). This Report uses historical developer fee collection data from the Salinas Union High School District to derive the housing counts and a District-provided March 2008 student list to derive the student counts.

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Addresses for units that paid developer fees from March 2008 to the present date are not used in the calculation because (1) student address files may not reflect residents' address changes for up to one year, (2) students who have moved from a nearby district may continue to attend their previous school until the end of the school year and (3) units listed may not have been completed and occupied by the time the student address list was compiled.

The student generation rates for the 7-8 grade group are based on developer fee records only for those housing units located in the District's 7-12 service area (Salinas City Elementary School District and Alisal Union Elementary School District), as homes outside this area do not generate 7-8 grade pupils that attend the Salinas Union High School District.

Table 1-1 summarizes the student generation rates for single-family and multi-family units.

**Table 1-1
Student Generation Rates**

Grade Group	Single-Family	Multi-Family
7-8	0.113	0.019
9-12	0.234	0.055

Based on information provided by the City of Salinas Development and Permit Services Department and Department of Development and Engineering Services, the Housing Department and Department of Development and Engineering Services, the Housing Authority of the County of Monterey and the Monterey County Environmental Resource Policy – Housing and Redevelopment Office and the Monterey County Planning & Building Inspection Department, this Report estimates the District's projected residential development to be 782 single-family and 505 multi-family units over the next five years. These totals do not include new units projected to be built in developments bound by alternative mitigation agreements with the District as these developments will not be subject to the developer fees quantified in this Report (i.e., the Sconberg Ranch development project).

Table 1-2 shows the total number of students projected to enter the District from housing units built over the next five years.

**Table 1-2
Students Generated by Future Development**

	7-8 Students	9-12 Students
Single-Family	0.113 x 782 = 88	0.234 x 782 = 183
Multi-Family	0.019 x 505 = 10	0.055 x 505 = 28
Total Students	98	211

In determining how many of the students in Table 1-2 are unhouse, the District must consider any existing excess capacity. State law requires districts to calculate their

total pupil capacity according to the method described in Section 17071.10 of the Education Code. As stated on the District's current Office of Public School Construction Form SAB 50-02, the District's pupil capacity as calculated pursuant to Education Code Section 17071.10 is 3,252 in grades 7-8 and 6,211 in grades 9-12. These capacities are inclusive of the Special Day Class capacity identified on the District's Office of Public School Construction Form SAB 50-02, and do not reflect a Substantial Enrollment Requirement adjustment, as the District is not required to reflect a SER adjustment pursuant to School Facility Program Regulation Section 1859.35.

In addition to the capacity reflected on the District's Office of Public School construction Form SAB 50-02, the District has also added capacity through the State School Facility Program funding and the construction of (1) La Paz Middle School (879 7-8 seats), (2) an addition at Alisal High School (345 9-12 seats), (3) an addition at North Salinas High School (339 9-12 seats), (4) an addition at Harden Middle School (254 7-8 seats) and (5) an addition at Alvarez (Everett) High School (538 9-12 seats).

As outlined in Table 1-3 the District's total existing capacity is 4,385 students in grades 7-8 and 7,433 students in grades 9-12.

At the 7-8 grade group, the District has 374 seats of existing excess capacity (7-8 capacity of 4,385 minus 2007/08 7-8 enrollment of 4,011 equals 374 available seats, see Table 1-3). As a result, none of the 98 7-8 students listed in Table 1-2 are defined as unhouse.

At the 9-12 grade group, the District's current enrollment as reported in its October 2007 CBEDS information is greater than the 9-12 pupil capacity listed above: 9,561 students are enrolled in grades 9-12. Therefore, all 9-12 students listed in Table 1-2 are defined as unhouse.

**Table 1-3
Existing Capacity**

Grade Group	Capacity	2007/08 Enrollment	Existing Capacity Available for Students from Future Development	Unhouse Students From Future Residential Development
7-8	4,385	4,011	374	0
9-12	7,433	9,561	0	211

(2) Allowable Grant Costs

Table 1-4 shows the total allowable grant costs for new facilities necessitated by pupils generated from future single- and multi-family residential development. The per-pupil grant costs are taken from Education Code section 17072.10 and include

adjustments as required by Labor Code Section 1771.7(e) and Education Code Section 17074.56(a) (see Appendix B for details regarding grant cost calculations).

**Table 1-4
Allowable Grant Costs for Pupils Generated from
Future Residential Development**

Grade Group	Per-pupil Grant Cost	Number of Unhoused Students	Total Grant Cost
7-8	\$9,597.00	0	\$0.00
9-12	\$12,169.50	211	\$2,567,764.50

The per-pupil grant does not include the cost of school development items that the local community may deem important to meeting the quality of facilities in the District (i.e., administration, project management, contingencies, etc.). Because the per-pupil grants do not address certain costs, the actual funding will likely not be adequate to fund school facilities to the quality and level required by the District. Therefore, the final calculation of Level II fees will likely understate the funding actually required by the District.

(3) Allowable Site Acquisition and Development Costs

Table 1-5 shows the per-pupil site acquisition and development costs for middle and high school students. The site sizes for new middle school and high school projects are consistent with the guidelines in the "School Site Analysis and Development Handbook" published by the California State Department of Education.

Site acquisition costs for the District's new middle school and new high school projects equal \$364,000 per acre, based on (1) a land purchase that the District completed in January 2007 for the price of \$350,000 per acre, (2) an increase of four percent pursuant to Section 1859.74 of Title 2 of the California Code of Regulations for appraisals, surveys, site testing, California Department of Education review/approval, preparation of the POESA and PEA. Estimated site development costs are consistent with the guidelines in Government Code Section 65995.5(h) (see Appendix C for details regarding site acquisition and development cost estimates).

**Table 1-5
Calculation of Per-pupil Site Acquisition and Development Costs**

Grade Group	Per-pupil Site Acquisition Costs*	Per-pupil Site Development Costs	Total Per-pupil Site Acquisition and Site Development Costs
7-8	\$7,972	\$4,276	\$12,248
9-12	\$9,457	\$5,988	\$15,445

*based on District new middle school capacity of 1,000 students and new high school capacity of 1,500 students.

Pursuant to Government Code Sections 65995.5(c) and 65995.5(h), the allowable cost for site acquisition and development is calculated by (1) multiplying the per-pupil cost by one-half and (2) multiplying that result by the number of unhoused elementary, middle and high school students. Table 1-6 shows the total allowable site acquisition and development costs for new facilities necessitated by pupils generated from future single- and multi-family residential development.

**Table 1-6
Allowable Site Acquisition and Development Costs for Pupils Generated from
Future Residential Development**

Grade Group	One-half of per-pupil costs	Number of unhoused students	Allowable Cost
7-8	\$6,124.00	0	\$0.00
9-12	\$7,722.50	211	\$1,629,447.50

(4) Local Funds Dedicated to School Facilities Necessitated by Future Development

As outlined in Table 1-7, the District currently has 2,128 9-12 students that are unhoused.

**Table 1-7
Existing Unhoused Pupils**

Grade Group	Current Capacity	2007/08 Enrollment	Existing Unhoused Pupils
7-8	4,385	4,011	0
9-12	7,433	9,561	2,128
Total	11,818	13,572	2,128

Table 1-8 summarizes the cost of providing school facilities for existing unhoused students. Table 1-8 uses a per-pupil grant cost that is twice the allowable cost for the Level II fee (because the Level II fee is intended to only reflect one-half the cost of providing school facilities as defined in the State School Facility Program). Per-pupil site acquisition and development costs are the same as those used to calculate the allowable cost for Level II fees.

**Table 1-8
Cost of Providing School Facilities for Existing Unhoused Pupils**

Grade Group	Existing Unhoused Pupils*	Per-pupil Construction Costs	Per-pupil Site Acquisition and Development Costs	Total Cost
7-8	0	\$19,194	\$12,248	\$0
9-12	2,128	\$24,339	\$15,445	\$84,660,352
Total	2,128			\$84,660,352

*See Table 1-3 and Table 1-7

The District has no funds dedicated to school facilities necessitated by future development. The District has funds available for new construction projects, through the passage of its middle school (Measure M) and high school (Measure F) Proposition 39 General Obligation Bonds passed on November 5, 2002, and March 5, 2002, respectively, as well as developer fees and special reserve funds. The District also anticipates approximately \$252,041 in commercial/industrial developer fee revenue over the next five years based on the total commercial/industrial square footage that paid developer fees between March 2007 and February 2008, projected forward five years. The District's middle school bond funds are restricted to middle school projects, as the high school bond funds are restricted to high school projects, so this Report considers the District's available funds in relation to the cost of housing its currently unhoused pupils by middle (7-8) and high (9-12) school grade groupings.

For the 7-8 grade levels, the District currently has sufficient available capacity to house 7-8 grade pupils from new residential development.

For the 9-12 grade levels, the District has approximately \$16.65 million in authorized bond funds from the passage of its high school General Obligation Bond available for future new construction projects. The District also has \$1,332,225 in Capital Projects Fund balances available for 7-12 new construction projects. In addition, based on the total commercial/industrial square footage that paid developer fees between March 2007 and February 2008, the District estimates that there will be approximately \$252,041 in commercial/industrial developer fee revenue over the next five years available for 7-12 new construction projects. Even if all of the above funds were available for the District's 9-12 projects, the District's total available funds for housing 9-12 pupils would be approximately \$18,234,266. Comparing the \$18,234,266 in available funds to the cost of providing school facilities for existing unhoused 9-12 students (\$84,660,352) demonstrates that all these available funds are required to provide facilities for existing unhoused 9-12 students, with a need remaining of \$66,426,086. This remaining need far outstrips the Level II fee, which will generate only \$4,195,858 based on the projections contained herein.

The District has no surplus property that could be used for a high school site or that is available for sale to finance school facilities.

(5) **Total Allowable School Facility Cost for Level II Fees**

Tables 1-9a and 1-9b show the total costs for housing 7-8 grade and 9-12 grade pupils attributable to future residential development.

(continued on next page)

Table 1-9a
Total Cost for Housing 7-8 Grade Pupils from Future Residential Development

Category	Amount
Construction	\$0.00
Site Acquisition and Development	\$0.00
Less Local Funds Dedicated	N/A
Total	\$0.00

Table 1-9b
Total Cost for Housing 9-12 Grade Pupils from Future Residential Development

Category	Amount
Construction	\$2,567,764.50
Site Acquisition and Development	\$1,629,447.50
Less Local Funds Dedicated	N/A
Total	\$4,197,212.00

As demonstrated in Section II.A.(4) above, the District currently has sufficient capacity to house 7-8 pupils from future residential development quantified in this Report. Therefore, the total allowable cost for purposes of calculating the District's Level II/III developer fees on future residential development does not include the cost of housing 7-8 pupils resulting from this development. Tables 1-10a and 1-10b demonstrate the total allowable cost for the Level II/III fee calculation for the District's 7-12 and 9-12 service areas.

Table 1-10a
Total Allowable Cost for Level II/III Fees for Pupils from Future Residential Development in the 7-12 Service Area

Category	Amount
Allowable 7-8 Pupil Cost	\$0.00
Allowable 9-12 Pupil Cost	\$4,197,212.00
Districtwide Total	\$4,197,212.00

Table 1-10b
Total Allowable Cost for Level II/III Fees for Pupils from Future Residential Development in the 9-12 Service Area

Category	Amount
Allowable 9-12 Pupil Cost	\$4,197,212.00
Districtwide Total	\$4,197,212.00

B. Amounts of Level II and Level III Fees

The Level II fee is calculated by dividing the total allowable cost by the amount of new residential square footage projected to be built in the District over the next five years. As stated in Section II.A.(1) above, over the next five years 782 single-family and 505 multi-family units are projected to be built in the District. These totals do not include units projected to be built in developments bound by alternative mitigation agreements with the District as these developments will not be subject to the developer fees quantified in this Report (i.e., the Sconberg Ranch development project). Based on information provided by the City of Salinas Development and Permit Services Department and Department of Development and Engineering Services, the Housing Authority of the County of Monterey and the Monterey County Environmental Resource Policy – Housing and Redevelopment Office and the Monterey County Planning & Building Inspection Department, this Report estimates that new housing units in the District will have an average square footage of 1,945 square feet and 817 square feet for single- and multi-family units, respectively. Multiplying average square footage by number of units (1,945 square feet times 782 single-family units, plus 817 square feet times 505 multi-family units) produces a total of 1,933,575 square feet of residential development projected to be built in the District over the next five years.

State law allows school districts to charge a fee higher than a Level II fee if: (1) the district meets the requirements for Level II fees and (2) the State Allocation Board notifies that it has no funds available to apportion to districts for construction of new school facilities. In the District's case, this higher fee, referred to as a Level III fee, is approximately twice the Level II fee.

Tables 1-11a and 1-11b show the calculations for Level II and Level III developer fees for the District's 7-12 and 9-12 service areas, based on the total projected square footage figures and the total allowable costs identified in Section II.A.5, above:

Table 1-11a
Level II and III Fees for Pupils from
Residential Development in the 7-12 Service Area

Total Allowable Cost	\$4,197,212.00
Total Projected Square Footage	1,933,575
Level II Fee	\$2.17
Level III Multiplier	2
Level III Fee	\$4.34

(continued on next page)

Table 1-11b
Level II and III Fees for Pupils from
Residential Development in the 9-12 Service Area

Total Allowable Cost	\$4,197,212.00
Total Projected Square Footage	1,933,575
Level II Fee	\$2.17
Level III Multiplier	2
Level III Fee	\$4.34

The calculation of Level II and Level III fees, in accordance with the formulas provided in the statutes, will likely be understated when measured against the actual calculation of costs due to the limited inclusion of cost categories to determine actual costs per student and the fluctuating student generation rates. The District needs to account for these issues when conducting a revenue/cost analysis utilizing the calculated Level II and Level III fees.

End of Section

III. Findings and Recommendations

This section (1) shows that the District meets the requirements of Government Code Section 66001 regarding the collection of developer fees, (2) summarizes other potential funding sources for the District's capital projects, and (3) presents recommendations regarding the collection of developer fees.

A. Findings

(1) Government Code Section 66001(a)(1)—Purpose of the Fee

The purpose of imposing and collecting Level II or Level III fees is to acquire funds to construct or reconstruct school facilities for students generated by future residential developments.

(2) Government Code Section 66001(a)(2)—Use of the Fee

The District use of the fee will involve constructing and/or reconstructing new high school campuses and/or additional permanent facilities on existing high school campuses. In addition, the District may build other school related facilities and purchase or lease relocatable classrooms to use for interim housing while permanent facilities are being constructed.

Revenue from Level II or Level III fees collected on future residential development may be used for, but not limited to, all of the following:

- (1) land (purchased or leased) for school facilities,
- (2) design of school facilities,
- (3) permit and plan checking fees,
- (4) construction or reconstruction of school facilities,
- (5) testing and inspection of school sites and school buildings, and
- (6) interim school facilities (purchased or leased) to house students generated by future development while permanent facilities are being constructed.

(3) Government Code Section 66001(a)(3)—Relationship Between Fee's Use and the Type of Project Upon Which the Fee is Imposed

All types of new residential development—including but not limited to single- and multi-family units in new subdivisions and in "in-fill" lots, single- and multi-family units in redevelopment projects, single- and multi-family units that replace demolished units (to the extent that the new units are larger than the demolished units), additions of residential space to existing single- and multi-family units, manufactured homes, mobile homes and condominiums—are projected to cause new families to move into the District and, consequently, generate additional students in the District. As shown earlier in this Report, sufficient school facilities do not exist for these students. All types of new residential development, therefore, create a need for additional school facilities. The fee's use (acquiring school facilities) is,

therefore, reasonably related to the type of projects (new residential developments) upon which it is imposed.

(4) Government Code Section 66001(a)(4)—Relationship Between the Need for the Public Facility and the Type of Project Upon Which the Fee is Imposed

The District is currently operating over capacity at the 9-12 grade levels, that is, the District has no available capacity to house additional 9-12 students. Because future residential development in the District will generate additional students, it creates a need for additional school facilities. A relationship exists, therefore, between the District's need to build additional school facilities to house additional students and the construction of future residential development projects.

(5) Government Code Section 66001(b)—Relationship Between the Fee and the Cost of the Public Facility Attributable to the Development on Which the Fee is Imposed

This study concludes that the methods prescribed by State law for estimating school facility construction costs, and for calculating Level II and Level III fees, supports the establishment of Level II and Level III fees, which when collected, will contribute to the District's cost of constructing and reconstructing school facilities to house students generated by future residential construction. The relationship between the cost of the facility and the amount of fees is set forth above, including in Tables 1-4 and 1-5 of Section II.A.(2) and Section II.A.(3), respectively.

(6) Other Funding Sources

The following is a review of potential other funding sources for constructing school facilities. Please note that pursuant to Section II.A.4, the District does not have any local funds available for the construction of school facilities for housing students from new development.

a) General Fund

The District's General Fund budget is committed to instructional and day to day operating expenses and not used for capital outlay uses, as funds are needed solely to meet the District's non-facility needs.

b) State Programs

The District is approved for eligibility for State funding for construction of new school facilities under the 1998 Leroy F. Greene School Facility Program. As outlined in Section II.A.(1), the District has applied for and received funding for La Paz Middle School, and addition projects at North Salinas High School, Alisal High School, Harden Middle School and Everett Alvarez High School. Even projects funded at 100 percent of the State allowance, however, experience a shortfall between State funding and the District's actual facility needs. State funds for deferred maintenance may not be used to pay for new facilities. State law prohibits use of lottery funds for facilities.

c) General Obligation Bonds

School districts can, with the approval of either two-thirds or 55 percent of its voters, issue general obligation bonds that are paid for out of property taxes. The District gained voter approval for a Proposition 39 General Obligation Bond in March 2002, and another General Obligation Bond in November 2002. As outlined in Section II.A.(4), these bonds are either inadequate or unavailable to cover costs for high school facilities necessitated by future residential development.

d) Alternative Mitigation Agreements

Some residential development may choose to negotiate an alternative mitigation agreement with the School District. Students generated from these developments and the revenues from these mitigation agreements are not considered in this report, as these homes are not subject to the Fee considered in this report and the funds collected from these homes are not available to reduce the impact of development that will be subject to the Fee.

e) Parcel Taxes

Approval by two-thirds of the voters is required to impose taxes that are not based on the assessed value of individual parcels. While these taxes have been occasionally used in school districts, the revenues are typically minor and are used to supplement operating budgets. The District does not currently collect parcel tax revenue.

f) Mello-Roos Community Facilities Districts

This alternative uses a tax on property owners within a defined area to pay long-term bonds issued for specific public improvements. Mello-Roos taxes require approval from two-thirds of the voters (or land owners if fewer than 12) in an election. The District currently does not have any Mello-Roos authorizations.

g) Surplus Property

The District has no surplus property that could be used as a high school site or that is available for sale to finance school facilities.

Based on the forgoing, there are no excess funds to aid new construction to accommodate students from new development.

B. Recommendations

Based on the findings outlined above, it is recommended that the Board of Trustees, as provided for in Government Code Section 65995.5, approve a resolution to levy Level II fees on future residential development in the amount of \$2.17 per square foot of residential development located within the District's 7-12 and 9-12 service areas.

In addition, it is recommended that the Board of Trustees, as provided for in Government Code Section 65995.7, approve a resolution to levy Level III fees on future residential development in the amount of \$4.34 per square foot of residential development located within the District's 7-12 and 9-12 service areas.

End of Report

Appendix A

**State Allocation Board
New Construction Eligibility Approval**

**Appendix B
Calculation of Allowable Per-Pupil Grant Costs**

The per-pupil grant costs, calculated per the provisions of Government Code Section 65995.5(c)(1), include the School Facility Program (SFP) grants outlined in Education Code Section 17072.10, fire alarm and sprinkler grants mandated by Education Code Section 17074.56 and outlined in Education Code Section 17074.50 and 17074.52, and Labor Compliance Program (LCP) per Labor Code Section 1771.7(a) and (b), as illustrated in the tables below:

Since the fire alarm and sprinkler grants mandated by SB 575 are per-pupil grant increases, it is simple to add them to the SFP base new construction grant amounts (see Table B-1). These figures will then be used to determine the LCP grant increases for each of the District's projects used as cost models below, and then the per-pupil grant increases for each grade grouping, to produce final per-pupil grant figures for use in calculating the District's Level II/III fees.

**Table B-1
SFP Per-Pupil Grants Plus Fire Alarm/Sprinkler Funding**

Grade Group	SFP Grant	SB 575 Fire Alarm Grant	SB 575 Sprinkler Grant	50% Total Grant	50% Total Grant
	\$9,348	\$14	\$177	\$9,539	\$12,100
	\$11,893	\$24	\$183	\$12,000	\$24,200

These new per-pupil base grants, added to the per-pupil site development figures calculated in Appendix C, multiplied by the pupil capacity of each project used as a cost model, equals the estimated total funding (excluding site acquisition) for each project, as illustrated in Table B-2:

**Table B-2
Calculation of Total Funding for Each District Cost Model Project**

7-8 Projects	Per-Pupil Cost	Number of Pupils	Total Cost
New MS School	\$23,354	1,000	\$23,354,000
9-12 Projects	Per-Pupil Cost	Number of Pupils	Total Cost
New HS School	\$30,188	1,500	\$45,282,000

Table B-3 calculates the per-pupil LCP grant addition by grade grouping, using the per-site totals from Table B-2 to determine the total LCP grant for each site.

**Table B-3
Total LCP Grant Additions by Grade Grouping**

7-8 Projects	Total Cost	Total LCP Grant
New MS School	\$23,354,000	\$116,087
9-12 Projects	Total Cost	Total LCP Grant
New HS School	\$45,282,000	\$208,184

*Calculated pursuant to SFP regulation section 1859.71.4

Table B-4 calculates the per-pupil LCP grant addition by grade grouping, using the total LCP grants from Table B-3, dividing that figure by the appropriate pupil capacity, and averaging these results by grade group as necessary.

**Table B-4
Calculation of Per-Pupil LCP Grant Additions by Grade Grouping**

7-8 Projects	Total LCP Grant	Total Site Capacity	LCP Grant/Pupil
New MS School	\$116,087	1,000	\$116
Totals	N/A	N/A	N/A
		100% Grant	\$116.00
		50% Grant	\$58.00
9-12 Projects	Total LCP Grant	Total Site Capacity	LCP Grant/Pupil
New HS School	\$208,184	1,500	\$139
Totals	N/A	N/A	N/A
		100% Grant	\$139.00
		50% Grant	\$69.50

Table B-5 adds the per-pupil LCP grant additions calculated in Table B-4 to the totals calculated in Table B-1 to determine the final per-pupil construction grants allowable for use in the Level II-III fee calculations.

**Table B-5
Calculation of Final Per-Pupil Grant Costs by Grade Grouping**

Grade Group	7-8	9-12
SFP Construction Grant	\$9,539.00	\$12,100.00
50% LCP Grant	\$58.00	\$69.50
50% Total Grant	\$9,597.00	\$12,169.50

Appendix C

**Calculation of Allowable Per-Pupil
Site Acquisition and Site Development Cost**

**Appendix C
Calculation of Allowable Per-Pupil Site Acquisition and Site Development Costs**

Site Acquisition Costs for Middle and High School Projects

The site sizes for new middle school and high school projects are consistent with the guidelines in the "School Site Analysis and Development Handbook" published by the California State Department of Education (CDE).

Site acquisition costs for the District's new middle school and new high school projects equal \$364,000 per acre, based on (1) a land purchase that the District completed in January 2007 for the price of \$350,000 per acre, (2) an increase of four percent pursuant to Section 1859.74 of Title 2 of the California Code of Regulations for appraisals, surveys, site testing, CDE review/approval, preparation of the POESA and PEA. Estimated site development costs are consistent with the guidelines in Government Code Section 65995.5(h).

**Table C-1
Site Acquisition Costs for Middle and High School Projects**

Projects	Number of Acres Required	Site Acquisition Cost Per Acre	Total Site Acquisition Costs
Middle:			
New middle school	21.9	\$364,000	\$7,971,600
Middle School Subtotal			\$7,971,600
High:			
New high school	38.97	\$364,000	\$14,185,080
High School Subtotal			\$14,185,080
Total			\$22,156,680

Site Development Costs for Middle School Projects

Service site development, off-site development, and utility costs for District middle school projects are based on the service site development, off-site development, and utility costs associated with the La Paz Middle School project, which received an apportionment at the September 22, 1999, meeting of the State Allocation Board, inflated by the Class B Construction Cost Index increase from 1.34 in September 1999 to 1.98, for a total inflation rate of 47.76 percent, as approved at the July 23, 2008, meeting of the State Allocation Board. These costs are as follows:

(continued on the next page)

Table C-2
Service Site Development, Off-Site Development and Utility Costs for Middle School Projects

Middle School Projects	Costs
La Paz Middle School:	
Service Site	\$985,668
Off-Site	\$142,750
Utilities	\$156,448
Subtotal:	\$1,284,866
Class B Construction Cost Index Adjustment (47.76%)	\$613,652
Total:	\$1,898,518
Cost Per Acre*	\$114,231
Total Cost for New 21.9-Acre Middle School Project**	\$2,501,659
Per-Pupil Cost**	\$2,502

*La Paz Middle School is on a 16.62-acre site.
 **21.9 acres is consistent with the CDE "School Site Analysis and Development Handbook" for a middle school with capacity of 1,000 pupils.
 ***Equals total cost divided by New MS capacity of 1,000 pupils.

Estimated general site development costs for District middle school projects are based on the average allowable general site development costs, as defined in Section 1859.76 of Title 2 of the California Code of Regulations. These costs are as follows:

Table C-3
General Site Development Costs for Middle School Projects

Middle School Cost Model Projects	Acres	Per-Acre Cost	Pupils	Per-Pupil Cost	Costs
Per-Useable Acre General Site Cost	21.9	\$28,728	n/a	n/a	\$629,143
Per-Pupil General Site Cost	n/a	n/a	1,000	\$1,145*	\$1,145,000
Totals	21.9	n/a	1,000	n/a	\$1,774,143
Average Per-Pupil General Site Development Cost**					\$1,774

*Equals 6% of the 7.8 per-pupil base grant amount of \$19,078.
 **Equals the totals of the General Site Costs, divided by the pupil capacity of the projects.

The total anticipated Site Development Costs for District middle school projects equals the per-pupil service site, off-site and utility development cost for the District's middle school projects, plus the average per-pupil general site development costs related to the District's middle school projects. The following table illustrates the total per-pupil site development costs for future District middle school projects.

Table C-4
Total Site Development Costs for Middle School Projects

Middle School Projects	Costs
Average Per-Pupil Service Site, Off-Site and Utility Costs	\$2,502
Average Per-Pupil General Site Development Costs	\$1,774
Total Per-Pupil Site Development Cost	\$4,276

Site Development Costs for High School Projects

Service site development, off-site development, and utility costs for District high school projects are based on a November 2002 District estimate of site development costs for a new 50 acre high school project, inflated by the increase to the Class B Construction Cost Index from 1.46 in November 2002 to 1.98, for a total inflation rate of 35.62 percent, as approved at the July 23, 2008, meeting of the State Allocation Board. These costs are as follows:

Table C-5
Site Development Costs for High School Projects

High School Projects	Costs
Architect High School Site Development Estimate:	
Service Site	\$4,400,000
Off-Site	\$1,500,000
Utilities	\$250,000
Subtotal:	\$6,150,000
Class B Construction Cost Index Adjustment (35.62%)	\$2,190,630
Subtotal:	\$8,340,630
Site Development Cost Per Acre*	\$166,813
Total Site Development Cost for New 38.97-Acre High School Project**	\$6,500,703
Per-Pupil Site Development Cost***	\$4,334

*Architect estimate is based on a 50-acre school site.
 **38.97 acres is consistent with the CDE "School Site Analysis and Development Handbook" for a high school with capacity of 1,500 pupils.
 ***Equals total site development cost divided by New HS capacity of 1,500 pupils.

Estimated general site development costs for District high school projects are based on the average allowable general site development costs, as defined in Section 1859.76 of Title 2 of the California Code of Regulations. These costs are as follows:

Table C-6
General Site Development Costs for High School Projects

High School Cost Model Projects	Acres	Per-Acre Cost	Pupils	Per-Pupil Cost	Costs
Per-Useable Acre General Site Cost	38.97	\$28,728	n/a	n/a	\$1,119,530
Per-Pupil General Site Cost	n/a	n/a	1,500	\$908*	\$1,362,000
Totals	38.97	n/a	1,500	n/a	\$2,481,530
Average Per-Pupil General Site Development Cost**					\$1,654

*Equals 3.75% of the 9-12 per-pupil base grant amount of \$24,200.
 **Equals the totals of the General Site Costs, divided by the pupil capacity of the projects.

The total anticipated Site Development Costs for District high school projects equals the per-pupil service site, off-site and utility development cost for the District's high school projects, plus the average per-pupil general site development costs related to the District's high school projects. The following table illustrates the total per-pupil site development costs for future high school projects.

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Table C-7
Total Site Development Costs for High School Projects

High School Projects	Costs
Average Per-Pupil Service Site, Off-Site and Utility Costs	\$4,334
Average Per-Pupil General Site Development Costs	\$1,654
Total Per-Pupil Site Development Cost	\$5,988

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Appendix D
Student Generation Rate Study

Please note that for privacy purposes, the street number has been omitted from each record in this developer fee collection database.

L-15

**SALINAS UNION
HIGH SCHOOL DISTRICT**

**SCHOOL FACILITY
MASTER PLAN**

March 2008

School Facility Consultants

L-15

**SALINAS UNION HIGH SCHOOL DISTRICT
SCHOOL FACILITY MASTER PLAN**

March 2008

Prepared for

SALINAS UNION HIGH SCHOOL DISTRICT

Prepared by

SCHOOL FACILITY CONSULTANTS

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APPENDIX

Appendix: Demographic Analysis and Forecast for Salinas High School District.

Executive Summary

The Salinas Union High School District School Facility Master Plan assesses the future facility needs of the District and provides options to meet the twenty-two year facility need. The Plan considers regional demographic data and development activities that may impact the student population. The Plan also identifies the existing facilities and examines various methods to house students. The District's twenty-two year facility needs are identified by examining enrollment projections in concert with the existing facilities. The Plan presents a Facility Plan, which meets the District's twenty-two year facility needs and identifies decision points for the District. The Plan also presents additional facility options that allow the District to remove/eliminate additional portable classrooms, relieving overcrowding at existing school sites. The Plan presents funding sources that may be used to accomplish the Facility Plan.

The Plan projects that the District's enrollment will grow up to 29 percent over the twenty-two year planning period (from 13,558 to 17,496). This level of growth shows that the District will not have sufficient permanent facilities to house the anticipated enrollment over the twenty-two year planning period. The District's use of portable classrooms, while housing student population growth, has had some negative impacts such as reducing the play field areas, locker rooms, gymnasiums, kitchens and administrative/counseling areas at the school sites. All schools are on sites that are smaller than those recommended by the California Department of Education (CDE) and therefore have student densities above the CDE recommendations.

The planning effort identified a series of goals of highest interest to the District and used these to develop and evaluate potential solutions for facility issues. The goals, as identified by district administrators, are:

- Eliminate portable classrooms that have become too old to maintain and reduce student densities on school sites which exceed the CDE recommendations,
- Free up classroom space that can be used for special programs,
- Take maximum advantage of State school facility funds.

At the request of the District, the Plan presents a Facility Plan for meeting the District needs over a twenty-two year period.

The consultant recommends the following Facility Plan:

- Construction of one new middle school with a capacity of 1,000 students;
- Construction of two new high schools (High School #1 with a capacity of 1,500 students and High School #2 with a capacity of 2,000 students).

Implementation of the Facility Plan will allow the District to remove some existing portable classrooms at all middle and high school campuses. However, certain sites will still have portable classrooms that have become too old to maintain and site densities well above those recommended by the CDE. As a result, the Plan provides the District with two additional facility options that would allow the District to eliminate additional portable classrooms that are too old to maintain and further reduce their site densities.

These facility options are as follows:

- **Option #1**
A second new middle school with a capacity of 1,000 students.
A third new high school with a capacity of 2,000 students.
- **Option #2**
Option #1 plus a fourth new high school with a capacity of 2,000 students.

The Plan includes an Implementation Plan that outlines a suggested schedule of activities to be conducted to implement the Facility Plan.

Introduction

A. Purpose

The purpose of this School Facility Master Plan (Plan) is to identify the facility needs of the Salinas High Union School District (District) over a twenty-two year planning period and examine strategies to meet those needs.

The Plan is designed to provide a "road map" to help the District meet its facility needs over the next twenty-two years. The Plan addresses the estimated number of classroom facilities that are needed, when they are needed, how much they will cost, and potential sources of funding to pay for needed facilities.

Factors that affect facility needs such as residential development rates and enrollment growth will change as economic and other conditions change in the District. As a result, the facility needs identified in this Plan should be reexamined and modified when appropriate.

B. Content/Organization

The Plan is organized according to the following four questions:

- (1) Part One, What do we have?
- (2) Part Two, What do we need?
- (3) Part Three, What can we do to meet the need? and
- (4) Part Four, How can we pay for it?

Part One analyzes the District's current facilities, including schools' pupil capacity, site size and use of portable classrooms. Part Two compares the District's projected enrollment growth with its current pupil capacities to quantify the additional pupil capacity required by the District. Part Three outlines alternative facility plans to meet the needs identified in Part Two. Part Four estimates the costs of the alternatives and identifies the District's potential sources of funding.

C. Acknowledgments

The following individuals and agencies assisted the consultants in preparing the School Facility Master Plan.

- James Earhart, Associate Superintendent, CBO, Salinas Union High School District (SUHSD)
- Karen Luna, Manager, Planning and Facilities, Salinas Union High School District (SUHSD)
- Shelley Lapkoff, Lapkoff & Gobalet Demographic Research, Inc.
- Jeanne Gobalet, Lapkoff & Gobalet Demographic Research, Inc.
- City of Salinas Community Planning and Development Department
- City of Salinas Redevelopment Department
- Housing Authority of the County of Monterey
- Monterey County Planning Department

Part One – What do we have?

Summary of Key Points:

- The District's operates four middle schools, four high schools and one continuation high school.
- The District has a 7-8 permanent pupil capacity of 3,979 seats. Permanent classroom capacity utilization for 2007 is 100% percent (7-8 enrollment of 3,997). The District also has a 7-8 portable classroom capacity of 1,193 seats. Capacity utilization, including portable classrooms, is 77%.
- The District has a 9-12 permanent pupil capacity of 6,377 seats. Permanent classroom capacity utilization for 2007 is 150% percent (9-12 enrollment of 9,561). The District also has a 9-12 portable classroom capacity of 3,213 seats. Capacity utilization, including portable classrooms, is 100%.
- All middle school sites are operating at site densities above the CDE recommendations. These sites will benefit from the removal of portables. However, even if all portables are removed from these sites, they will still operate at student densities above the CDE recommendations.
- If portable classrooms are removed at Alvarez High, the site would operate at a student density below the CDE recommendation. Site densities at all other high school sites will also benefit from the removal of portable classrooms. However, even if all portable classrooms are removed from these sites, they will still operate at student densities above the CDE recommendations.
- Several school sites have portable classrooms that are 20 years of age or older and are overly expensive to maintain. These sites will benefit from the removal of these portables and should be a priority of the District. The removal of these portable classrooms will also benefit the District by reducing site densities at existing campuses.

Part One is divided into two sections. The first section analyzes the District's school sites' pupil capacity and current capacity utilization. The second section analyzes the use of portable classrooms and student densities on each school site.

A. Pupil Capacity/Facility Utilization

The capacity of a school site is determined by (1) counting the number of classrooms on the site, (2) multiplying each by the appropriate loading standard (the maximum number of students placed in a room), and (3) making adjustments to account for policies that affect capacity.

Tables 1 and 2 shows the pupil capacities and current utilization of each school site, both including and excluding existing portable classrooms. The classroom inventories, loading standards, and District policies that affect capacity are documented in the following subsections.

Because the site capacities in this Plan are being used for comparative planning purposes, they include adjustments for factors that affect a site's actual capacity (e.g., room usage policies, etc). Therefore, the school site capacities listed in the following tables might conflict with current daily usage and previously recorded capacity figures.

Salinas Union High School District – School Facility Master Plan – March 2008

Table 1
2007 Pupil Capacity/Utilization of Middle Schools

Site	Grades	2007/08 CBEDS Enrollment		Current Capacity Utilization	
		W/Ports	W/O Ports*	W/Ports	W/O Ports*
El Sausal MS	7-8	1,269	999	893	70%
Harden MS	7-8	1,371	950	1,166	83%
La Paz MS	7-8	1,242	999	979	79%
Washington MS	7-8	1,290	1,031	959	74%
Total		5,372	3,979	3,997	74%

Table 2
2007 Pupil Capacity/Utilization of High Schools

Site	Grades	2007/08 CBEDS Enrollment		Current Capacity Utilization	
		W/Ports	W/O Ports	W/Ports	W/O Ports
Alisal HS	9-12	2,322	1,593	2,464	106%
Alvarez HS	9-12	2,403	1,296	2,241	93%
North Salinas HS	9-12	2,064	1,652	1,997	96%
Salinas HS	9-12	2,484	1,620	2,549	103%
Mount Toro HS	9-12	297	216	310	104%
Total		9,570	6,377	9,561	100%

1. Classroom Inventories

Tables 3 and 4 list the classroom inventories of each site. The inventories are based on current site utilization diagrams provided by the District and site administrators and conversations with District administrators regarding the use of classrooms for the 2007 school year.

Table 3
Classroom Inventory, Middle School Sites

Site	Standard Classroom	Pull Out	Special Day	Non-District Owned/Operated	Total
El Sausal Middle School	47	3	0	1	51
Harden Middle School	49	1	3	0	53
La Paz Middle School	46	3	0	0	49
Washington Middle School	46	2	3	0	51
Total	188	9	6	1	204

*Includes 49 portable classrooms.

Salinas Union High School District – School Facility Master Plan – March 2008

Table 4
Classroom Inventory, High School Sites

Site	Standard Classroom	Lab	ROP/ ROTC	Band/ Music	Drama/ Theater	Special Day	Pull Out	Non-District	Total
Alisal High	70	15	1	1	1	0	4	2	92
Alvarez High	72	15	1	1	0	0	10	1	100
North Salinas High	55	19	0	1	1	2	5	3	86
Salinas High	71	17	0	3	1	0	4	0	96
Mount Toro High	5	6	0	0	0	0	1	0	12
Total	273	70	2	6	3	2	24	6	366

*Includes 140 portable classrooms.

2. Loading Standards

Table 5 lists the loading standards for 7-12 classrooms provided by the District and site administrators.

Table 5
Loading Standards

Grade Group (7-12)	Loading Standard
Standard Classroom (7-12)	27
Lab (9-12)	27
ROP / ROTC (9-12)	27
Band / Music / Choral (9-12)	27
Drama / Theater (9-12)	27
Special Day (7-12)	16
Physical Education (7-12)	100
Pull Out (7-12)	0
Non-District (7-12)	0

3. District Policies that Affect Capacity

The District currently operates pull-out type programs at all grade levels (i.e., students leave their regular classroom and occupy space in another classroom during the pull-out program). Examples of pull-out type programs that are in use are Detention Centers, Career Centers, Instructional Service Rooms and Leadership Rooms. The rooms used for these programs are not counted in calculating site capacities because they do not contribute to the effective capacity of the school.

B. Analysis of Portable Classroom Use, Age and School Site Student Densities

Two important issues that are relevant when evaluating the current capacity of a school district are student densities at school sites and the age of portable classrooms that have become too old to maintain. For example, a school site that has a large portion of its capacity in portable classrooms

Salinas Union High School District – School Facility Master Plan – March 2008

might have undesirably high student densities and maybe occupying portable classrooms that do not meet District standards and are overly expensive to preserve.

1. Inventory of Portable Classrooms by School Site

Table 6 identifies the use and age of portable classrooms on the District's school sites, in descending order of total portable classrooms on each site.

Table 6
Portable Classroom Use

Site	Total Number of Portables	Number of Portables Over 20 Years Old	Total Number of Permanent Classrooms	Total Number of Classrooms	Percent of Total Classrooms that are Portable
Alvarez High	49	0	51	100	49%
Salinas High	32	0	64	96	33%
Alisal High	30	12	62	92	33%
North Salinas High	23	5	63	86	27%
Harden Middle	17	12	36	53	32%
El Sausal Middle	13	9	38	51	25%
Washington Middle	10	0	41	51	20%
La Paz Middle	9	0	40	49	18%
Mount Toro High	4	1	8	12	33%
Totals	178	39	407	590	31%

2. School Site Student Densities

A good measure of appropriate student density for a school site is to compare its site size with the site size recommended by the California Department of Education (CDE) for a school with equivalent enrollment. For example, the capacity of El Sausal Middle School is 1,269 students. The CDE recommends that a middle school of that capacity be on a site of 23.1 useable acres. Because El Sausal Middle School is on an 18 acre site, we can infer that it has a student density above the CDE recommended density. Conversely, schools with site sizes larger than the CDE recommended size have student densities below the CDE recommended levels.

Table 7 again lists the school sites in descending order of total portable classrooms. The table shows, for each school site, (1) its site size in acres, (2) the site size recommended by the CDE, given its planned grade configuration capacity as described in Part III of the Plan, and (3) the site size recommended by the CDE if all portable classrooms at the site were removed. Chart A shows the same information in bar graph form.

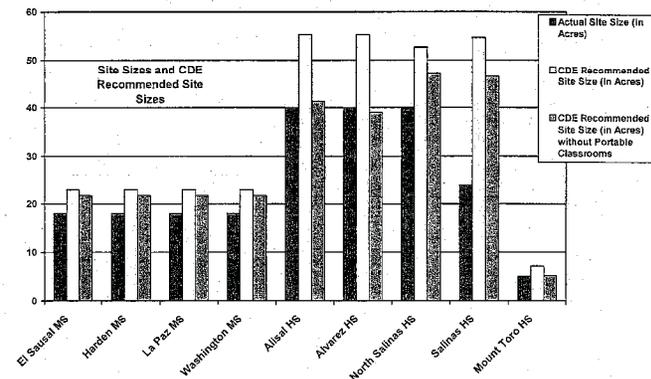
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Table 7
School Site Size and CDE Recommended Site Size

Site	Site Size (in Useable Acres)	CDE Recommended Site Size (in Useable Acres)	CDE Recommended Site Size (in Useable Acres) without Portable Classrooms
El Sausal MS	18	23.1	21.9
Harden MS	18	23.1	21.9
La Paz MS	18	23.1	21.9
Washington MS	18	23.1	21.9
Alisal HS	40	55.3	41.3
Alvarez HS	40	55.3	39
North Salinas HS	40	52.7	47.1
Salinas HS	24	54.7	46.5
Mount Toro HS	5	7.2	5.2

Chart A
School Site Size and CDE Recommended Site Size



As Table 7 shows, all District schools are on school sites that are smaller than those recommended by the CDE and therefore, have student densities above the CDE recommendations. In addition, Table 7 shows that removing portable classrooms from Alvarez High would allow the site to be larger than the site size recommended by the CDE and therefore, have a student density below the

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CDE recommendation. Site densities at all other school sites will also benefit from the removal of portable classrooms. However, even if all portable classrooms are removed from these sites, they will still be on sites smaller than the site sizes recommended by the CDE. Alternatives for removing portable classrooms from campuses are discussed in Part Three of this Report. Table 8 identifies the minimum number of portable classrooms that would need to be removed in order to accomplish a site density consistent with the CDE recommendations.

Table 8
Portable Classroom Removal and CDE Recommended Site Size

Site	Site Size (in Acres)	Total Number of Portable Classrooms	Number of Standard Classroom Portables Removed (Minimum)	Resultant CDE Recommended Site Size (in Acres)
El Sausal MS	18	10	10*	21.9
Harden MS	18	16	16*	21.9
La Paz MS	18	9	9*	21.9
Washington MS	18	10	10*	21.9
Ahial HS	40	27	27*	41.3
Alvarez HS	40	41	38	39
North Salinas HS	40	16	16*	44.5
Salinas HS	24	32	32*	44.5
Mount Toro HS	5	3	3*	5.2
Totals	N/A	164	164	N/A

*The CDE recommended site size is still larger than the actual site size even when all portable classrooms are removed.

3. Removal of Portable Classrooms that have become too old to Maintain.

When removing portable classrooms the District should prioritize removal of classrooms that are greater than 20 years of age (See Table 6). The 20 year benchmark is an appropriate measure of age as it is the point in time that the State provides funding for major renovation and or replacement of portable classrooms.

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Part Two – What do we need?

Summary of Key Points:

- The District's enrollment is projected to increase up to 29 percent over the twenty-two year period (from 13,558 to 17,496). Three enrollment forecasts are presented in the Plan, representing three different timing scenarios related to planned residential development in the District.
- Based on current classroom facilities and facility-use policies, the District requires additional capacity at the middle school grade level of up to 12 spaces (approximately 1 classroom) over the twenty-two year planning period should the District continue to use all portable classrooms at existing campuses. However, the District has 21 portable classrooms at middle school sites that are aging and will need to be removed, which will require the District to add up to 567 additional spaces, for a total of approximately 22 classrooms of additional capacity at the middle school grade level over the twenty-two year planning period. Additionally, as outlined in Part One, all District middle school sites are operating at densities well above those recommended by the CDE. Based on the District's permanent classroom facilities and facility-use policies, the District will require up to 1,205 spaces (approximately 45 classrooms) of additional capacity at the middle school grade level over the twenty-two year planning period.
- Based on current facilities and facility-use policies, the District will require up to 2,722 spaces (approximately 101 classrooms) of additional capacity at the high school grade level over the twenty-two year planning period. The District's high school site densities will also benefit from the removal of portable classrooms. Of the 138 portables on high school campuses, 18 portables are 20 years of age or older and should be the District's priority for removal. Based on the District's permanent classroom facilities and facility-use policies, the District will require up to 5,935 spaces (approximately 220 classrooms) of additional capacity at the high school grade level over the twenty-two year planning period.

Part Two is divided into two sections. The first section projects the District's enrollment over the next twenty-two years. The second section compares projected enrollment to current facility capacity and identifies the additional pupil capacity required over the next twenty-two years.

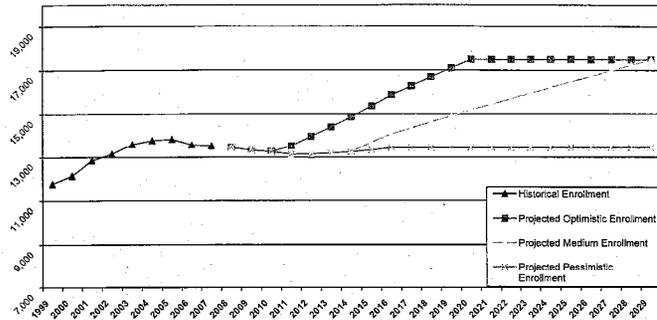
A. Enrollment History and Projection

The enrollment history and projection information used in the Plan was prepared by Lapkoff & Gobalet Demographic Research, Inc. (Demographers) and is included as an Appendix. The Demographers presented three different forecasts identified as "Optimistic", "Medium" and "Pessimistic". The three forecasts represent three different timing scenarios related to the planned residential development in West Boronda and the Future Growth Areas (FGAs) north and east of the City of Salinas. The "Optimistic" forecast assumes development completion by 2020, the "Medium" forecast assumes development completion by 2029 and the "Pessimistic" forecast assumes that no residential development will be completed by 2029. Chart B shows the District's projected 7-12 enrollment, and Charts C and D show the projected enrollment growth of the middle and high school grade groups.

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Chart B
Historical and Projected 7-12 Enrollment, 2007 – 2029



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Table 9
Projected Optimistic Middle School Enrollment, 2007 – 2029

Year	Optimistic Enrollment Projections	Annual Percent Change	Increase (or Decrease) in Students
2007*	3,997	N/A	N/A
2008	3,995	(0.05%)	(2)
2009	3,965	(0.8%)	(30)
2010	3,956	(0.23%)	(9)
2011	4,014	1.47%	58
2012	4,164	3.74%	150
2013	4,382	5.24%	218
2014	4,542	3.65%	160
2015	4,667	2.75%	125
2016	4,770	2.21%	103
2017	4,874	2.18%	104
2018	4,977	2.11%	103
2019	5,080	2.07%	103
2020	5,184	2.05%	104
2021	5,184	0%	0
2022	5,184	0%	0
2023	5,184	0%	0
2024	5,184	0%	0
2025	5,184	0%	0
2026	5,184	0%	0
2027	5,184	0%	0
2028	5,184	0%	0
2029	5,184	0%	0

*Based on current CBEDS provided by District.

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Table 10
Projected Medium Middle School Enrollment, 2007 – 2029

Year	Medium Enrollment Projections	Annual Percent Change	Increase (or Decrease) in Students
2007*	3,997	N/A	N/A
2008	3,995	(0.05%)	(2)
2009	3,965	(0.8%)	(30)
2010	3,956	(0.23%)	(9)
2011	3,911	(1.14%)	(45)
2012	3,958	1.2%	47
2013	4,072	2.88%	114
2014	4,128	1.38%	56
2015	4,252	3%	124
2016	4,323	1.68%	71
2017	4,395	1.67%	72
2018	4,466	1.62%	71
2019	4,537	1.59%	71
2020	4,609	1.59%	72
2021	4,673	1.39%	64
2022	4,736	1.35%	63
2023	4,800	1.35%	64
2024	4,864	1.33%	64
2025	4,928	1.32%	64
2026	4,992	1.3%	64
2027	5,056	1.28%	64
2028	5,120	1.27%	64
2029	5,184	1.25%	64

*Based on current CBEDS provided by District.

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Table 11
Projected Pessimistic Middle School Enrollment, 2007 – 2029

Year	Pessimistic Enrollment Projections	Annual Percent Change	Increase (or Decrease) in Students
2007*	3,997	N/A	N/A
2008	3,995	(0.05%)	(2)
2009	3,965	(0.8%)	(30)
2010	3,956	(0.23%)	(9)
2011	3,911	(1.14%)	(45)
2012	3,958	1.2%	47
2013	4,072	2.88%	114
2014	4,128	1.38%	56
2015	4,150	0.53%	22
2016	4,150	0%	0
2017	4,150	0%	0
2018	4,150	0%	0
2019	4,150	0%	0
2020	4,150	0%	0
2021	4,150	0%	0
2022	4,150	0%	0
2023	4,150	0%	0
2024	4,150	0%	0
2025	4,150	0%	0
2026	4,150	0%	0
2027	4,150	0%	0
2028	4,150	0%	0
2029	4,150	0%	0

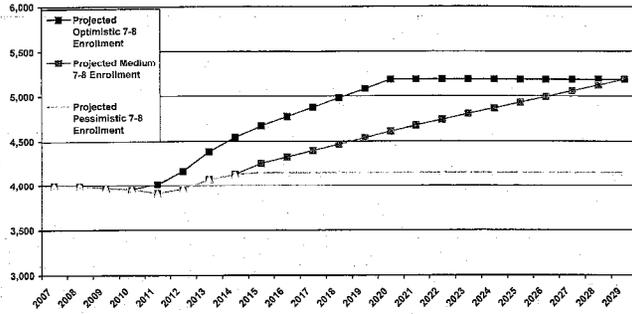
*Based on current CBEDS provided by District.

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Chart C
Projected Middle School Enrollment, 2007 – 2029

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Table 12
Projected Optimistic High School Enrollment, 2007 – 2029

Year	Projected Optimistic Enrollment	Annual Percent Change	Increase (or Decrease) in Students
2007*	9,561	N/A	N/A
2008	9,458	(1.08%)	(103)
2009	9,364	(0.99%)	(94)
2010	9,302	(0.66%)	(62)
2011	9,519	2.33%	217
2012	9,791	2.86%	272
2013	10,027	2.41%	236
2014	10,333	3.05%	306
2015	10,700	3.55%	367
2016	11,102	3.76%	402
2017	11,404	2.72%	302
2018	11,707	2.67%	303
2019	12,009	2.58%	302
2020	12,312	2.52%	303
2021	12,312	0%	0
2022	12,312	0%	0
2023	12,312	0%	0
2024	12,312	0%	0
2025	12,312	0%	0
2026	12,312	0%	0
2027	12,312	0%	0
2028	12,312	0%	0
2029	12,312	0%	0

*Based on current CBEDS enrollment provided by District.

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Table 13
Projected Medium High School Enrollment, 2007 – 2029

Year	Projected Medium Enrollment	Annual Percent Change	Increase (or Decrease) in Students
2007*	9,561	N/A	N/A
2008	9,458	(1.08%)	(103)
2009	9,364	(0.99%)	(94)
2010	9,302	(0.66%)	(62)
2011	9,216	(0.92%)	(86)
2012	9,186	(0.33%)	(30)
2013	9,119	(0.73%)	(67)
2014	9,123	0.04%	4
2015	9,454	3.63%	331
2016	9,760	3.24%	306
2017	9,967	2.12%	207
2018	10,173	2.07%	206
2019	10,380	2.03%	207
2020	10,587	2%	207
2021	10,778	1.8%	191
2022	10,970	1.78%	192
2023	11,162	1.75%	192
2024	11,353	1.71%	191
2025	11,545	1.69%	192
2026	11,737	1.66%	192
2027	11,928	1.63%	191
2028	12,120	1.61%	192
2029	12,312	1.58%	192

*Based on current CBEDS enrollment provided by District.

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Table 14
Projected Pessimistic High School Enrollment, 2007 – 2029

Year	Projected Pessimistic Enrollment	Annual Percent Change	Increase (or Decrease) in Students
2007*	9,561	N/A	N/A
2008	9,458	(1.08%)	(103)
2009	9,364	(0.99%)	(94)
2010	9,302	(0.66%)	(62)
2011	9,216	(0.92%)	(86)
2012	9,186	(0.33%)	(30)
2013	9,119	(0.73%)	(67)
2014	9,123	0.04%	4
2015	9,187	0.7%	64
2016	9,287	1.09%	100
2017	9,287	0%	0
2018	9,287	0%	0
2019	9,287	0%	0
2020	9,287	0%	0
2021	9,287	0%	0
2022	9,287	0%	0
2023	9,287	0%	0
2024	9,287	0%	0
2025	9,287	0%	0
2026	9,287	0%	0
2027	9,287	0%	0
2028	9,287	0%	0
2029	9,287	0%	0

*Based on current CBEDS enrollment provided by District.

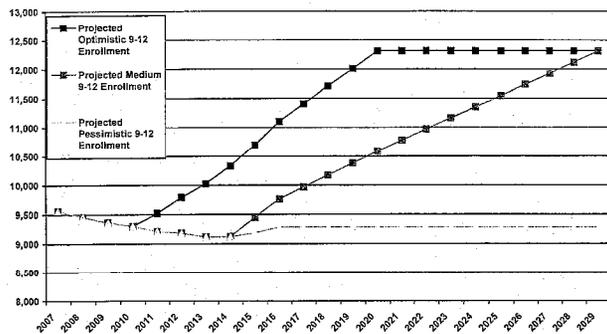
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Chart D
Projected High School Enrollment, 2007–2029



B. Required New Capacity

The additional pupil capacity required by the District over the next twenty-two years is calculated by comparing the projected enrollment against the pupil capacities outlined in Part One.

The enrollment projection relies largely on projections of future residential development. If actual development rates are greater or lesser than the Plan's projection, then the District will have a greater or lesser need for additional school facilities, respectively. In addition, if other factors in the District such as, student generation rates of residential units, residential vacancy rates, private school attendance, etc., deviate from historical patterns, the enrollment projection in this Plan will need to be modified.

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The capacity figures are based on the loading standards and District policies outlined in Part One. If the District modifies its use of facilities (e.g., reduces/increases the number of portable classrooms on some sites), the District will have a greater or lesser need for additional school facilities. Some possible facility policy changes that will affect the required amount of additional capacity are identified along with the Facility Plan outlined in Part Three.

Table 15
Required (or Excess) Capacity, in Numbers of 7-8 Students/Classrooms
(Based on all classrooms within District)

Grade Level	Forecast	5 Year		10 Year		15 Year		22 Year	
		Students	CRs	Students	CRs	Students	CRs	Students	CRs
7-8	Optimistic	(1,008)	0	(298)	0	12	1	12	1
7-8	Medium	(1,214)	0	(777)	0	(436)	0	12	1
7-8	Pessimistic	(1,214)	0	(1,022)	0	(1,022)	0	(1,022)	0

Table 16
Required (or Excess) Permanent Capacity, in Numbers of 7-8 Students/Classrooms
(Based on all permanent classrooms within District)

Grade Level	Forecast	5 Year		10 Year		15 Year		22 Year	
		Students	CRs	Students	CRs	Students	CRs	Students	CRs
7-8	Optimistic	185	7	895	34	1,205	45	1,205	45
7-8	Medium	(21)	0	416	16	757	29	1,205	45
7-8	Pessimistic	(21)	0	171	7	171	7	171	7

Table 17
Required (or Excess) Capacity, in Numbers of 9-12 Students/Classrooms
(Based on all classrooms within District)

Grade Level	Forecast	5 Year		10 Year		15 Year		22 Year	
		Students	CRs	Students	CRs	Students	CRs	Students	CRs
9-12	Optimistic	201	8	1,814	68	2,722	101	2,722	101
9-12	Medium	(404)	0	377	14	1,380	52	2,722	101
9-12	Pessimistic	(404)	0	(303)	0	(303)	0	(303)	0

Table 18
Required (or Excess) Permanent Capacity, in Numbers of 9-12 Students/Classrooms
(Based on all permanent classrooms within District)

Grade Level	Forecast	5 Year		10 Year		15 Year		22 Year	
		Students	CRs	Students	CRs	Students	CRs	Students	CRs
9-12	Optimistic	3,414	127	5,027	187	5,935	220	5,935	220
9-12	Medium	2,809	105	3,590	133	4,593	171	5,935	220
9-12	Pessimistic	2,809	105	2,910	108	2,910	108	2,910	108

At the middle school level, based on the District's total classroom facilities and facility-use policies, the District requires additional capacity at the middle school grade level of up to 12 spaces (approximately 1 classroom) over the twenty-two year planning period should the District continue to use all portable classrooms at existing campuses. However, the District has 21 portable classrooms at middle school sites that are aging and will need to be removed, which will require the District to add up to 567 additional spaces, for a total of approximately 22 classrooms of additional capacity at the middle school grade level over the twenty-two year planning period. Based on the District's permanent classroom facilities and facility-use policies, the District will require up to 1,205 spaces (approximately 45 classrooms) of additional capacity at the middle school grade level over the twenty-two year planning period.

At the high school level, based on the District's total classroom facilities and facility-use policies, the District will require up to 2,722 spaces (approximately 101 classrooms) over the twenty-two year planning period. Of the 138 portables on high school campuses, 18 portables are 20 years of age or older and should be the District's priority for removal. Based on the District's permanent classroom facilities and facility-use policies, the District will require up to 5,935 spaces (approximately 220 classrooms) over the twenty-two year planning period.

Alternative plans to provide facilities for these students are outlined in Part Three.

Part Three – What can we do to meet the need?

Summary of Key Points:

- The District's Facility Plan for the next twenty-two years includes a new middle school and two new high schools. This plan will allow the District to house all students over a twenty-two year planning period and begin to eliminate portable classrooms that are too old to maintain and create site densities that are in excess of those recommended by the CDE. The District can eliminate up to 36 portable classrooms (including 21 portable classrooms that are too old to maintain) at middle school and up to 28 portable classrooms (including 18 portable classrooms that are too old to maintain) at high school, which will greatly reduce middle and high school site densities.
- Two additional options are also discussed that would allow the District to further reduce site densities. Under Option #1 the District would construct a second new middle and third new high school. At the middle school level, the District would be able to remove up to 9 additional portable classrooms, providing the District with 773 additional seats of capacity. At the high school level, the District would be able to remove up to 74 additional portable classrooms, providing the District with 24 additional seats of capacity.
- Under Option #2 the District would construct a fourth new high school, which would allow the District to remove up to 11 additional portable classrooms, providing the District with 1,727 additional seats of capacity.

This section presents a Facility Plan, the goal of which is to house all students over a twenty-two year planning period. The Facility Plan provides all the required new capacity at the middle and high school levels.

When possible, the Facility Plan outlines strategies for eliminating portable classrooms that are too old to maintain and portable classrooms that create site densities that are in excess of those recommended by the CDE (see Tables 6, 7 and 8 and Chart A in Part One of the Plan). Implementation of the Facility Plan will allow the District to remove some portable classrooms at existing campuses.

As outlined in Part Two of the Plan, the Demographer has outlined three potential enrollment growth scenarios (optimistic, medium and pessimistic) which differ based on the varied timing of development. The Facility Plan outlined in this section assumes the "optimistic" forecast as the District needs to plan for peak projected enrollment. If enrollment growth should occur at a different pace than the "optimistic" forecast suggests, the District can adjust its Facility Plan accordingly.

In addition to providing the capacity required to house future enrollment, the District has identified three other goals for a Facility Plan. They are:

- Eliminate portable classrooms that have become too old to maintain and reduce student densities on school sites which exceed the CDE recommendations,

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- Free up classroom space that can be used for special programs,
- Take maximum advantage of State school facility funds.

A. Facility Plan

The elements of the Facility Plan designed with the above goals in mind are:

- A new middle school with a capacity of 1,000 students,
- A new high school with a capacity of 1,500 students and a second high school with the capacity of 2,000 students.

This facility plan provides sufficient capacity to house all projected middle and high school students and takes steps towards eliminating/converting portable classrooms.

Table 19 shows how the District's Facility Plan might be implemented over the twenty-two year period.

**Table 19
Implementation of the Facility Plan**

Year	Projected Middle Facility Need	Projected High School Facility Need	Facilities Available	New Middle School Seats	New High School Seats	Resulting Middle School Facility Need	Resulting High School Facility Need
2012	(1,008)	201	No facilities needed at middle school. Open the District's new High School (1,500 seats) and remove up to 14 portables from existing high school sites, all of which are too old to maintain.	0	1,500	(1,008)	(921)
2013	(790)	(685)	No facilities needed at high school. Open the District's new middle school (1,000 seats) and remove up to 36 portables from existing middle school sites, 21 of which are too old to maintain.	1,000	0	(818)	(685)
2016	(430)	390	No facilities needed at middle school. Open additional high school (2,000 seats) and remove up to 14 portables from existing high school sites, 4 of which are too old to maintain.	0	2,000	(430)	(1,232)
2029	(16)	(22)	No facilities need.	0	0	(16)	(22)

As shown in the Table 19, the Facility Plan will house all students projected over the twenty-two year planning period.

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At the middle school grade levels, if the District constructs a new middle school with a capacity of 1,000 students, it can eliminate up to 36 portables at existing middle school sites, greatly reducing middle school site densities. Of the 36 portables that can be removed from middle school campuses, 21 portables are too old to maintain and should be the District's priority for removal.

At the high school grade levels, if the District constructs two new high schools (High School #1 with a capacity of 1,500 students and High School #2 with a capacity of 2,000 students) it can eliminate up to 28 portables at existing high school sites, greatly reducing high school site densities. Of the 28 portables that can be removed from high school campuses, 18 portables are too old to maintain and should be the District's priority for removal.

B. Additional Facility Options

Although the Facility Plan outlined above houses all students anticipated over the twenty-two year planning period, additional new school facilities are needed to allow the District to eliminate/convert additional portable classrooms at existing school sites that have densities above those recommended by the CDE. The following options would allow the District to eliminate/convert additional portable classrooms at existing school sites.

- Option #1**
A second new middle school with a capacity of 1,000 students.
A third new high school with a capacity of 2,000 students.

This option would allow the District to remove an additional 9 portable classrooms at middle school sites and an additional 74 portable classrooms at high school sites. This option would also provide the District with an additional 773 seats of middle school capacity and 24 seats of high school capacity beyond the twenty-two year facility need.

- Option #2**
Option #1 plus a fourth new high school with a capacity of 2,000 students.

This option would allow the District to remove an additional 11 portable classrooms at high school sites and would provide the District with an additional 1,727 seats of high school capacity beyond the twenty-two year facility need.

Part Four – How do we pay for it?

Summary of Key Points

- The estimated cost of the District's Facility Plan for required new capacity is \$193.8 million.
- The estimated cost of additional facilities needed to reduce District site densities to align with site densities recommended by the CDE (Option #1 and Option #2) is \$229.3 million.
- The total estimated cost of the District's Facility Plan and Option #1 and Option #2 is \$423.2 million.
- The primary sources of funds for the District's facility needs are anticipated to be (1) the State School Facility Program, (2) Developer Fees and (3) existing General Obligation Bond funds.
- Projected funding from the State School Facility Program, Developer Fees and existing General Obligation Bond funds are estimated at \$119.5 million for the District's Facility Plan and \$110.2 million for the Option #1 and Option #2, for a total of \$229.8 million.
- The District's projected funding falls short of the District's facility revenue needs. The District requires approximately \$74.3 million in additional funding for the District's Facility Plan and \$119.1 million of additional funding for Option #1 and Option #2, for a total of \$193.4 million in additional funding need. The District will need to investigate additional revenue sources such as future general obligation bonds, Mello-Roos financing, etc. to fund the District anticipated facility needs.

Part Four is divided into two sections. The first section estimates the cost to provide the school facilities presented in Part Three. The second section projects the funds available to the District for facility projects. Both funding and cost estimates are calculated in current dollars assuming that cost and funding inflation will occur at a similar rate.

A. Cost Estimates

1. Facility Plan

The information in Table 20 shows that the estimated cost of the District's Facility Plan outlined in Part Three is \$193,850,000. Cost estimates are based on District estimates to construct new middle and high school facilities.

(continued on the next page)

Table 20
Cost Estimate of District's Facility Plan

Facility Plan:	Site	Project Description	Cost*
New Middle School #1		New middle school with a capacity of 1,000 students.	\$30,350,000
New High School #1**		New high school with a capacity of 1,500 students.	\$64,000,000
New High School #2		New high school with a capacity of 2,000 students.	\$99,500,000
Sub Total			\$193,850,000
Option #1:			
New Middle School #2		New middle school with a capacity of 1,000 students.	\$30,350,000
New High School #3		New high school with a capacity of 2,000 students.	\$99,500,000
Sub Total			\$129,850,000
Option #2:			
New High School #4		New high school with a capacity of 2,000 students.	\$99,500,000
Sub Total			\$99,500,000
Total			\$423,200,000

*School facility costs are based on estimates provided by the District. Actual cost will vary based on timing of construction.
**The District owns the site for New High School #1.

2. Total Costs of Option #1 and Option #2

As the above cost estimates show, the costs of providing the additional pupil capacity outlined in Option #1 and Option #2 discussed in Part Three of the Plan are \$129,850,000 and \$99,500,000, respectively.

B. Funding Sources

1. School Facility Program

The State School Facility Program (SFP) is a likely funding source for the District's projects. This section estimates the SFP funding that will be available to the District. The estimates assume that the District has new construction eligibility and that the State will have new construction funds in the years that the District will likely apply for State funding.

The SFP calculates enrollment projections and facility capacities based on formulas in State law. The amount of SFP funding available to districts is then determined by (1) subtracting projected enrollment from capacity to determine the number of unboxed students in a district and (2) multiplying unboxed students by per pupil grant amounts. The formulas used in the SFP to determine enrollment projections and facility capacities are not appropriate to determine true local need for school facilities. The enrollment and capacity figures used in determining amounts of SFP funding should not be used for long term planning purposes.

Salinas Union High School District – School Facility Master Plan – March 2008

The SFP is governed by the State Allocation Board (SAB), which will continue to make changes to the program. Eligibility for funding should be re-examined on an annual basis, or when the program changes. Funding under the SFP is available when the District has Division of the State Architect (DSA) approved construction plans.

The amounts in Table 21 and Table 22 are estimates of the amount of funding available to the District in the years that it will apply for State funding based on the Implementation Plan and Option #1 and Option #2 outlined in Part Three. The amounts assume that the District will have new construction eligibility in the years that it will likely apply for State funding, based on the Implementation Plan outlined in Part Three.

**Table 21
Facility Plan
School Facility Program Estimated New Construction Funding**

Grade Group	2012/13	2013/14	2016/17	Total
7-8	\$0	\$15,273,668	\$0	\$15,273,668
9-12	\$28,977,300	\$0	\$38,636,400	\$67,613,700
Total	\$28,977,300	\$15,273,668	\$38,636,400	\$82,887,368

**Table 22
Option #1 and Option #2
School Facility Program Estimated New Construction Funding**

Grade Group	2020/21	2023/24	2029/30	Total
7-8	\$15,273,668	\$0	\$0	\$15,273,668
9-12	\$0	\$38,636,400	\$38,636,400	\$77,272,800
Total	\$15,273,668	\$38,636,400	\$38,636,400	\$92,546,468

The potential SFP new construction funding outlined in Table 21 and Table 22 includes 50% of new construction costs as defined by the SFP because the SFP is a match program. The table also includes estimated costs for site development and site acquisition costs relevant to the District's new construction projects. The District will be limited to project capacity when accessing State funds (i.e., maximum grant funding on a middle school with 1,000 seats is 1,000 grants)

2. Developer Fees

The District currently collects developer fees on commercial/industrial development and residential development. The District should continue to collect the maximum fee allowed by law and should re-examine development trends on an annual basis.

Projected revenue from developer fees over the twenty-two year planning period is estimated based on (1) current developer fee fund balances and (2) developer fee revenue projections based on the District's current and historical collection rates and anticipated residential development as outlined in the Demographer's "optimistic" forecast. The amounts in Table 23 and Table 24 are estimates of

Salinas Union High School District – School Facility Master Plan – March 2008

the amount of developer fee funding available to the District in the years that it will apply for State funding based on the Implementation Plan and Option #1 and Option #2 outlined in Part Three. The District anticipates using this revenue on the District's projects outlined in this Plan. The District may also use some of this revenue towards other projects not related to the growth needs outlined in this Plan. The ability of the District to access revenue from developer fees depends on development trends in the District. Should development trends deviate from the development assumptions in the District's "optimistic" forecast, the developer fee revenue estimated in this Plan will need to be modified.

**Table 23
Facility Plan
Estimated Developer Fee Revenue**

Grade Group	2012/13	2013/14	2016/17	Total
7-12	\$9,688,291	\$4,169,145	\$12,507,436	\$26,364,872

**Table 24
Option #1 and Option #2
Estimated Developer Fee Revenue**

Grade Group	2020/21	2023/24	2029/30	Total
7-12	\$16,676,581	\$344,504	\$689,008	\$17,710,093

3. General Obligation Bonds

School districts can, with the approval of either two-thirds or 55 percent of its voters, issue general obligation bonds that are paid for out of property taxes. The District gained voter approval for a Proposition 39 General Obligation Bond in March 2002, and another General Obligation Bond in November 2002. The District has \$10,346,000 available from General Obligation Bond funds to use towards future middle schools. The District may explore a future ballot measure to provide funding to allow the District to construct needed new school facilities and provide funding for other District facility needs.

4. Parcel Taxes

Approval by two-thirds of the voters is required to impose taxes that are not based on the assessed value of individual parcels. While these taxes have been occasionally used in school districts, the revenues are typically minor and are used to supplement operating budgets. The District does not currently collect parcel tax revenue, however, could investigate a parcel tax as a revenue source to allow the District to construct needed new school facilities and provide funding for other District facility needs.

5. Mello-Roos Community Facilities Districts

This alternative uses a tax on property owners within a defined area to pay long-term bonds issued for specific public improvements. Mello-Roos taxes require approval from two-thirds of the voters

Salinas Union High School District – School Facility Master Plan – March 2008

(or land owners if fewer than 12) in an election. The District currently does not have any Mello-Roos authorizations, however, could investigate a parcel tax as a revenue source to allow the District to construct needed new school facilities and provide funding for other District facility needs.

6. Other Agency Joint Participation

Other agencies that have similar needs may be willing to share the cost of providing new or modernized facilities in exchange for joint-use. The District may be able to enter into joint-use with the City of Salinas or the County of Monterey for parks and recreational facilities.

7. Asset Management

The District has not identified any unused assets that might be used to generate revenue for facility funding.

8. Debt Financing

The District has utilized Municipal Leases and Certificates of Participation (COPs) to finance some facilities. This type of debt financing should only be used as “bridge” funding until permanent funding becomes available. The District should proceed with caution when using Municipal Lease, COPs and other debt financing, as they are reliant on development growth assumptions that if not realized may impact the District’s general fund.

Table 25
Estimated Total Facility Funding

Facility Plan	Category	Funding
State School Facility Program		\$82,887,368
Developer Fees		\$26,364,872
General Obligation Bond Funds		\$10,346,000
Sub-Total		\$119,598,240
Option #1 and Option #2		
State School Facility Program		\$92,346,468
Developer Fees		\$17,210,993
Sub-Total		\$110,256,561
Total		\$229,854,801

Table 26
Facility Cost and Facility Funding Comparison

	Facility Cost	Facility Funding	Difference
Facility Plan	\$193,850,000	\$119,598,240	\$74,251,760
Option #1 and Option #2	\$229,350,000	\$110,256,561	\$119,093,439
Total	\$423,200,000	\$229,854,801	\$193,345,199

Salinas Union High School District – School Facility Master Plan – March 2008

As outlined in Table 26, the District’s projected funding falls short of the District’s facility revenue needs. The District requires approximately \$74.3 million in additional funding for the District’s Facility Plan and \$119.1 million of additional funding for Option #1 and Option #2, for a total of \$193.4 million in additional funding need. The District will need to investigate additional revenue sources such as future general obligation bonds, Mello-Roos financing, etc. to fund the District anticipated facility needs.

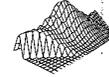
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APPENDIX

DEMOGRAPHIC ANALYSIS AND FORECASTS FOR
SALINAS UNION HIGH SCHOOL DISTRICT
(January, 14, 2008)

Prepared by
Lapkoff & Gobalet Demographic Research, Inc.

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Demographic Analysis and Forecasts for Salinas Union High
School District
January 14, 2008

Executive Summary

The purpose of this report is to describe our new middle and high school enrollment forecasts for Salinas Union High School District (SUHSD, the District). It presents both the enrollment figures and the details of our forecast methodology.

If no new housing were built in West Boronda or in the Future Growth Areas (FGAs) north and east of the city of Salinas, we would expect that, by 2016, SUHSD middle school enrollments would increase by about 150 and high school enrollments would fall by about 270 (see Table 9). However, when all planned housing is built in the FGAs and West Boronda, total enrollments will increase by about 1200 middle school students and 2,800 high school students (see Table 11). The very earliest this development could be completed is 2020. The timing of housing construction in the FGAs is uncertain, so we have developed three different timing scenarios. One scenario assumes completion by 2020, another by 2029, and a third assumes that none of the housing is occupied through the end of our forecast period.

The Salinas area experienced severe enrollment declines between 2003 and 2005. This coincided with the completion of three major housing developments: CreekBridge, Harden Ranch, and Williams Ranch. The declines seem to have resulted from some community-wide changes that caused families to leave SUHSD or to shift their children out of the public schools, and there was no offsetting enrollment growth from new housing. Meanwhile, there has been another demographic shift, and most measures of enrollment change and migration have returned to more historically normal levels. We expect future enrollments to be relatively stable in the absence of housing growth. When the planned housing is built over the next decade or two, enrollments will grow, though the timing and pace of that development cannot be not known at this point.

We have identified the feeder district in which each past and current SUHSD student lived and combined their numbers with past and current enrollments (from CBEDS) in each feeder's schools. The result was hypothetical K-12 populations in each feeder.¹ Our analyses and forecasts are for these populations. In the end, we combine the populations for overall middle and high school SUHSD forecasts. There are several methodological issues associated with combining the populations, but we believe this approach produces the most accurate and informative forecasts.

¹ The elementary populations are "hypothetical" in that we assume each feeder district's enrollments represent students enrolled in its schools. The SUHSD middle and high school enrollment numbers we use reflect actual residents of the feeder districts.

An important assumption in our forecasts concerns whether the recently constructed large developments (CreekBridge, Harden Ranch, and Williams Ranch) will experience enrollment changes over time. Sometimes new developments undergo an "aging" effect, which causes high school enrollments to be low at first, to peak about 10 years after the homes are built, and then to decline. The aging effect occurs if a large share of the homebuyers has very young children. We have studied the older parts of CreekBridge, Harden Ranch, and Williams Ranch to see how SUHSD enrollments changed as the housing aged, and found inconclusive evidence of aging there. In the forecasts presented here, we have assumed that enrollments from CreekBridge, Harden Ranch, and Williams Ranch will remain constant at their current levels. Also, we assume that once housing in Monte Bella, West Boronda, and the FGAs is fully occupied, no aging effect will occur. This assumption should be monitored over time, as more data become available.

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Introduction

Forecasting SUHSD enrollments presents methodological challenges. First, a large number of housing units were built in the District in recent decades.² As a consequence, public school enrollments grew and this growth masked underlying demographic trends. We need to understand these underlying trends in order to forecast future enrollments.

Our general approach involves identifying exactly where students live in order to separate those living in recently built housing from those occupying older housing. However, we lack address data for students enrolled in each of SUHSD's seven elementary feeder districts, and cannot determine the number of these students living in recently built homes. This presents a second methodological challenge because we generally use data for students living in elementary feeders as a basis for forecasting future high school students.

A third complicating factor is that a very large number of homes is expected to be built in the Future Growth Areas (FGAs) to the north and east of Salinas. The new housing will increase SUHSD's enrollments. The timing of construction is uncertain, as are the number and type of housing units. As a result, we present three different scenarios about the timing of the projects. The most pessimistic forecast assumes no development, or at least no development during our forecast period.

This report is divided into the following sections:

1. Description of overall enrollment trends,
2. Discussion of the impact of recent housing growth on enrollments,
3. Description of future housing developments,
4. Explanation of the forecast methodology,
5. Historical analyses and forecasts by SUHSD elementary feeder district, and
6. Forecasts for SUHSD middle and high school enrollments through fall 2016.

Acknowledgments

This report was done under the direction of Karen Luna, SUHSD Manager of Planning/Facilities, and Roger C. Antón, Jr., SUHSD Superintendent, and in collaboration with Matthew A. Pettler, Planning Services Director, School Facility Consultants.

We are grateful for assistance provided by the following individuals: Charles A. Lerable, GIS Administrator, City of Salinas Information Systems; Bob Schubert, Monterey County Planning Department; Jerry Hernandez, Monterey County Housing and Redevelopment Office; Mely Lat, Supervisor, District Advisory Services, Monterey County Office of Education; and Bill Satterlee, CreekBridge Homes. Mary Johnston, Sorrento (Monte Bella) Community Sales Manager, Standard Pacific Homes; Monica Faranda, Monte Bella Sales Manager; Mimi Gitchev, Spreckels Community Sales Manager, Standard Pacific Homes; Fred, Flor de Salinas Sales; and Ana Aguillon, SUSHD Accountant, also provided needed information.

² The completion of several major projects by 2004 and 2005 has contributed to the cessation of enrollment growth.

Overall Enrollment Trends

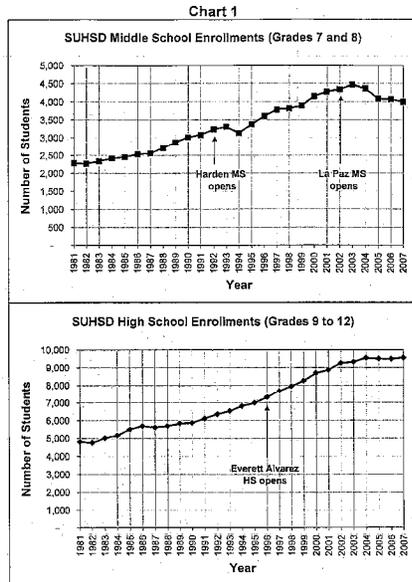
After decades of enrollment growth, SUHSD enrollment trends have reversed. Middle school enrollments (seventh and eighth grades) peaked in 2003 at 4,472 students. By fall 2007, enrollments had fallen 11 percent, to 3,997. Meanwhile, high school enrollments peaked in 2004 and remained at that level for the next three years. See Chart 1.

In addition to looking at overall enrollment trends, we also study what demographers call "grade progressions." This measure compares the number of students in one grade with the number of students in the following grade the following year. For example, we compare the number of ninth graders in fall 2006 with the number of tenth graders in fall 2007.

Grade progressions are important for two reasons. First, assumptions about their future levels are a key element of the enrollment forecast model. In the standard forecast methodology, we start with the current number of students in each grade and advance them one grade to obtain next year's enrollments. We apply grade progression rates or ratios to adjust the number of students as they progress one year. The second reason the grade progressions are important is that they indicate demographic behavior of the population, including the population's mobility, preferences regarding private schooling, and the district's retention policies.

Chart 2 shows grade progressions between fall 2006 and fall 2007 for the combination of SUHSD students and students enrolled in all its elementary feeder districts. Later we report this information for each of the five largest feeders, which will be more informative. Note that all of the grade progressions except for K-1 are negative, meaning that more students left SUHSD and its feeders than moved in. This means that households with children are migrating out of the District, or are switching from public to private schools.

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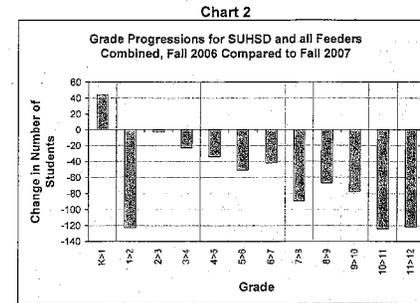


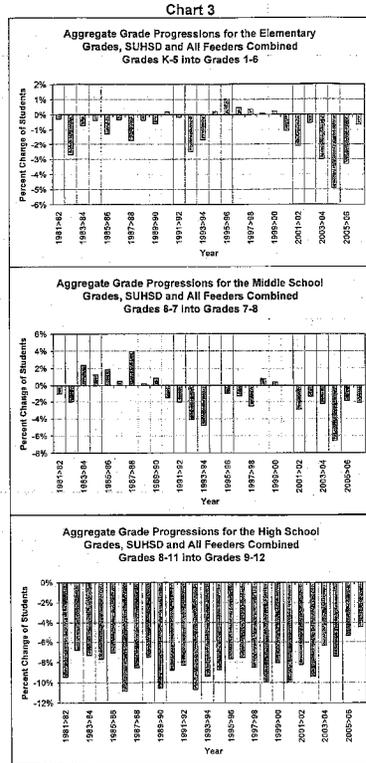
Chart 3 summarizes the grade progressions for each school level from 1981 to 2007. Grade progressions for the most recent pair of years (2006-2007) are shown in the farthest right column of each graph. We show percent changes in the number of students in each school level from one year to the next, beginning with the 1981>1982 progressions.

The most recent set of elementary and high school grade progressions show that fewer students left the public school districts than in most recent years; they now resemble the historic average. Elementary and middle school grade progressions were especially low between 2005 and 2007. At the high school level, grade progressions have been steadily improving (fewer students have left) during the last four years, possibly a result of the change in SUHSD's retention policy.³³

These grade progressions are a result of many factors, one of which is housing growth. As new developments are built, if families move into the area from places outside the District, enrollments grow and the grade progressions increase. These increases can mask an underlying trend, such as the enrollment decline often associated with aging of housing. When we can, therefore, we eliminate the effect of housing growth from the grade progressions and study grade progressions in newer and older housing separately. When we subtract students from the larger new housing areas (CreekBridge, Harden Ranch, Williams Ranch, Monte Bella), we can study underlying demographic trends in the older housing areas. We have done this in our analyses of feeder district and SUHSD enrollments. But first, we discuss housing growth.

³³ Around 2003, the District began to advance students one grade for each year of enrollment, regardless of the number of credits earned.

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Impact of Recent Housing Growth on Enrollments

As we show below, SUHSD enrollment growth in the 1990s and early 2000s largely resulted from occupancy of new housing in several large developments. In 1984, the City of Salinas annexed CreekBridge and Williams Ranch, and in 1989 it annexed Harden Ranch. Together, these three developments contain approximately 7,229 units, which is currently 17 percent of the city's housing stock. CreekBridge took the longest to build, with most units constructed between 1989 and 2004. Most of Williams Ranch was built between 1995 and 2002, and most of Harden Ranch was built from 1993 to 2004. Chart 4 shows the annual number of units built in each of these developments, and Map 1 shows their location.

Note that all three developments were completed by the mid-2000s, and at the same time SUHSD enrollment growth slowed.

Table 1 shows the number of students generated from the three large developments built recently in Salinas, along with the student yields from each project (number of students divided by number of housing units). In fall 2007, 1,829 high school students and 623 middle school students attended SUHSD schools. Overall, the high school yield is .25, while the middle school yield is about half that for feeders with middle school students enrolled in SUHSD schools.

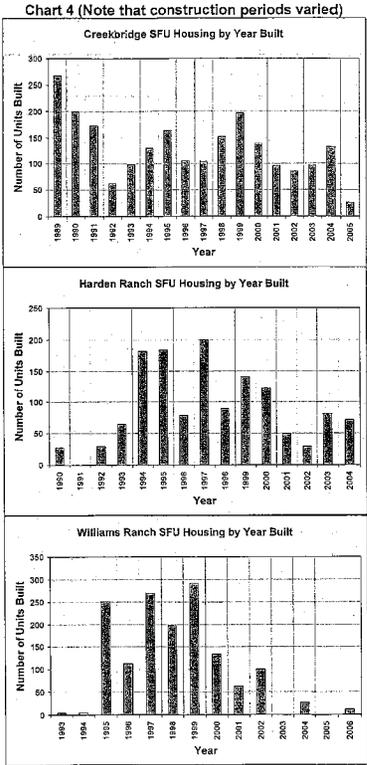
Table 1

Enrollments and Yields in Creekbridge, Harden Ranch, and Williams Ranch, Fall 2007

	# Units	Middle School Students		High School Students	
		# Students	Yield	# Students	Yield
Creekbridge	2,598	259	0.10	685	0.26
Harden Ranch	2,561	not applicable		452	0.18
Williams Ranch	2,070	364	0.18	692	0.33
Total	7,229	623	0.13	1,829	0.25

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Future Housing Developments

Under Construction

New housing continues to be built in Salinas, but at a slower pace. The main development now underway is Monte Bella, with 853 total housing units (see Map 2). About 45 percent of the project was completed by October 2007.⁴ The pace of construction has slowed, however, as a result of a poor housing economy.

Future Growth Areas

The City of Salinas has identified three "Future Growth Areas" (FGAs) to the north and east of its current boundaries. These developments were submitted to LAFCO (Local Agency Formation Commission) recently, and, if approved, will then go to the City for consideration. In due course, Salinas will annex the FGAs, and it is anticipated that construction will occur simultaneously in all three. Map 2 shows these areas.

The number of projected housing units in the three FGAs is now estimated at 11,500.⁵ Most will be single-family homes, but there will also be a significant number of apartments. The number and mix of housing types may change by the time the developments are approved.

As housing in these areas is constructed, Salinas' population and student enrollments will grow. The earliest these developments could begin to be occupied is 2011, and construction is expected to take at least 10 years to complete.⁶ Perhaps a more likely estimate for first occupancy is closer to 2015 or even 2020.

West Boronda

Plans for the West Boronda area should be finalized by the end of 2008. It is anticipated that occupancy will begin by 2011, and will take 10 years to complete. The Boronda area is within Salinas City School District, and will contribute both high school and middle school students to SUHSD.

Rancho San Juan

The proposed Rancho San Juan/Butterfly Village development is located in the county area north of Salinas, in the Santa Rita and Lagunita School Districts. Plans currently call for 1,660 homes.⁷ This development is currently in litigation, so it is unclear when and if it will be built. We do not include this development in the forecasts, but if it were built, we would expect about 415 high school students to live in the 1,660 homes. Middle school students living there would attend the Santa Rita District.

⁴ According to Mary Johnston, Sorrento (Monte Bella) Community Sales Manager, Standard Pacific Homes and Monica Faranda, Monte Bella Sales Manager.

⁵ At one time, the number of units was stated to be 15,000 or more.

⁶ Bill Satterlee, CreekBridge II representative, helped us immensely by providing information about development in the FGAs, although he cautions that timing, unit counts, and housing mix are still very uncertain.

⁷ According to Bob Schubert, Monterey County Planning Department.

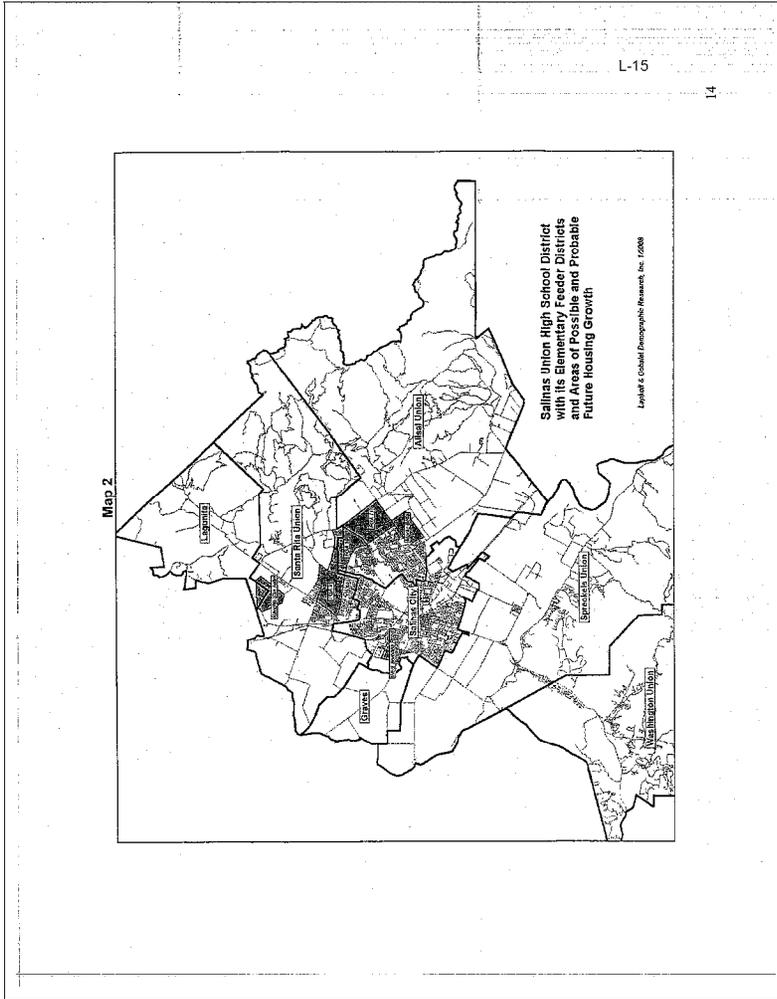
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Smaller Developments

It is expected that several smaller housing developments will be built within the planning horizon (the next 10 years). Table 2 shows these developments as well as the larger developments discussed above.

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Table 2

Name of Development	Type	# Units	Feeder District	Timing	Notes
King Bell	SFU	850	Salinas	under construction; first occupancy 2005	380 occupied Oct 2007
King Bell	Condominiums	850	Salinas City	under construction; first occupancy late 2007	0 occupied Oct 2007
Spreads	SFU	73	Spreads	under construction; first occupancy late 2007	0 occupied Oct 2007
Tymon Village	Apts	171	Salinas City	under construction; first occupancy late 2008	
Volstead Street	MFU	100	Salinas City		
Volstead Street	MFU	100	Salinas City		
Commons at Rogge Rd	SFU and Apts	171	Santa Rita	first units 2010, 10 years to complete	28% - affordable 100% affordable
Sollenbacher & Kelton	SFU	214	Washington		
Sollenbacher & Kelton	MFU	85	Washington		
San Juan	MFU	100	San Juan	under construction	
Rancho San Juan/Balfour Village	MFU	408	Santa Rita and Legumin	under construction	
<i>Future Growth Areas</i>					
East (FCA 1)	mixed		Alisal	first occupancy 2010 (or later)	
Central, Creekside II (FCA 10)	SFU		Rita (east part)	first occupancy 2010 (or later)	
Central, Creekside II (FCA 10)	MFU (appt) > 500 units	approx. 11,500	Alisal (west) and Santa Rita (east part)	first occupancy 2010 (or later)	
West (FCA 9)	mixed?		San Juan, Balfour Village and Salinas City (east part)	first occupancy 2010 (or later)	

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Forecast Methodology

The standard technique for forecasting school enrollments, called the cohort survival method, begins with the number of students in each grade and advances them one grade to estimate the following year's enrollments. As students progress to the next grade, their numbers may change if students move into or out of the community and into or out of private schools, or if some students repeat or skip grades. Typically, we measure historical "grade progressions" to determine the likely change in cohort sizes as students progress to the next grade. These historical grade progressions are then applied to forecast models to adjust our forecasts of future students.

Students from new housing inflate our measures of the District's historical grade progressions. We do not expect the past pace of housing construction to continue, so we do not want to use historical grade progressions in our forecast model. Instead, it is best to remove students from recently built housing from our historical measures. Once separated, a forecast is made for each group.

Historical grade progressions for students living in older housing reflect the migration (and other) factors that have affected the population outside the housing growth areas. With the students from housing growth eliminated, our measures of historical grade progressions are more likely to be stable.

We use a different forecast method to determine likely future numbers of students living in recently built housing areas (CreekBridge, Harden Ranch, and Williams Ranch).

Producing these enrollment forecasts for a high school district with substantial housing growth is challenging, to say the least, because we need to rely on feeder district enrollments in a cohort survival model. And because we have no elementary student address data, we cannot separate students who live in new housing from the rest of the student population. On the other hand, this separation is possible for SUHSD students because we have student address data. We have address data for SUHSD for fall 1994 through fall 2007, and have measured how neighborhood enrollments in SUHSD schools have changed over time.⁸

Unfortunately, we cannot do the same with the feeder enrollments, since address data are not available. This severely handicaps the forecaster. Without separate counts of feeder district students living in newer and older housing, we have trouble using a cohort survival method when we split the SUHSD student population into new and older housing areas. We can try to estimate the feeder populations in the older areas, but the estimation technique is not very good.

Another problem is that when students first enroll in SUHSD schools, we know where they live, but we do not know which feeder (if any) they attended. Our grade progression

⁸ We do not have Mt. Toro students in our database before 2003, so high school enrollments are slightly understated for 1994-2002.

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measures may be skewed. For example, suppose that Santa Rita Union School District reduced the number of Inter-District Transfer (IDT) students it enrolled. From our perspective, the IDT students inflate Santa Rita's enrollment numbers, and when we compare SUHSD students living in Santa Rita with the enrollments in the Santa Rita School District, the elementary-to-high school grade progressions may be lower than they really should be. When the number of IDT students is substantially reduced, for example, the eighth-to-ninth grade progression measure will rise.

We suspect that Santa Rita may indeed have reduced its IDT population. This hypothesis arises from the fact that while the number SUHSD students living in Santa Rita increased substantially as Harden Ranch was constructed, elementary enrollments did not increase. How can this be? Other types of enrollments in Santa Rita must have declined, offsetting the gains from Harden Ranch. One obvious possibility is that Santa Rita reduced its IDT numbers to make room for Harden Ranch students.

Salinas City School District might also have had changing IDT totals. As its own resident student population shrank, the District has encouraged more IDT students to attend its schools. It is possible, for example, that larger numbers of Alisal students have enrolled in Salinas City elementary schools. All of this makes our middle and high school enrollment forecasts less certain, because we cannot make the appropriate comparison of elementary and high school residents of elementary feeders.

Historical Analyses and Forecasts by Feeder District

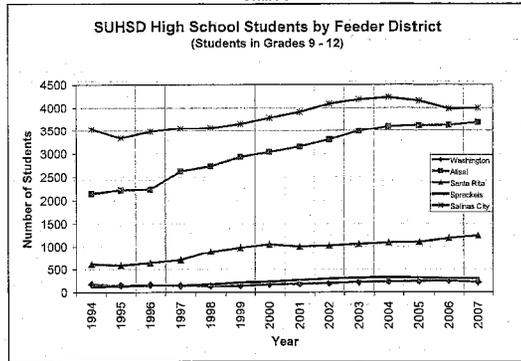
SUHSD has seven elementary feeder districts: Salinas City, Alisal, Santa Rita, Washington, Spreckels, Lagunita, and Graves. Lagunita and Graves are so small that we do not discuss them in the text, but their residents are included in the forecast of SUHSD students. Chart 5 shows SUHSD students living in each of the five larger feeder districts. The Salinas City area contains the largest number of SUHSD students, but the Alisal area is a close second. The Santa Rita area contains a much smaller share of SUHSD students, followed by even smaller shares in Spreckels and Washington.

In the rest of this section we provide analyses and forecasts for each of the five largest feeder districts.

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Chart 5



Salinas City School District

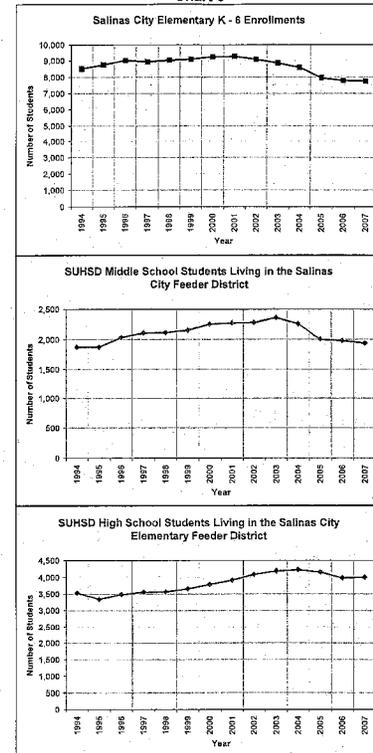
Chart 6 shows overall enrollments by school level for Salinas City School District (SCSD) students as well as SUHSD middle and high school students living in this feeder. Elementary enrollments were fairly stable for a decade, but between 2003 and 2005, numbers fell sharply and remained at the lower level through 2007. Middle school enrollments show a pattern similar to the elementary, with the exception that there was some enrollment growth between 1994 and 2004. High school enrollments resemble the middle school pattern, except lagged a year or two. Enrollments fell modestly between 2004 and 2006, with 2007 enrollments very similar to 2006 figures.

The enrollment pattern in SCSD is somewhat unusual. Elementary enrollment trends are usually replicated a few years later by middle- and then high school enrollment trends. This is not the case with Salinas City elementary/middle/high school students, which experienced the same pattern at about the same time. The simultaneity suggests a "period effect," which is an effect that occurs during a particular time period and affects all age groups at the same time. Substantial changes in the economy or housing market could create a pattern like this.

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Chart 6



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Chart 7 shows the number of SUHSD high school students living within the portions of major developments that are in Salinas City District. Only a small area of Harden Ranch is in Salinas City, and enrollments from the new housing were stable. Virtually the entire high school enrollment increase between 1995 and 2004 was *not* a result of new housing. Instead, the enrollment increase could have resulted from families moving into the older housing in the elementary district or from more families than in the past choosing public, rather than private, schools.

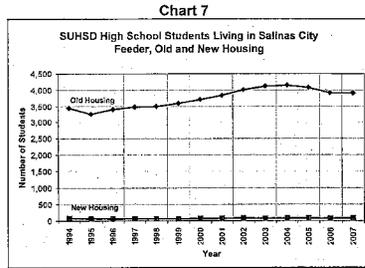


Chart 8 shows SCSD kindergarten enrollments, which peaked in 2000 and then declined. This large cohort is now in the seventh grade. Progressively smaller cohorts will follow, eventually reducing SUHSD enrollments from this area.

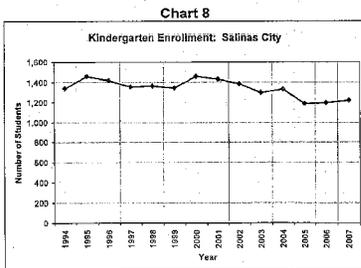


Chart 9 shows the aggregated grade progressions for Salinas City School District. The number of kindergartners through fifth graders is compared with first through sixth graders the following year. This is a measure of the change in cohort size as students progressed to the next grade. These grade progressions are usually most affected by migration into or out of the District, and by transfers between public and private schools. This graph shows that Salinas City Elementary lost many students between fall 2004 and fall 2005, and to a lesser extent the year before and after. More than eight percent of the students that were attending SCSD in fall 2004 left SCSD by fall 2005. Note that the most recent year's grade progressions resemble the historical norm.

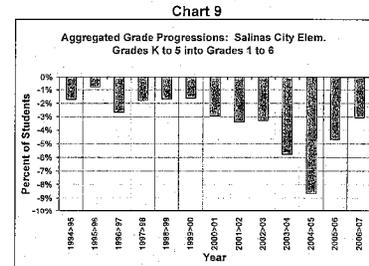
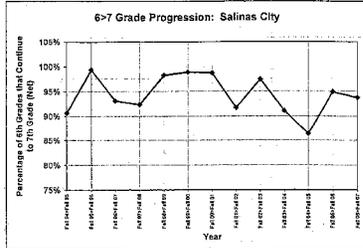


Chart 10 shows the sixth to seventh grade progression over time. This grade progression measure compares Salinas City's sixth grade class with the number of SUHSD seventh graders living in the Salinas City area the following year. In all but one year, the ratio was between 90 and 100 percent. An important assumption in the forecast model concerns what this ratio will be in the future. The fact that it has been relatively stable gives greater certainty to the forecast for SUHSD students living in SCSD.

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Chart 10



Forecast of SUHSD Students Living in SCSJ

Because there has been relatively little housing growth in the Salinas City district, we can make a forecast ignoring the effect of past housing growth on the grade progressions, using a typical cohort survival model. Moreover, the fact that there was some housing growth in the past means that the grade progressions were slightly higher than they otherwise would have been. Since a similar amount of housing growth is anticipated in this elementary district, the historical grade progressions are appropriate to use in our forecast model; they implicitly assume that some small amount of housing growth will continue. However, we still explicitly account for development in Tynan Village Apartments, since a relatively large number of students are likely to live in this future development.³ The West Boronda development would also generate students, but we account for them elsewhere.

A major assumption for the forecast model concerns the set of grade progressions. We believe that the very low grade progressions between 2003 and 2005 are unlikely to recur. Instead, for the Medium forecast, we use the most recent set of grade progressions, which is similar to the historical norm.

Table 3 shows our forecast of SUHSD students living in the Salinas City area. In the absence of the West Boronda development (shown later), middle school enrollments would decline by about 100 students between 2007 and 2012, while high school enrollments would decline by about 300 students.

³ We model 11 students per grade when Tynan Village is fully occupied. This development includes 171 apartments, of which 40 percent are affordable.

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Table 3

Component Forecast for SUHSD Students Living in Salinas City Elementary Feeder											
Students Living Outside Major New Housing Developments											
GRADE	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	
7	999	958	956	940	899	917	959	981	981	931	
8	929	932	921	919	903	962	880	922	944	944	
9	1,023	981	964	973	971	955	914	932	974	956	
10	954	972	930	933	922	920	904	863	881	933	
11	1,022	902	920	878	881	870	868	852	811	829	
12	910	967	847	865	823	826	815	813	797	758	
7-8 Total	1,898	1,890	1,877	1,859	1,802	1,779	1,839	1,903			
9-12 Total	3,909	3,822	3,681	3,649	3,597	3,571	3,501	3,480	3,463	3,504	
Students from New Housing: Harden Ranch											
GRADE	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	
7	19	21	21	21	21	21	21	21	21	21	
8	21	21	21	21	21	21	21	21	21	21	
9	24	21	21	21	21	21	21	21	21	21	
10	22	22	22	22	22	22	22	22	22	22	
11	24	21	21	21	21	21	21	21	21	21	
12	18	18	18	18	18	18	18	18	18	18	
7-8 Total	40	42	42	42	42	42	42	42	42	42	
9-12 Total	88	82	82	82	82	82	82	82	82	82	
Students from Future Housing: Tynan Village apartments											
GRADE	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	
7		5	11	11	11	11	11	11	11	11	
8		5	11	11	11	11	11	11	11	11	
9		5	11	11	11	11	11	11	11	11	
10		5	11	11	11	11	11	11	11	11	
11		5	11	11	11	11	11	11	11	11	
12		5	11	11	11	11	11	11	11	11	
7-8 Total	0	10	22	22	22	22	22	22	22	22	
9-12 Total	0	20	44	44	44	44	44	44	44	44	
Sum											
GRADE	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	
7	988	984	988	972	931	948	991	1,013	1,013	1,013	
8	950	958	953	951	935	994	912	954	976	976	
9	1,047	1,007	1,016	1,005	1,003	997	946	984	1,006	1,028	
10	976	999	963	968	955	953	937	896	914	956	
11	1,046	928	952	910	919	902	900	884	843	861	
12	928	990	876	864	852	855	844	842	826	785	
7-8 Total	1,938	1,942	1,941	1,923	1,856	1,843	1,903	1,967	1,989	1,989	
9-12 Total	3,997	3,924	3,807	3,775	3,723	3,697	3,527	3,586	3,589	3,630	

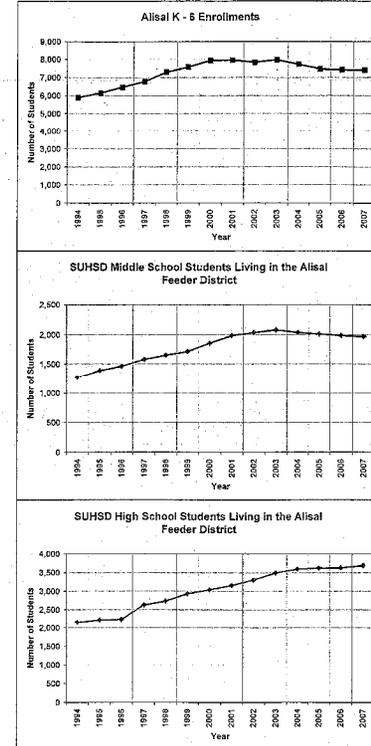
Alisal Union School District

Chart 11 shows overall enrollments by school level for Alisal Union School District. Elementary enrollments grew from 1994 (and earlier) through 2000. After 2003, enrollments declined very slightly and remained stable after 2005. This pattern after 2003 was very similar to that experienced in SCSD, but the decline was not as great because of the construction of Monte Bella housing. Middle school enrollment patterns resemble the elementary level, but with a higher growth rate than the elementary between 1994 and 2000. There was less of an enrollment decline in the middle schools after 2003 than in the elementary grades. SUHSD high school enrollments from the Alisal area also increased after 2004, and have not yet begun to decline. As might be expected, high school enrollment trends have lagged a few years behind the middle school enrollment trends.

Charts 12 and 13 show the numbers of SUHSD middle and high school students living in the new housing of major developments located in the Alisal school district (CreekBridge, Williams Ranch, and Monte Bella) and in older housing. Once we removed students living in the large developments, we found that middle school enrollments declined slightly while high school enrollments have been stable in this area. Virtually all SUHSD enrollment growth in the Alisal area is from students living in the new developments. The fact that enrollments outside the large development areas are fairly stable is an excellent illustration of why we separate students from new housing when we do forecasts. In this case, the increasing numbers of students from new housing disguised what was going on in the older housing in this part of the District.

Also, we see that enrollments from new housing have stabilized in the middle schools but continue to increase in the high schools. This difference suggests a slight "aging" effect in the new housing: it is likely that a somewhat high proportion of families buying the new housing had young children. As the housing ages, high school enrollments increase when the young students reach the higher grades.

Chart 11



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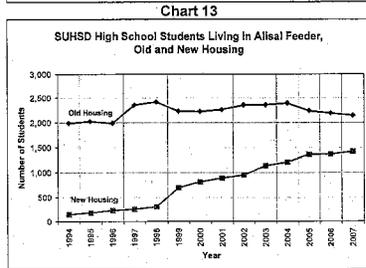
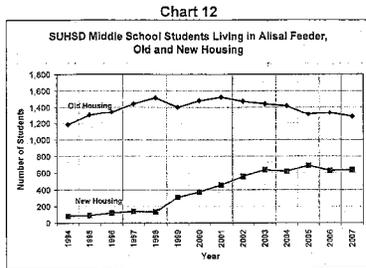


Chart 14 shows Alisal's kindergarten enrollments, which have been fairly stable. However, kindergarten enrollments have been higher than the historical norm for the last two years, which will eventually increase the number of SUHSD students from the Alisal area.

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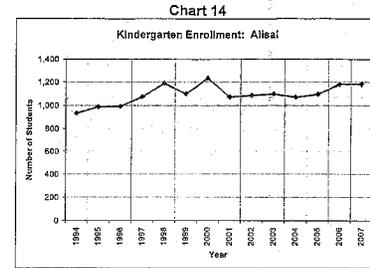
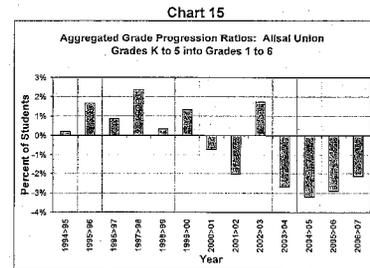


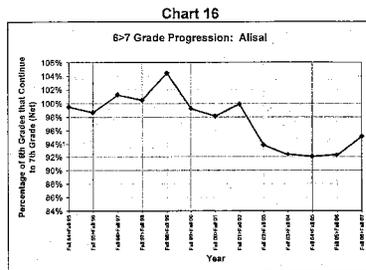
Chart 15 shows the aggregated grade progressions for Alisal Union School District. Students in kindergarten through fifth grades are compared with the number of first through sixth graders the following year. The ratios measure the change in cohort size as students progressed to the next grade. The grade progressions are usually most affected by migration into and out of the district, and by transfers between public and private schools. These data include the enrollment effects of new housing; the grade progressions are inflated by the students from new housing and should not be used to forecast future enrollments. Interestingly, despite some modest housing growth (mainly from Monte Bella), recent grade progressions are negative, meaning that more students have left the elementary district than moved in.



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Chart 16 shows the sixth to seventh grade progression over time. This progression compares Alisal's sixth grade class one year with the number of seventh grade SUHSD residents of the Alisal area the following year. Once approximating 100 percent, the rate has been between 92 and 95 percent for a number of years. Perhaps the higher progression for the most recent pair of years results from students moving into Monte Bella homes.



Components of Forecast of SUHSD Students Living in AUSD

Because of the large amount of past and current housing growth in Alisal, the forecast is quite complicated. We forecasted four different groups of students in this part of the high school district:

1. Students living in the existing large developments (CreekBridge and Williams Ranch),
2. Students living in developments under construction (Monte Bella),
3. Students anticipated from future housing developments, and
4. Students in the rest of the student body.

Forecast of Students Living in CreekBridge and Williams Ranch Homes

CreekBridge I and Williams Ranch were completed around 2004. To forecast students from these developments, we used a cohort survival method, but needed some way of estimating the size of the seventh grade class. The forecast keeps the number of seventh graders from these areas at their current level of 327 students. We then forecast subsequent grades by aging (advancing students one grade for each forecast year) the seventh grade class and applying the current year's grade progressions.

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Forecast of Students Living in Developments Under Construction

To forecast students from Monte Bella, we assumed that current enrollments from the area reflect 45 percent of eventual enrollments, as 45 percent of the development has been occupied. We assume the development will be completed by 2013.¹⁰

An implicit assumption made by the forecast model is that the number and age distribution of students living in Monte Bella will not change over time. Sometimes there is an aging effect in new developments, such that high school enrollments would first increase and then decrease over the neighborhood's first 10 to 20 years. We chose not to assume this aging effect after reviewing enrollments by age of housing in many of Salinas' subdivisions. While some areas showed enrollment increases over time as they aged, many areas did not experience such increases. This assumption should be monitored once the development is completed.

Forecast of Students Outside Major Housing Developments

To forecast middle and high school students in the older parts of the Alisal district (outside of CreekBridge, Williams Ranch, and Monte Bella), we used a cohort survival method but needed some way to estimate the size of the seventh grade class.

Forecasting the seventh grade class was challenging. We used current Alisal cohort sizes to do this.¹¹ The seventh grade class first shrinks for several years, and then increases. This follows the general pattern of Alisal's recent kindergarten enrollments.

Total Forecast of SUHSD Students Living in Alisal District

Table 4 shows the enrollment forecast for each housing group and the combined total forecast. Overall, SUHSD enrollments increase a bit. Middle and high school enrollments each increase by about 100 students over the 10-year period. Most of the increase is from Monte Bella. There is a slight increase in the number of students living in CreekBridge and Williams Ranch. Meanwhile, the number of students living in the area's older housing continues to be fairly stable.

¹⁰ This timing is assumed because the development is in its third year of occupancy and the housing market has slowed.

¹¹ Specifically, we applied the most recent set of Alisal grade progressions to Alisal's current students by grade and adjusted for the estimated effect of Monte Bella on the current grade progressions. This gave a forecast of students, by grade, in Alisal. We applied the forecasted percentage change in the sixth grade class and to the SUHSD seventh grade class. Implicit in this estimate is that students in the large developments are evenly distributed through the grades. Ideally, we would use student address data from the feeder district and count the number of students from outside the new developments explicitly, providing the basis for a straightforward cohort-survival forecast.

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Table 4

Component Forecast for SUHSD Students Living in Alisal Feeder District											
Students Living Outside Major New Housing Developments											
GRADE	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	
7	657	614	618	615	620	672	665	665	665	665	
8	623	611	598	572	567	574	628	619	619	619	
9	604	570	558	515	519	514	521	573	566	566	
10	554	581	527	515	472	476	471	478	530	523	
11	482	489	496	462	450	407	411	406	413	465	
12	482	428	425	432	388	368	343	347	342	349	
7-8 Total	1,280	1,225	1,186	1,185	1,187	1,245	1,291	1,283			
9-12 Total	2,142	2,046	2,006	1,924	1,839	1,783	1,746	1,604	1,850	1,902	
Students from New Housing: Creekbridge and Williams Ranch											
GRADE	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	
7	327	327	327	327	327	327	327	327	327	327	
8	310	349	349	349	349	349	349	349	349	349	
9	382	363	402	402	402	402	402	402	402	402	
10	350	390	361	400	400	400	400	400	400	400	
11	351	346	386	357	396	396	396	396	396	396	
12	324	343	338	378	348	388	388	388	388	388	
7-8 Total	637	676	676	676	676	676	676	676	676	676	
9-12 Total	1,417	1,442	1,467	1,537	1,547	1,586	1,586	1,586	1,586	1,586	
Students from Monte Bella											
GRADE	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	
7	28	34	39	46	50	55	62	62	62	62	
8	22	26	31	35	40	44	48	48	48	48	
9	38	46	53	61	68	76	84	84	84	84	
10	33	40	46	53	59	66	73	73	73	73	
11	29	35	41	46	52	58	64	64	64	64	
12	32	38	45	51	58	64	70	70	70	70	
7-8 Total	50	60	70	80	80	100	110	110	110	110	
9-12 Total	132	158	185	211	238	264	290	290	290	290	
Sum											
GRADE	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	
7	1,012	975	984	984	998	1,056	1,053	1,053	1,053	1,053	
8	955	986	948	956	955	967	1,023	1,018	1,018	1,018	
9	1,034	979	1,013	978	990	992	1,007	1,059	1,051	1,051	
10	937	951	934	968	951	942	943	951	1,003	995	
11	672	670	623	665	698	661	671	666	673	625	
12	648	609	608	661	605	638	601	606	600	608	
7-8 Total	1,867	1,961	1,932	1,941	1,953	2,022	2,077	2,069	2,069	2,069	
9-12 Total	3,691	3,648	3,678	3,672	3,624	3,633	3,622	3,680	3,727	3,779	

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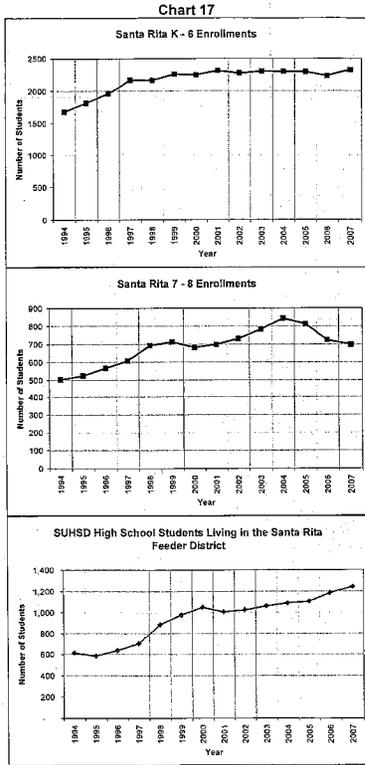
Santa Rita Union School District

Chart 17 shows the overall enrollments by school level for Santa Rita Union School District (SRUSD). Santa Rita's K-6 enrollments have been remarkably stable considering that Harden Ranch was constructed during the late 1990s. The middle school enrollment pattern is quite different from the elementary one, and levels are higher than what we would expect, even in an area with housing growth. Santa Rita's middle school enrollments increased substantially between 1994 and 2004. Enrollments declined after 2004, partly because housing construction had ended and no doubt partly for the same reason that SCSD and Alisal enrollments declined. High school enrollment trends appear to be lagged a few years behind the middle school trends, with enrollments continuing to increase to date.

The elementary enrollment pattern here is rather puzzling. Perhaps SRUSD reduced the number of inter-district transfer students to make room for the Harden Ranch students. This would explain why elementary enrollments remained flat over time.

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Chart 18 shows the numbers of SUHSD middle and high school students living in major developments (Harden Ranch) and in older housing within this elementary feeder. Once we separate students living in the large developments, we see that since the late 1990s, enrollments have actually been quite stable in the rest of the student population. Virtually all of the enrollment growth is from Harden Ranch. The fact that enrollments outside the large development areas are fairly stable is another excellent illustration (as with Alisa) of why we measure students from new and older housing separately. In this case, the students from new housing disguised enrollment trends in the older housing.

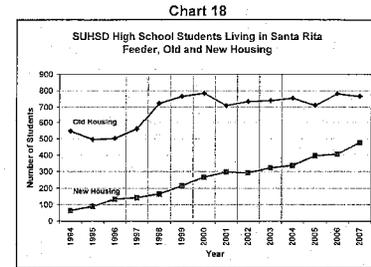
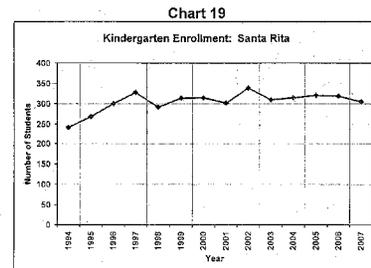


Chart 19 shows SRUSD kindergarten enrollments, which have been fairly stable since the late 1990s, despite the construction of Harden Ranch.



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Chart 20 shows the aggregated grade progressions for Santa Rita. Students in kindergarten through seventh grades are compared with students in first through eighth grades the following year. These ratios are a measure of the change in cohort size as students progressed to the next grade. The grade progressions are usually most affected by migration into or out of the District, by transfers between public and private schools, and by changes in the number of inter-district transfer students. These data include the effects of migration as a result of new students entering from Harden Ranch. As a result, the grade progressions prior to 2004 are inflated by the students from Harden Ranch and should not be used to forecast future enrollments.

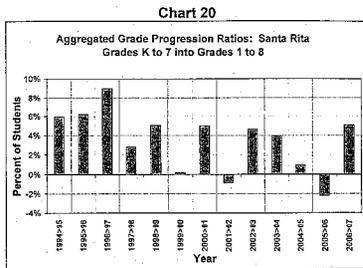
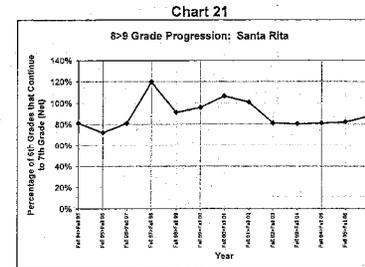


Chart 21 shows the eighth-to-ninth grade progression over time. This grade progression compares students in Santa Rita's eighth grade class with the following year's SUHSD ninth graders living in the Santa Rita feeder district. The rate of progression has been about 80 percent for the last five years. Prior to 2004, the grade progression was quite high, probably as a result of new students entering the community to live in Harden Ranch homes.

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Components of Forecast of SUHSD Students Living in SRUSD

As with Alisal, the past and future housing growth complicates the forecast model for students living in Santa Rita. We forecast three different groups in Santa Rita:

1. Students living in the existing large developments (Harden Ranch),
2. Students anticipated in future housing developments, and
3. Students in the rest of the student body.

Forecast of Students Living in Harden Ranch

Harden Ranch is completely built out at this time. Enrollments have been increasing, despite the fact that most of the housing was completed by 2004. Sometimes the average age of students in housing increases over time because families with younger children are slightly more likely to buy new housing. If this is the case, and many original owners remain in their homes, high school enrollments peak in about 10 years. If, in fact, this is happening in Harden Ranch, then high school enrollments are probably peaking now, since most of this development was built between eight and 13 years ago.

We categorized enrollments in Harden Ranch by the year units were built. We found that many if its subdivisions built at different times had an unusual enrollment increase in the last three years. These simultaneous increases suggest that the recent (2004 through 2007) increase in Harden Ranch enrollments is a "period effect." Period effects are events limited to a particular time period, with an exogenous cause such as a change in the economy, and are probably not related to the age of housing. In this case, enrollments are likely to remain at their current level, or perhaps to continue to increase.

It is not clear how to forecast future enrollments from this area. If there is an aging effect, enrollments are likely to start declining within the next few years. If there is no aging effect, we ought to assume that enrollments will remain at their current level. Our

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Medium forecast assumes that Harden Ranch enrollments will remain stable at 476 students.

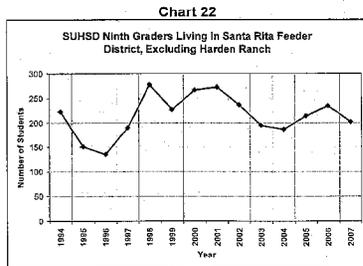
Forecast of Students from Future Housing

Within the foreseeable future, there is one smaller project in this feeder district, The Commons at Rogge Road. It will consist of 171 affordable housing units, with at least some occupancy by fall 2008. We expect 43 high school students to be enrolled in SUHSD schools (.25 students per unit) when the project is completed.

Rancho San Juan is also in the Santa Rita area, but it is currently under litigation, and we assume that it will not be built within the next 10 years. Although we did not include this development in our forecasts, the District should monitor plans for its construction.

Forecast of Students in Older Housing

To forecast students in Santa Rita's older housing (outside Harden Ranch), we use a cohort survival method but must first forecast the size of the ninth grade class. Forecasting the ninth grade class is challenging, however.¹² Chart 22 shows the ninth grade class in Santa Rita outside Harden Ranch. Note that enrollments have fluctuated quite a bit over time, but the long-term average (215 students) is close to the size of the current ninth grade class (202 students). We use the long-term average to forecast future ninth grade classes. The most recent set of grade progressions is used to forecast the remainder of the grades.



Total Forecast of SUHSD Students Living in SRUSD
Table 5 shows the enrollment forecast for each student component. Overall, forecasted enrollments are quite stable, increasing only as a result of future housing construction.

¹² We cannot base SUHSD's ninth grade class on Santa Rita's eighth grade class because part of Santa Rita's eighth grade class lives in Harden Ranch. Our component model requires counts of students who live outside Harden Ranch.

Note, however, that this forecast assumes that future Harden Ranch enrollments will be stable, given that construction has been completed. This is our most uncertain assumption.

**Table 5
Component Forecast for SUHSD Students Living in Santa Rita Feeder District**

Students Living Outside Major New Housing Developments										
GRADE	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
9	202	215	215	215	215	215	215	215	215	215
10	210	177	190	190	190	190	190	190	190	190
11	193	208	175	188	188	188	188	188	188	188
12	190	178	193	160	173	173	173	173	173	173
9-12 Total	785	778	774	754	767	767	767	767	767	767
Students from New Housing: Harden Ranch										
GRADE	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
9	122	122	122	122	122	122	122	122	122	122
10	124	124	124	124	124	124	124	124	124	124
11	106	106	106	106	106	106	106	106	106	106
12	124	124	124	124	124	124	124	124	124	124
9-12 Total	476									
Students from Future Housing (Commons at Rogge Road)										
GRADE	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
9		5	11	11	11	11	11	11	11	11
10		5	11	11	11	11	11	11	11	11
11		5	11	11	11	11	11	11	11	11
12		5	10	10	10	10	10	10	10	10
9-12 Total	0	20	43							
Sum										
GRADE	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
9	324	342	348	348	348	348	348	348	348	348
10	334	306	325	325	325	325	325	325	325	325
11	299	319	292	305	305	305	305	305	305	305
12	284	307	327	294	307	307	307	307	307	307
9-12 Total	1,241	1,274	1,293	1,273	1,286	1,286	1,286	1,286	1,286	1,286

Washington Union School District

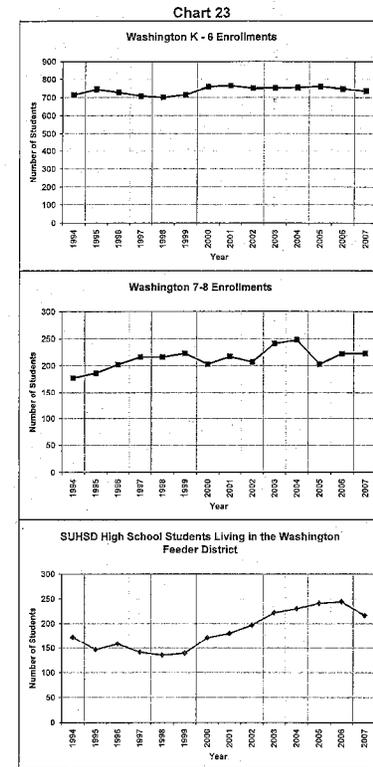
Relatively few students attending SUHSD schools live in Washington Union (WUSD). Thus, although there may be substantial changes in Washington's elementary enrollments, there will be little enrollment impact for SUHSD.

Chart 23 shows overall enrollment trends by school level in WUSD. Elementary enrollments have been fairly stable since 1994, as have middle school enrollments (grades 7 and 8), though there are more annual fluctuations (random variations) because of the smaller population base. In contrast, the number of high school students living in

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the area has increased substantially. Between 1999 and 2006, high school enrollments increased 81 percent, or about 100 students. In 2007, high school enrollments declined. As with Santa Rita, these facts suggest that the aggregated feeder enrollments are not a good indicator of future high school enrollments from the elementary school district.

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Although there has been some housing growth in Washington Union, relatively few SUSHD students live in the newer homes. We have the addresses of housing units for which developer fees were paid between July 2000 and February 2007. A total of 86 homes were built in Washington Union, and in fall 2007, only nine SUHSD students lived in those units (Table 6). Thus, housing construction in this feeder has had little impact on SUHSD enrollments, both because there are no large developments and because high school student yields from new homes there are low.

Table 6

Feeder	Housing Type	Number of Units	Number of Students		Student Yield	
			7th and 8th graders	9th-12th graders	7th and 8th graders	9th-12th graders
Alicia	MFU	265	21	60	0.06	0.23
	SFU	1,265	169	371	0.13	0.29
	Total	1,530	190	431	0.12	0.28
Salinas City	MFU	13	3	8	0.23	0.62
	SFU	66	9	20	0.14	0.30
	Total	79	12	28	0.15	0.35
Santa Rita	SFU	354	5	102		0.29
	MFU	0				
	Total	354	5	102		0.29
Spreckels	SFU	66	0	11		0.17
	MFU	0				
	Total	66	0	11		0.17
Washington Union	SFU	86	0	9		0.10
	MFU	0				
	Total	86	0	9		0.10

Chart 24 shows WUSD kindergarten enrollments. As with K-8 enrollments, kindergarten enrollments have been fairly stable over time.

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Chart 24

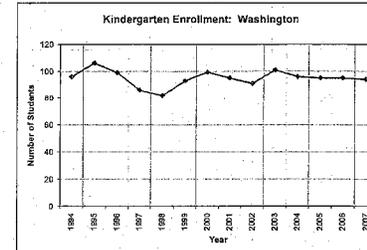
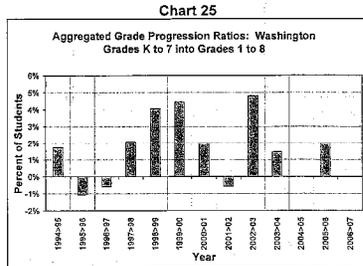


Chart 25 shows the aggregated grade progressions for Washington Union. Students in kindergarten through seventh grade are compared with students first through eighth grades the following year. These ratios measure the percentage change in cohort size as students progressed to the next grade. Grade progressions are usually most affected by migration into or out of the district and by transfers between public and private schools. The aggregated grade progressions show a net gain of students in the elementary grades. However, in the most recent year, the grade progression was close to zero, meaning that the same number of students left as entered Washington Union between fall 2006 and fall 2007.

We used a standard cohort survival method for forecasting enrollments in Washington Union. The key assumption concerns the set of grade progressions used in the forecast, and we used the average grade progressions for the entire 13-year period.

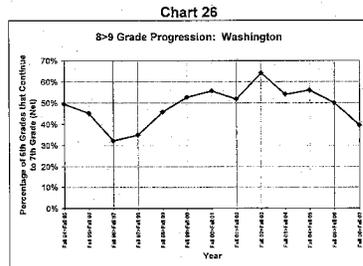
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Note that the historical grade progressions include the effects of housing growth; therefore, some new housing is assumed the forecast model. Since some new housing was built in the last three years, the model implicitly assumes this will continue.

Chart 26 shows the eighth-to-ninth grade progression over time. This compares students in Washington Union's eighth grade class with the following year's SUHSD ninth graders living in the Washington feeder district. The rate has varied widely, between about 30 and 60 percent. The overall average grade progression is 49 percent, and we use this in the forecast model.



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Total Forecast of SUHSD Students Living in WUSD

Unlike Alisal and Santa Rita, we forecasted SUHSD students living in the Washington Union district without separating students into new and older housing categories. Washington Union enrollments have little impact on SUHSD enrollments, and the effect of new housing on SUHSD enrollments has been minimal.

Table 7 shows the enrollment forecast for Washington Union. As mentioned above, the forecast model uses the average grade progressions of the history. The forecast indicates that SUHSD enrollments from this area will remain fairly constant or decline slightly.

Table 7
Washington Union Feeder Area Forecast, Using Grade Progression Ratios

GRADE	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
K	94									
1	96	98								
2	100	99	101							
3	105	102	101	103						
4	112	110	107	106	108					
5	113	116	115	111	110	113				
6	116	116	119	117	114	112	115			
7	108	113	112	116	114	110	109	112		
8	115	104	108	109	111	110	106	105	108	
9	41	56	50	53	52	54	53	51	51	52
10	56	40	54	49	51	51	52	51	50	49
11	69	53	39	53	47	49	49	51	50	48
12	51	62	48	35	47	43	45	45	46	45
9 to 12	216	211	191	189	198	197	199	198	197	195

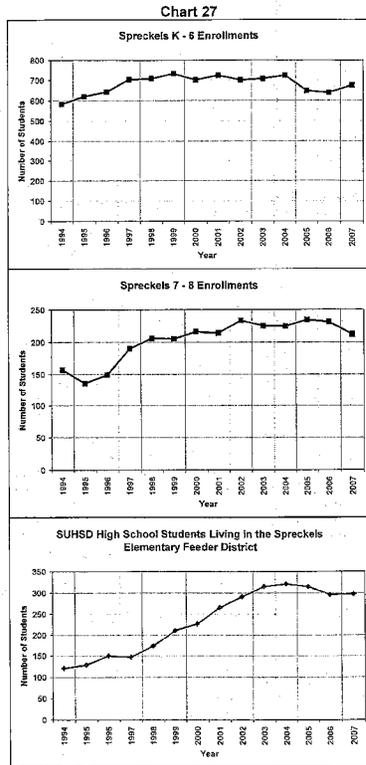
Spreckels Union School District

Chart 27 shows overall enrollments by school level for Spreckels Union School District. Since 1997, elementary and middle school enrollments have been quite stable. In contrast, the number of students from Spreckels that attend SUHSD more than doubled between 1997 and 2004; from 147 to 321 students. After 2004, enrollments declined. In fall 2007, 297 SUHSD high school students lived in Spreckels Union.

As in Santa Rita and Washington school districts, elementary enrollments were stable while high school enrollments increased. This suggests that the aggregated feeder enrollments may not be a good indicator of future high school enrollments. But, as with Washington, the numerical effect of Spreckels enrollments on SUHSD enrollments is small.

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Although there has been housing growth in Spreckels Union, there are relatively few SUHSD students living in new homes. We have the addresses of housing units for which developer fees were paid between July 2000 and February 2007. A total of 66 homes were built in Spreckels Union, and in fall 2007, only 11 SUHSD students lived in them (Table 6). Thus, housing construction in this feeder area has had little impact on SUHSD enrollments, both because there are no large developments and because high school student yields from new homes are low.

Chart 28 shows kindergarten enrollments. As with K-8 enrollments, kindergarten enrollments have annual fluctuations (between 80 and 100 students), but the underlying trend seems stable.

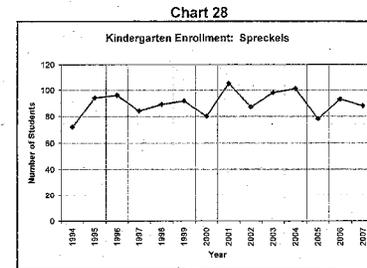
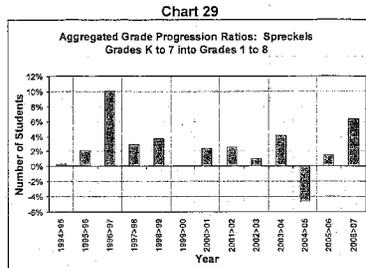


Chart 29 shows the aggregated grade progressions for Spreckels Union Elementary. The number of students in kindergarten through seventh grades is compared with the number of students in first through eighth grades the following year. These ratios measure the percentage change in cohort size as students progressed to the next grade. The grade progressions are usually most affected by migration into or out of the District and by transfers between public and private schools. The aggregated grade progressions show a net increase of students in the elementary grades.

We used a standard cohort survival method for forecasting enrollments in Spreckels Union. The set of grade progressions used in the forecast model is the key assumption needed in the forecast. We used the average grade progressions of the last 13 years.

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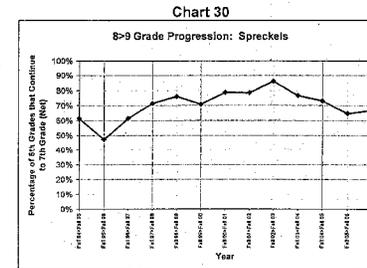
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Note that the historical grade progressions include the effects of housing growth; therefore, some new housing assumed in the forecast model.

Chart 30 shows the eighth-to-ninth grade progression over time. This grade progression compares students in Spreckels' eighth grade class with SUHSD ninth graders living in the Spreckels district. The percentage has changed a lot over time and is at least partly responsible for the shift in high school enrollments. In the mid-1990s, the percentage of Spreckels eighth graders entering SUHSD as ninth graders was similar to Washington Union's, at about 50 percent. During the late 1990s through 2003, the percentage grew and reached 87 percent. This change corresponds to the increase in high school students from the area. During the last four years, however, the rate dropped. In the most recent year, the eighth-to-ninth grade progression was 68 percent. The entire 13-year average is 70 percent, which is used in the forecast model.

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Forecast of SUHSD Students Living in SUSD

We use a standard cohort survival model for forecasting SUHSD enrollments from Spreckels Union. We started with Spreckels Union students by grade, aged each cohort, and applied the 13-year average grade progression rates. Table 8 shows the resulting enrollment forecast. Enrollments may rise slightly, but otherwise are quite stable.

Table 8
Spreckels Feeder Area Forecast, Using Grade Progression Ratios

GRADE	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
K	93	88									
1	83	108	95								
2	98	80	109	86							
3	92	107	83	113	100						
4	88	87	109	84	114	101					
5	86	92	89	110	86	117	103				
6	99	114	97	94	116	90	123	108			
7	113	101	116	89	95	118	92	125	110		
8	118	111	98	114	87	94	116	90	123	108	
9	75	79	78	70	80	68	68	82	63	86	76
10	71	76	76	75	67	77	65	63	78	61	83
11	86	86	89	69	69	61	70	60	58	72	56
12	84	78	82	65	65	64	57	66	56	54	67
8 to 12	296	297	285	278	281	271	259	271	256	273	282

SUHSD Forecast for All Feeder Areas Combined Outside the FGAs and West Boronda

Without housing construction in the Future Growth Areas (FGAs), West Boronda, and Rancho San Juan, the combined forecast for SUHSD shows about a 150-student increase in middle school enrollments by 2016, while high school enrollments show a decline of almost 270.

Table 9 shows the enrollment forecast for all of SUHSD, excluding the major developments.

Table 9 Forecast Excluding Major Developments

Middle School Enrollments										
Actual 2007	Forecast									
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2016
Salinas City	1,838	1,942	1,941	1,823	1,868	1,843	1,903	1,967	1,989	1,989
Alisal	1,967	1,981	1,932	1,941	1,953	2,022	2,077	2,069	2,069	2,069
Inter-District Transfer	92	92	92	92	92	92	92	92	92	92
Total	3,997	3,995	3,965	3,956	3,911	3,958	4,072	4,128	4,150	4,150

High School Enrollments										
Actual 2007	Forecast									
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2016
Salinas City	3,997	3,924	3,807	3,775	3,723	3,697	3,627	3,586	3,589	3,630
Alisal	3,691	3,648	3,678	3,672	3,624	3,633	3,622	3,680	3,727	3,778
Santa Rita	1,241	1,274	1,293	1,273	1,286	1,286	1,286	1,286	1,286	1,286
Washington	216	211	181	189	198	197	199	198	197	195
Spreckels	297	285	279	281	271	259	271	256	273	282
Graves	4	4	4	4	4	4	4	4	4	4
Lagunita	6	7	8	5	7	6	6	8	7	7
Inter-District Transfer	104	104	104	104	104	104	104	104	104	104
Total	9,556	9,458	9,364	9,302	9,216	9,186	9,119	9,123	9,187	9,287

Forecast of Enrollments from FGAs and West Boronda

We understand that the Future Growth Areas (FGAs) will contain 11,500 housing units, and the timing of construction is uncertain. Shown below are three different scenarios for the timing of these developments:

- 1 The most optimistic scenario assumes that occupancy begins in 2011 and the project takes 10 years to complete. This timeframe implies 1,150 units built per year, much greater than the historical rate in Salinas.
- 2 The Medium scenario assumes occupancy begins in 2015 and takes 15 years to complete.

- 3 The most pessimistic scenario assumes that the housing is built beyond our forecast period.

The West Boronda development, slated for 600 units, is farther along and its timing seems more certain. Occupancy is expected to begin in 2011, and will take approximately 10 years to complete.¹³

Table 10 includes students from the West Boronda development as well as the various scenarios for the FGAs. (The pessimistic forecast assumes no development and hence no enrollments from any new major development.) In both the optimistic and Medium forecasts, 3,025 high school students result, along with 1,033 middle school students, but in the optimistic forecast the results are reached in 2020, ten years before the Medium forecast enrollment total reaches this level.

The forecast assumes a student yield of .25 for high school students and .125 for middle school students. Also, it is assumed that about two-thirds of students living in the FGAs will live within the Alisal Union School District, and thus will have some impact on the middle school enrollments.

¹³ According to Jerry Hernandez, Monterey County Housing and Redevelopment Office.

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Table 10
Forecasts for the Future Growth Areas And Boronda

Optimistic Forecast for Future Growth Areas

Year	# Units Built in FGAs	# Units Built in Boronda	Annual High School Enrollment	Cumulative Enrollment	Annual Middle School Enrollments	Cumulative middle school enrollments
2011	1150	60	303	303	103	103
2012	1150	60	303	605	103	207
2013	1150	60	303	908	103	310
2014	1150	60	303	1210	103	413
2015	1150	60	303	1513	103	517
2016	1150	60	303	1815	103	620
2017	1150	60	303	2118	103	723
2018	1150	60	303	2420	103	827
2019	1150	60	303	2723	103	930
2020	1150	60	303	3025	103	1033

Medium Forecast for Future Growth Areas

Year	# Units Built in FGAs	# Units Built in Boronda	Annual High School Enrollment	Cumulative Enrollment	Annual Middle School Enrollments	Cumulative middle school enrollments
2011		60	15	15	8	8
2012		60	15	30	8	15
2013		60	15	45	8	23
2014		60	15	60	8	30
2015	767	60	207	267	71	101
2016	767	60	207	473	71	173
2017	767	60	207	680	71	244
2018	767	60	207	887	71	316
2019	767	60	207	1093	71	387
2020	767	60	207	1300	71	458
2021	767		192	1492	64	522
2022	767		192	1683	64	586
2023	767		192	1875	64	650
2024	767		192	2067	64	714
2025	767		192	2258	64	778
2026	767		192	2450	64	842
2027	767		192	2642	64	906
2028	767		192	2833	64	969
2029	767		192	3025	64	1033

Combined Forecast

In this section, we combine the forecast from the FGAs with the forecast outside the FGAs. For the areas outside the FGAs, our forecast extends only through 2016. We use 2016 enrollment numbers for years after 2016. Table 11 shows the combined forecast. If the FGAs are developed, middle school enrollments eventually (by 2020 in the optimistic

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forecast) reach 5,184 students, while high school enrollments eventually reach 12,312 students.

Note that the pessimistic scenario assumes no development in the FGAs and the forecasts are the same as shown in Table 9.

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Table 11
Combined Enrollment Forecast for SUHSD

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	
Middle School Enrollments																							
Actual	3,897	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996
Non-FGA Areas	3,897	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996
FGA and Benefits	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	3,897	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996	3,996
High School Enrollments																							
Actual	8,007	7,928	7,909	7,910	7,912	7,913	7,914	7,915	7,916	7,917	7,918	7,919	7,920	7,921	7,922	7,923	7,924	7,925	7,926	7,927	7,928	7,929	7,930
Non-FGA Areas	8,007	7,928	7,909	7,910	7,912	7,913	7,914	7,915	7,916	7,917	7,918	7,919	7,920	7,921	7,922	7,923	7,924	7,925	7,926	7,927	7,928	7,929	7,930
FGA and Benefits	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	8,007	7,928	7,909	7,910	7,912	7,913	7,914	7,915	7,916	7,917	7,918	7,919	7,920	7,921	7,922	7,923	7,924	7,925	7,926	7,927	7,928	7,929	7,930
Middle School Enrollments																							
Actual	3,897	3,996	3,996	3,997	3,998	3,999	4,000	4,001	4,002	4,003	4,004	4,005	4,006	4,007	4,008	4,009	4,010	4,011	4,012	4,013	4,014	4,015	4,016
Non-FGA Areas	3,897	3,996	3,996	3,997	3,998	3,999	4,000	4,001	4,002	4,003	4,004	4,005	4,006	4,007	4,008	4,009	4,010	4,011	4,012	4,013	4,014	4,015	4,016
FGA and Benefits	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	3,897	3,996	3,996	3,997	3,998	3,999	4,000	4,001	4,002	4,003	4,004	4,005	4,006	4,007	4,008	4,009	4,010	4,011	4,012	4,013	4,014	4,015	4,016
High School Enrollments																							
Actual	8,007	7,928	7,909	7,910	7,912	7,913	7,914	7,915	7,916	7,917	7,918	7,919	7,920	7,921	7,922	7,923	7,924	7,925	7,926	7,927	7,928	7,929	7,930
Non-FGA Areas	8,007	7,928	7,909	7,910	7,912	7,913	7,914	7,915	7,916	7,917	7,918	7,919	7,920	7,921	7,922	7,923	7,924	7,925	7,926	7,927	7,928	7,929	7,930
FGA and Benefits	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	8,007	7,928	7,909	7,910	7,912	7,913	7,914	7,915	7,916	7,917	7,918	7,919	7,920	7,921	7,922	7,923	7,924	7,925	7,926	7,927	7,928	7,929	7,930

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Regional Transportation Planning Agency • Congestion Management Planning
Local Transportation Commission • Monterey County Service Authority for Freeways & Expressways

October 27, 2008

Ms. Alana Knaster
Planning Manager
County of Monterey
Government Center
168 West Alisal Street, 2nd Floor
Salinas, California 93901

SUBJECT: Comments on the Draft Environmental Impact Report for the County of Monterey 2007 General Plan Update

Dear Ms. Knaster:

The Transportation Agency for Monterey County is the Regional Transportation Planning Agency and Congestion Management Agency for Monterey County. Transportation Agency staff has reviewed the proposed Draft Environmental Impact Report for the County of Monterey 2007 General Plan Update.

The proposed project consists of a comprehensive update of the existing 1982 County General Plan and will establish the general pattern of land use and adopted goals and policies to guide the County in future land use decision-making, including, but not limited to, setting a development pattern centered on cities, Community Areas, and Rural Centers; providing infrastructure to serve new development concurrently with that development; and conserving sensitive natural areas.

Transportation Agency staff appreciates the County's coordination and discussion of this document early in the process and offers the following comments for your consideration:

Analysis Scenarios
Cumulative Conditions

- The draft report indicates that the transportation network analyzed under analysis scenarios Cumulative 2030, Cumulative 2030 Prior Land Use, and Cumulative Buildout includes seventeen proposed improvements to the roadway network that are set to receive funding from our agency's regional development impact fee program. Please note that full funding and construction of these projects by 2030 is dependent on funding in addition to the partial funding provided by the fee program. The passage of the proposed Measure Z initiative by the voters of Monterey County together with State and Federal funds would complete the funding for the majority of

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Letter to Ms. Alana Knaster
October 23, 2008

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the projects. Absent this additional source of local transportation funding, which would also be used to secure State and federal matching funds, the project delivery schedule for some of these improvements, such as the Highway 156 – U.S. 101 interchange project, would need to be pushed out beyond 2030. Ultimately, if this were to occur, the roadway network assumed in the cumulative analysis scenarios may not be fully completed until after the Year 2030, if at all, which would result in some of the studied segments and intersections to experience lower Level of Service standards than depicted in the report.

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Impacts TRAN-1A, 2A, 3A, & 4A
Project-Specific Impacts

- With exceptions for some community areas, the Transportation Agency supports the use of Level of Service standard D, a measurement of roadway volume-to-capacity, as the threshold for impact mitigation from new development. This standard level is a cost effective method for gauging the scope of needed roadway improvements and also helps to encourage the use of alternative forms of transportation, such as transit, carpooling, and bicycle travel.
- As a means of providing mitigation for project-specific impacts from new development to meet the Level of Service D threshold, the Transportation Agency supports fair-share contributions towards identified improvements or for the project applicant to construct the improvement concurrently with the proposed development.
- The Transportation Agency also supports the policies related to the requirement of new development to design public facilities to accommodate pedestrians, bicycles, and transit as a means of reducing the impacts from vehicle traffic. Please see enclosed for our agency's *Principles for Community Development* for recommendations on implementing these policies and accommodating alternative transportation in new development. Further discussion of alternative transportation is provided under our agency's comments to draft report sections TRAN-1F through 5F (Alternative Transportation).

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Impacts TRAN-1B, 2B, 3B, & 4B
County & Regional Roadway Impacts

- Page 4.6-4.5 of the draft report notes that: *The County and the Transportation Agency are planning to implement Traffic Impact Fees to fund improvement projects, but the amount of the fees are limited for affordability and total fee burden reasons.*

The Transportation Agency's Regional Development Impact Fee program has been adopted by all the cities plus the County Board of Supervisors and went into effect on August 27, 2008. The amount of the regional fees are not limited for affordability or based on the burden that the cost of mitigation places on development, but are dictated by the cost of the improvement projects that the program funds and the amount of vehicle trips generated by new development that is forecasted in the County. In the event that a specific development type generates fewer trips than is assumed in the fee program, such as with affordable housing, the amount of the fees

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can be reduced to more accurately reflect the development's level of impacts. In this manner, each new development will contribute its proportionate share in fees towards the improvement project costs, fully mitigating its cumulative transportation impacts under the California Environmental Quality Act.

- The Transportation Agency supports and appreciates the County's commitment to work with our agency and other local jurisdictions to improve congestion through the coordination of regional and countywide traffic impact fees and the development of the Regional Transportation Plan. Our agency is currently in the process of developing an update to the Regional Transportation Plan in coordination with the Association of Monterey Bay Area Governments, the Santa Cruz County Regional Transportation Commission, and the San Benito Council of Governments. As our agency progresses on the updated plan, we will work collaboratively with the local agencies and seek input from County staff.
- Our agency also supports that County requires impacts to regional transportation facilities to be mitigated through the Regional Development Impact Fee program. Participation by County staff in stakeholder meetings during the development of the regional fee program was helpful in shaping a comprehensive and equitable program, and the County's continued support in mitigating cumulative impacts through the regional fee program is appreciated.
- Area Plan Policies for the North County and Greater Salinas areas make note of a bypass of Highway 101 north of Salinas being provided to provide additional highway capacity and improve access. The Prunedale Bypass project, as these policies seem to describe, is not likely to be constructed by the Year 2030 cumulative analysis scope and should not be included as part of the analyzed transportation network. To address issues of capacity and access in the North County and Greater Salinas areas, our agency is proposing the construction of the Westside Bypass from Boronda Road to Davis Road, the Eastside Connector from an upgraded Harris Road interchange to Williams Road, widening Highway 156, and frontage roads along Highway 101 from south Salinas to Soledad.

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Impacts TRAN-1F, 2F, 3F, & 4F
Alternative Transportation

- Page 4.6-5.3 of the draft report states that: *Bicycling, walking, and transit are less attractive alternatives to the automobile when greater distances are involved. Further, lower density development spread over a larger is effective to serve by transit than higher density, mixed-use communities.*

While increases in travel distances tend to result in the selection of automobiles over alternative modes of transportation, higher density and mixed-use communities are better suited to service with transit and attract bicycle and pedestrian trips over lower density development. This statement should be revised to reflect the positive impact that high density development has on encouraging the use of alternative modes of transportation.

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Letter to Ms. Alana Knaster
October 23, 2008

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- The Transportation Agency supports accommodation of alternative forms of transportation (rail, bus transit, bicycle and pedestrian transportation), both through the design of transportation facilities, and through the design and orientation of land uses. As such, our agency supports the County's proposed policies to encourage alternative modes of travel by providing increased transit service, pedestrian and bicycle infrastructure, compact and mixed-use development, requirements for site designs that support transportation choice, and ensuring that new developments provide multimodal facilities.
- The draft report notes that, where appropriate and sufficient right-of-way is available, that bicycle paths shall be separated from major roads and highways. Our agency also encourages and recommends the inclusion of on-street bike lanes in the construction of new major arterials and collectors with an average daily traffic greater than 3,000 or with a speed limit in excess of 30 miles per hour, to reduce vehicle-bicycle conflicts at intersection crossings and improve safety for bicyclists making turning movements through intersections.
- The draft report should address the need for new roadways on the interior of developments to be designed to accommodate bicycles with adequate pavement for bike travel, with specific dimensions clearly identified, particularly along major arterials.
- A premium should be placed on safe and accessible pedestrian access to development sites from intersections and crosswalks, sidewalks, and bicycle facilities. Our agency recommends that the draft report address issues of pedestrian travel, access, and safety. Our agency supports proper striping requirements at all pedestrian crosswalks to clearly identify areas of pedestrian travel and ensure safe transitions for vehicles and pedestrians. Consideration in the draft report should also be given to supporting the inclusion of intelligent crosswalks, which provide flashing notification lights when a pedestrian enters the crosswalk to increase visibility and alert drivers of their presence. New developments should be required to be designed with American Disability Act-compliant sidewalks that connect to external facilities, provide access to transit stops, and to not include the use of cul-de-sacs without a cut-through for pedestrian travel.
- In addition, The Transportation Agency recommends that implementation of bicycle facility-related policies encourage new developments to install public bicycle racks and lockers. Adequate lighting at these locations to improve safety and visibility should be provided by the development. The Transportation Agency encourages project developers to apply for our Bicycle Protection Program, which provides grant funding for bicycle parking facilities (racks and lockers) for local businesses, governments, and school districts.
- Our agency supports the concentration of new development along major transportation corridors and near incorporated cities to make transit services more feasible. The draft report should also indicate a preference for working early in the development process with Monterey-Salinas Transit to ensure that transit access and facilities are properly planned and provided. New development should also be

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Letter to Ms. Alana Knaster
October 23, 2008

Page 5

required to utilize Monterey-Salinas Transit's *Designing for Transit* Guideline Manual as a resource for accommodating transit service at new development sites.

Alternatives to the 2007 General Plan
Transit-Oriented Development Alternative

- As previously noted, the Transportation Agency supports the efforts presented in the 2007 General Plan to increase the use of public transportation and enhance Monterey-Salinas Transit's areas of operations and infrastructure. In addition to this, the proposed Transit-Oriented Development alternative is consistent with our agency's plans to encourage and support a combination of increased fixed-route bus service, commuter and passenger rail, express bus services, and bus rapid transit. Implementation of this alternative, with designated Transit-Oriented Development nodes located in Castroville, Pajaro, former Fort Ord, and the Route 68 corridor, may require our agency to modify the initial planning and funding assumptions for some of the regional transportation improvement projects in the regional fee and *Investment Plan* programs. Our agency requests that if this alternative is selected that the County work collaboratively with our agency to ensure consistency of implementation with our plans and programs for the regional transportation network.

Climate Change
Land Use and Circulation

- The draft report describes how development and other activities associated with 2007 General Plan would contribute to global climate change. The Transportation Agency supports the policies identified in the 2007 General Plan for land use, circulation, and open space conservation to help reduce greenhouse gas emissions. Related to the policies outlined in the draft report, Senate Bill 375 (Transportation, Land Use, and the California Environmental Quality Act) provides a path for better planning by providing incentives for locating new developments in a manner that reduces vehicle miles traveled. The bill requires the regional governing bodies in each of the state's major metropolitan areas to adopt, as part of their regional transportation plan, a "sustainable community strategy" that will meet the region's target for reducing greenhouse gas emissions. Our agency encourages the County to coordinate its efforts and policies that address climate change with the Association of Monterey Bay Area Governments and its currently underway Blueprint Planning process, which is the basis for the Monterey County "sustainable community strategy"

Thank you for the opportunity to review this document. If you have any questions, please contact Michael Zeller of my staff at (831) 775-0903.

Sincerely,

Debra L. Hale
Executive Director

CC: Dave Murray, California Department of Transportation (Caltrans) District 5
Paul Greenway, Monterey County Department of Public Works

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Letter to Ms. Alana Knaster
October 23, 2008

Carl Sedoryk, Monterey-Salinas Transit
Nicholas Papadakis, AMBAG
Ed Kendig, Monterey Bay Unified Air Pollution Control District

Enclosures: Transportation-Related Principles for Community Development
Alternative Measures

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Attachment 1

Community Development Principles

**Transportation Agency for Monterey County
Transportation-Related Principles for Community Development**

Mission

The Transportation Agency for Monterey County aims to develop and maintain a multi-modal transportation system that enhances the mobility, safety, access, environmental quality, and economic activities in Monterey County.

The purpose of the following set of principles is to reduce future impacts to Monterey County's regional transportation system, reduce the cost of transportation infrastructure, and improve the Transportation Agency's ability to meet Monterey County's regional transportation needs. Our agency recommends that new land use development in the county adhere to the following set of principles, which emphasize developing a land use pattern that is supportive of non-single occupant auto modes of transportation so as to maximize the carrying-capacity of Monterey County's existing regional transportation infrastructure.

1. Land Use

- ❖ 1.a Encourage mixed use developments to accommodate short trips by non-auto modes
- ❖ 1.b Encourage growth in areas where transportation infrastructure exists or is most cost-effective to extend
- ❖ 1.c Encourage a balance of employment and housing to reduce regional commute demands
- ❖ 1.d Encourage higher residential densities in core areas or around transit stops to support regular transit service throughout the region
- ❖ 1.e Encourage land use jurisdictions to utilize the Caltrans Traffic Impact Studies Guide or develop traffic impact study guidelines of their own when analyzing the impacts of growth on the regional transportation system
- ❖ 1.f Require new development to pay for its proportional impact to the transportation system, preferably via regional and local fee programs, or on-street project construction

2. Street Network Design

- ❖ 2.a Provide an interconnected street system for new development to facilitate short trips by non-auto modes of transportation using the following features:
 - 2.a.1 Provide a grid-based street network.
 - 2.a.2 Encourage short block lengths in new development
 - 2.a.3 Discourage cul-de-sac streets in new development unless they incorporate pedestrian and bike easements that reduce trip lengths
- ❖ 2.b Incorporate traffic calming features into the street network to slow the flow of traffic and enhance the pedestrian environment:
 - 2.b.1 Provide curb bulb-outs at intersections to reduce the length of pedestrian crossings
 - 2.b.2 Allow on street parking to slow the flow of cars and create pedestrian/auto buffer
 - 2.b.3 Provide landscaped buffers between pedestrians and motorized traffic and provide pedestrian-scale street lighting no more than 15 feet high

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Attachment 1

Community Development Principles

- ❖ **2.e** Design streets to accommodate all modes of transportation
 - **2.e.1** Incorporate sidewalks and bicycle lanes into new street construction
 - **2.e.2** Accommodate safe bicycle travel by providing on-street bicycle lanes and routes instead of separated bicycle paths
 - **2.e.3** Incorporate bus pullouts, transit stops, transit shelters and other transit amenities to serve new development according to the MST Designing for Transit Handbook

3. Site Design

- ❖ **3.a** Orient buildings to face the street in new development to improve access for pedestrians from sidewalks
- ❖ **3.b** Incorporate residential uses over commercial uses in commercial areas to encourage trips by foot, bike, or transit and improve access by each of these modes
- ❖ **3.b** Incorporate reduced building setbacks, especially in commercial areas, to reduce the length of pedestrian trips and facilitate easy access
- ❖ **3.c** Locate on-site parking to the rear of structures or underground
- ❖ **3.d** Provide pedestrian facilities connecting building entrances with the street where parking is not provided to the rear of structures to enhance pedestrian access and safety
- ❖ **3.f** Incorporate bicycle storage facilities into site plans to accommodate access by bicyclists

4. Transportation Demand Management

- ❖ **4.a** Encourage telecommuting in non-residential development as a traffic mitigation measure
- ❖ **4.b** Encourage flexible work schedules for employees as a traffic mitigation measure
- ❖ **4.c** Encourage employers to utilize available rideshare programs or create their own
- ❖ **4.d** Encourage employers to offer transit incentives to employees to mitigate traffic impacts
- ❖ **4.e** Provide preferential carpool or vanpool parking in non-residential developments
- ❖ **4.e** Encourage large employers to offer child care facilities as resources allow and encourage all employers to provide information on nearby child care resources
- ❖ **4.f** Locate child care facilities near employment centers

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Attachment 2

Samples of Alternative Measures

SAMPLES OF ALTERNATIVE MEASURES

1. Provide ridesharing, public transportation and nearby licensed child care facility information to tenants/buyers as part of move-in materials.
2. Print transit information on promotional materials.
3. Install bicycle amenities, such as bicycle racks and bicycle lanes.
4. Provide bus pullouts, pedestrian access, transit stops, shelters and amenities as part of the site plan.
5. Provide locked and secure transportation information centers or kiosks with bus route/schedule information, in common areas.
6. Provide pedestrian facilities linking transit stops and common areas.
7. Provide resources for site amenities that reduce vehicular trip making.
8. Park-and-ride facilities.
9. On-site childcare facilities.
10. Shuttle bus service, bus pools or improved transit service as part of the development.
11. Facilities to encourage telecommuting.
12. Pedestrian and bicycle system improvements.
13. Transit oriented design and/or pedestrian oriented design.
14. Provide preferential carpool/vanpool parking spaces.
15. Implement a parking surcharge for single occupant vehicles.
16. Provide shower/locker facilities.
17. Employ or appoint a transportation/rideshare coordinator.
18. Implement a rideshare program.
19. Provide incentives for employees to rideshare or take public transportation.
20. Implement compressed work schedules.

Page 1

Samples of Alternative Measures

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Attachment 2

SAMPLES OF STREET AND ROAD IMPROVEMENTS

1. Safety improvements
2. Traffic signal improvements.
3. Traffic signals.
4. Turning or auxiliary lanes.
5. Add travel lanes.
6. Improve highway interchange.
7. Construct interchange.
8. Construct new street or road.

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Comment Letters Organizations

O-1a



Ag Land Trust
P.O. Box 1731
Salinas, CA 93902
tel. 831.422.5868
fax. 831.758.6053

Monterey County
Planning and Building
Inspection Administration

OCT 28 2008

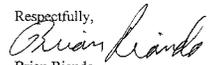
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October 27, 2008

Mike Novo
Planning Dept.
168 W. Alisal St.
2nd Floor
Salinas, CA 93901

Dear Mike:

We have received a copy of the correspondence sent to Monterey County by Molly Erickson on behalf of the Open Monterey Project. We hereby agree and reiterate her comments and respectfully request that the public comment period for the GPU-5 Environmental Impact Report be extended in order to allow full public review of the documents that have previously not been available.

Respectfully,

Brian Rianda
Managing Director
Ag Land Trust

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O-1b



Ag Land Trust
P.O. Box 1731
Salinas, CA 93902
tel. 831.422.5868
fax. 831.758.6053

RECEIVED
MONTEREY COUNTY

2009 JAN 30 PM 2:44

CLERK OF THE BOARD

DEPUTY
Clerk of the Board

January 30, 2009

To: Monterey County Board of Supervisors
Mike Novo, Director of Planning

Attn: Carl Holm

Gentlepersons:

On behalf of the Ag Land Trust, formerly the Monterey County Agricultural and Historic Land Conservancy, and our Board of Directors, individually and collectively, we hereby reiterate our concern and objections to the inadequacy and insufficiency of the most recent version of the Draft Environmental Impact Report (EIR) for the proposed Monterey County General Plan. 1

Attached herewith are our continuing and repeated letters and correspondence to Monterey County dating back to 2003 wherein we have repeatedly requested that each, every, and all of the 1982 General Plan policies related to the identification, preservation, protection, and expansion of Monterey County prime and productive farmlands be included in the new General Plan. Further, we have requested (in our attached letter to Jones and Stokes dated February 14, 2008) for "a full, complete, and detailed analysis of each and every policy...to determine which are the environmentally superior alternatives as mandated by CEQA." We did not receive the courtesy of a response to this or our previous letters, correspondence, or public testimony before the Board of Supervisors and ask that the detailed and legally required environmental review addressing our concerns be prepared and circulated pursuant to CEQA requirements before the Planning Commission and the Board of Supervisors. 2

As we have in the past, we have attached our objections and correspondence to this letter and we make these prior documents a part of this objection letter.

Our concern is simply that the proposed revised policies in the proposed General Plan are significantly weaker than the 1982 General Plan policies that have protected our prime and productive agricultural land for nearly 30 years. This weakening and "backsliding" of the proposed General Plan policies will result in far greater and currently (in the Draft EIR) unevaluated or mitigated permanent and far greater losses of prime and productive agricultural lands. Additionally, we are concerned that the policies as written will lead to: 1. increased urbanization; 2. increases in runoff and surface water pollution; 3. increased air pollution without mitigation or offset; 4. severely increased traffic on county and state highways and roads. 3

The loss of farmland (because the proposed EIR and General Plan reduces protections of the resource [prime and productive agricultural lands] upon which Monterey County agribusiness 4

O-1b

depends) has not been evaluated in the EIR. The environmentally superior alternative that results from the mandated side-by-side comparison of the 1982 General Plan policies with the proposed new policies is not in the Draft EIR. We are concerned that the Draft EIR lacks this analysis because the County knows that the proposed "new policies" are "watered down" and far less protective of Monterey County's agricultural resources than the current, time-tested farmland preservation and protection policies in the 1982 General Plan.

4

We request that the analysis that we have repeatedly requested since 2007 be included in the Draft EIR before any public hearings on the current, legally deficient draft are held. We ask that all of the 1982 policies be included in the new Monterey County General Plan to guarantee the future preservation of our farmlands, including our prime farmlands unique farmlands, and lands of "statewide" and "local" importance as defined in the 1982 General Plan.

5

Respectfully,


Virginia Jameson
Conservation and Development Analyst
Ag Land Trust

Attachments: Exhibits 1-7 (made a part hereof)

Exhibit 1

O-1b

Ag Land Trust
Formerly The
Monterey County Agricultural and Historic Land Conservancy
P.O. Box 1731, Salinas, CA 93902

February 14, 2008

Mr. Terry Rivasplata
Jones and Stokes
2600 V. St
Sacramento Ca 95818

Monterey County
Planning and Building
Inspection Administration

JAN 29 2008

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Re: Monterey County General Plan and EIR

Dear Mr. Rivasplata,

Enclosed is a letter presented to the Monterey County Board of Supervisors in December of 2007. I understand that you are responsible for preparing the EIR for the Monterey County General Plan, and therefore I would like to direct and reiterate a request to you that the proposed EIR for GPU-5 include "a full, complete, and detailed analysis of each and every policy affecting farmland and farmland preservation in the 1982 General Plan be evaluated and compared to the proposed policies in the draft plan (GPU-5) to determine which are the environmentally superior alternatives as mandated by CEQA," as referenced in paragraph seven of the enclosed letter addressed to the Monterey County Board of Supervisors dated December 7, 2007.

6

As you know, failure to prepare a full and complete alternatives analysis would cause the Environmental Impact Report to be fatally flawed. Both the Board of Supervisors and all of the residents of Monterey County have a right to know what the environmentally superior alternatives are for farmland preservation in Monterey County. The public needs to know if the policies and requirements for the protection of Monterey Counties farmlands are stronger in the existing 1982 General Plan than in the "watered-down" versions in the draft 2005 plan. Further, the EIR must disclose in detail precise and enforceable mitigation measures to mitigate the irreparable loss of the rare and unique prime farmlands of Monterey County. These all must be addressed in the draft EIR to comply with the statutory and administrative requirements of CEQA.

7

If you have any questions or comments, please do not hesitate to contact our office at 831.422.5868. Thank you for your attention to this matter.

Sincerely,

Virginia Jameson
Conservation and Development Analyst
Ag Land Trust,
Formerly the Monterey County Agricultural and Historic Land Conservancy

Exhibit 2

O-1b

Monterey County Agricultural and Historic Land Conservancy
P.O. Box 1731, Salinas, CA 93902

December 7, 2007

Monterey County
Planning and Building
Inspection Administration

To: Monterey County Board of Supervisors
Mr. Charles McKee, County Counsel
Mr. Michael Novo, Director of Planning

JAN 09 2008
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From: Monterey County Agricultural and Historic Lands Conservancy (MCAHLC)

Re: Refinement Group late submissions for General Plan proposed changes

MCAHLC believes that the proposed changes that are herewith attached are inappropriate to include in the proposed General Plan. We oppose their inclusion. Besides the fact that these proposed changes have never been seen by anyone except the "Refinement Group" before this week, and, in large part, appear to have been solely initiated by that group for the benefit of its supporters, we believe that any consideration of these proposed changes without full hearings before both the Planning Commission and then the Board of Supervisors, before the NOP for the EIR is issued, would make a mockery and a sham of the GPU process of the past six months.

1. Specifically, **the proposed change to LU-1.a** arbitrarily and without any environmental, infrastructure, or resource justification **exempts from the DES review thousands of units of apartments, rentals, and mixed use projects from the evaluation system.** No analysis of water use, traffic congestion, or potential wastewater pollution to groundwater resources would be required of these projects if the proposed changes are adopted. No mitigations would or could be required of the developers. The authors of this proposal appear to be trying to re-write CEQA, as well as the administrative regulations of the Regional Water Quality Control Board, the California Department of Public Health, and the Monterey County Health Code, to avoid their obligations to pay for the adverse impacts of their projects on the communities of Monterey County. This proposal is reminiscent of the minor subdivision in the 1980's by Mr. Brian Finegan for the Holly Hills developers to put a residential subdivision on the lands reserved for the Highway 101 Bypass.

2. The proposed change in C-1.1 again is an attempt to avoid the Board's legal CEQA obligation and mandated duty to mitigate traffic impacts, even if the developers are building affordable housing. **The roads of Monterey County are shared by all people of all economic strata, and the risks to their lives and safety from excessive, unmitigated traffic cavalierly approved by local government is an adverse impact on all of the residents of Monterey County.** The proposed arbitrary exemption, without justification of any kind, for the AHO Districts places the Board of Supervisors in the position illegally abdicating its obligations under the California Resources Code to

O-1b

mitigate the adverse impacts of development and the traffic it generates. The Board has this legal duty to all of the county's residents, regardless of whether or not a developer or his lawyer is politically or personally favored by the Board collectively or individually, to either require all developers to pay for mitigations or to not build their projects. Concluding that a "Declaration of Overriding Consideration," as this policy implies, is your only solution and memorializing this in the General Plan is a violation of CEQA and a failure of the process of protecting the safety of the families of Monterey County.

3. The proposed changes in PS-4.a appear to be trying to dilute water quality protection policies of the Regional water Quality Control Board, the California Department of Public Health, and even existing provisions of the Monterey County Health Code. This policy needs to be entirely re-written to reflect the current advanced status of the legal regulations, policies, and protections of water quality of and by state agencies. Proliferation of hundreds of septic tanks in a Rural Center, in lieu of connecting a regional sewer, guarantees knowing, continued, and increased pollution to public drinking water supplies, capricious threats to public health, and unmitigatable adverse impacts. This is particularly a problem along the proposed River Road Rural Center. Further developers must be required to dedicate a **minimum of three (3) times the required usable acreage for wastewater disposal for disposal from a package sewer treatment plant** to avoid the type of grave water quality problem created at Las Palmas Ranch when the developers' attorney, on behalf of his clients, failed to set aside adequate disposal areas thereby costing the County and the residents hundreds of thousands of dollars in repairs. This complies with recent RWQCB staff recommendations for similar projects.

4. We strongly oppose the proposed changes in AG-1.3, proposed section(c). The proposed language is an attempt to avoid the statutory and administrative legal requirements of the California Environmental Quality Act. Further, it weakens this farmland protection policy to the point of making it meaningless and violates the requirements CEQA. CEQA requires a full and complete environmental review at the earliest possible time in a multiple stage development project. Local county supervisors are not allowed to re-write state law on behalf of special interests. Further, MCAHLC believes that serious equal protection and potential discrimination issues appear to be created in AG-1.6 and AG-1.7 as proposed.

Further, MCAHLC believes that the proposed agricultural land preservation policies in the proposed general plan are far more weak and far less enforceable than the policies of the 1982 General Plan that we requested that your Board re-adopt at your last hearing. **We hereby request that, in the proposed EIR for GPU-S, a full, complete, and detailed analysis of each and every policy affecting farmland and farmland preservation in the 1982 General Plan be evaluated and compared to the proposed policies in the draft plan to determine which are the environmentally superior alternatives as mandated by CEQA. As you know, failure to fully complete this alternatives analysis to determine the environmentally superior alternative will cause the EIR to be fatally and legally flawed.**

O-1b

5. We oppose the proposed changes in AG-1.12. There is no justification for trying to exempt undisclosed projects from the general policies of the plan and of CEQA. Further, many aspects of the Salinas General Plan are now in dispute, particularly the available water supply for appropriators whose claims may be adverse to farmers and overlying land owners. It is illegal to try to ratify that plan simply by referencing it in the County General Plan. It must be subjected to a full subsequent EIR pursuant to the CEQA guidelines.

6. MCAHLC opposes GS-1.a, NC-1.a, and T-1.a. Setting deadlines in the General Plan is an invitation for developer's attorneys to sue the county. Further, this appears to be a thinly veiled effort to bind the hands of future Boards. After millions of dollars of judgments and settlement payments in 2007, we believe that the Board of Supervisors should avoid any further public criticism by not accepting these proposed policies that could be characterized as the "full employment act for litigation attorneys".

Respectfully,

Brian Rianda

Exhibit 3

O-1b

MONTEREY COUNTY AGRICULTURAL AND HISTORIC LAND
CONSERVANCY

P.O. Box 1731, Salinas CA 93902
Email: brian@rianda.com
www.aglandconservancy.org
Phone: 831-422-3484
Fax: 831-758-0460

Monterey County
Planning and Building
Inspection Administration

Mr. Michael Novo,
Monterey County Director of Planning

JAN 30 2008

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Dear Mr. Novo:

The Monterey County Agricultural and Historic Lands Conservancy hereby respectfully proposes and submits the following recommended findings and policies to be included in the new Monterey County General Plan. These findings and policies, many of which are part of the adopted 1982 General Plan policies which have been in effect for over 25 years, are expressly to continue the agricultural lands preservation and protection policies that have guided the established county policy of preserving farmlands as the irreplaceable resource upon which the county's largest industry depends. As you know, in the last few years, a brighter light has been shining on agricultural land preservation from the Federal Government down to local governments.

**1. FINDINGS TO BE INCLUDED IN THE LAND USE ELEMENT OF THE
GENERAL PLAN**

Agricultural Lands

The County of Monterey has vigilantly maintained and strongly enforced policies of agricultural land protection, preservation, and expansion for generations, due to the recognition that our county's largest industry, our largest employer, and greatest source of income and economic opportunities for our residents is solely dependant on the protection and preservation of our unusually productive, rare, and limited agricultural soils. To protect and enhance the sustained production and diversity of our agricultural industry, and to preserve and expand agricultural employment and economic opportunities for the residents of Monterey County, the policies of the preservation, protection, and expansion of our limited agricultural lands shall be sustained, enhanced, and perpetuated. Further, Monterey County shall identify the extent and locations of agricultural lands in the County and devise and implement regulations and techniques which will be effective in preserving and enhancing these lands. (1982 Gen. Plan Sec. 4.1). Monterey County agricultural lands include the sub-categories of farmlands, rural grazing lands, and permanent grazing lands.

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Farmlands. The farmlands sub-category shall include those farmlands designated by the California Department of Conservation and the United States Department of Agriculture as prime, of statewide importance, unique, or of local importance. The minimum parcel size for these farmlands shall be 40 acres. Rural and permanent grazing lands are those which, according to the California Department of Conservation and USDA, display a high or moderate degree of capability/ suitability for grazing of livestock.

Rural Grazing Lands. This land use sub-category is applied to grazing lands which are located in the County's developing areas, which are not restricted by a 20-year Williamson Act contract. In rural grazing areas, minimum parcel sizes shall range from a 10-acre minimum to a 160-acre minimum, but they shall not be less than the existing zoning designation on the date of adoption of this General Plan. Clustering of residential uses shall be encouraged provided that total site density shall not exceed that allowed by the appropriate rural grazing land use category. Density for clustering shall be numerically consistent with minimum lot size; e.g., in an area which is designated rural grazing lands with a 10-acre minimum, allowable density shall be 10 acres per unit. As a condition of clustered residential development approval, the developer shall be required to enter into a permanent restriction (agricultural conservation easement) to ensure continued grazing use on those portions of the property not developed for residential use.

Permanent Grazing Lands. This land use sub-category is applied to those portions of the County in which exclusive grazing use is to be preserved, enhanced, and expanded. On permanent grazing lands, minimum parcel sizes shall be 40 acres and larger, but they shall not be less than the existing zoning designation on the date of adoption of this General Plan. Only when they are clearly an accessory use to the exclusive agricultural use of the property, residential units may be developed at a density of 40 acres or more per unit. Subdivision of land may be allowed only for agricultural purposes, for farm labor housing, or in order to create a building site for immediate family members and spouses. The division of property to create a one-acre minimum building site may be considered by the County if the division is to accommodate housing for members of the immediate family of the property owner who earn their livelihood from grazing use of the family land immediately contiguous to the parcel being created by subdivision. Such subdivision shall be conditioned by deed restriction to allow for the exclusive occupancy by immediate family members and their spouses. Likewise, another condition shall require the parcel to be an accessory use to the ranch in question or to an adjoining ranch, providing the residence is accessory to the adjoining agricultural use and is occupied exclusively by immediate family owners and spouses of the owners or lessees who are agricultural workers.

Lands within the permanent grazing lands sub-category may be merged with adjacent lands which are involved in active grazing operations.

Implementation Policies

O-1b

1. (4.1.1) The Important Farmlands Inventory definitions, used by the USDA and the California Department of Conservation and accepted by various County agencies, shall be used to identify important agricultural lands in the County.

2. (4.1.2) The County shall establish, preserve, protect, and maintain agricultural zoning districts on prime farmlands, farmlands of statewide importance, unique farmlands, and farmlands of local importance.

3. (4.1.3) All farmlands designated as prime, of statewide importance, unique, or of local importance shall be protected from incompatible uses on adjacent lands. Loss of such lands through permanent conversion to other uses shall be mitigated pursuant to the policies of this plan.

4. (4.2) Identify agricultural lands which are used for grazing and related purposes and preserve and enhance these agricultural resources in Monterey County.

5. (4.2.1) The County shall establish, maintain, and preserve agricultural zoning districts for grazing and related purposes.

6. (30.0.1) The County shall prevent non-agricultural uses which could interfere with the potential of normal agricultural operations on viable farmlands designated as prime, of statewide importance, unique, or of local importance.

7. (30.0.2) The County shall require that permanent, well-defined buffer areas (agricultural conservation easements) be provided and dedicated as part of new non-agricultural development proposals which are located adjacent to agricultural land uses on viable farm lands designated as prime, of statewide importance, unique, or of local importance. These buffer areas shall be dedicated in perpetuity, shall be of sufficient size both to protect agriculture from the impacts of incompatible development and to mitigate the loss of agricultural land, jobs, and agricultural productivity to the county.

8. (30.0.3) The County shall allow division of viable farmland designated as prime, of statewide importance, unique, or of local importance only for exclusive agricultural purposes, when demonstrated not to be detrimental to the agricultural viability of adjoining parcels.

9. (30.0.4) The County shall make every effort to preserve, enhance, and expand viable agricultural land uses on farmland designated as prime, of statewide importance, unique,

O-1b

or of local importance through application of "agricultural" land use designations and encouragement of large lot agricultural zoning.

10. (ADDED) To further advance the policies of this General Plan, the County shall support the creation, expansion, and sustainment of private, nonprofit land trusts and conservation organizations to receive, by voluntary donation or purchase, development rights on any lands to be preserved for the protection and expansion of agriculture, or as open space, within Monterey County.

11. (30.0.5) The County shall support other policies that provide tax and economic incentives which will enhance competitive capabilities of farms and ranches, thereby insuring long-term preservation, enhancement, and expansion of viable agricultural lands. Examples of these policies and programs shall include the following:

- Cooperation with the Monterey County Agricultural and Historic Lands Conservancy, or other similar agricultural land trusts, to facilitate the voluntary preservation of agricultural lands, as defined by these policies, by land owners through the donation of fee title or the dedication of agricultural conservation easements to promote the policies of the General Plan.
- Use of voluntary restriction to agricultural uses upon agricultural lands by owners through the use of tax incentives, the purchase or contributions of land or conservation easements, or other appropriate techniques.
- Use and expansion of Williamson Act Contracts.

12. (30.0.6) Greenhouses, mushroom farms, and similar agriculture enterprises that are not on-site soil dependent or which degrade soil capabilities shall not be located on the County's prime farmlands and farmlands of statewide importance. This policy shall not limit uses accessory to soil dependent uses.

2. POLICIES TO BE INCLUDED IN THE OPEN SPACE ELEMENT OF THE GENERAL PLAN

1. (1.1) The County shall designate open space where its use will preserve, conserve, and maintain the natural resources, agricultural lands, and physical features of Monterey County.

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2. (1.1.1) Open space land use designations shall be used, as needed for compliance with the goals, objectives, and policies of this Plan.

3. (1.1.3) Landowners shall be encouraged voluntarily to restrict the development potential of property through grants of conservation easements, Williamson Act contracts, or other appropriate protections in areas designated for open space uses such as agriculture and resource conservation.

4. (3.1.2) The County shall support and encourage existing special district, state, and federal soil conservation and restoration programs within its borders.

5. (3.1.3) Determinations of soil suitability for particular land uses shall be made according to the definitions in the General Plan, the USDA Soil Survey of Monterey County, and the California Department of Conservation Farmland Mapping and Monitoring Program.

6. (5.1) The County shall protect and preserve watersheds and recharge areas, particularly those critical for the preservation and sustainment of agriculture and the replenishment of reservoirs and aquifers.

7. (26.1.1) In order to preserve its open space and rural character, the County shall encourage the voluntary restriction of development through dedication of scenic or agricultural conservation easements, transfer of development rights, and other appropriate techniques.

8. (34.1.5) Open space areas shall be designated on the perimeter of all development under taken by the County or cities, particularly if such development encroaches upon agricultural lands.

9. (34.1.6) The County, in coordinated efforts with other public agencies, shall require that all development projects undertaken by public agencies affecting the policies or land use designations of this General Plan include a permanent open space buffer or agricultural conservation easement area on the perimeter of the project site to mitigate for the loss of agricultural land and open space.

10. (34.1.7) The County shall support the creation, expansion, and sustainment of private, nonprofit land trusts and conservation organizations to receive, by voluntary donation or purchase, development rights on any lands to be preserved as open space.

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(NEW)

**3. FINDINGS AND POLICIES REGARDING LOSS OF FARMLAND
MITIGATION TO BE INCLUDED IN THE LAND USE ELEMENT OF THE
GENERAL PLAN**

Findings:

The Board of Supervisors finds and determines that agriculture is the single largest industry in Monterey County, that it directly and indirectly employs more residents than any other industry, and that the county's economic well-being is dependant upon the sustained and enhanced production of agricultural commodities. The Board also finds that agriculture is wholly dependent upon the rare and irreplaceable farmlands of Monterey County. The Board of Supervisors finds that agricultural lands, including prime farmlands (lands of national importance), farmlands of statewide importance, unique farmlands, and farmlands of local importance, as defined and mapped by the California Department of Conservation and USDA, and based upon the criteria used by the Natural Resources Conservation Service, are rare and limited natural and economic resources that are of great importance and value to the citizenry and job base of Monterey County, to the state's and county's economy, and to its future well being.

The loss of these lands, and the loss of agricultural productivity, jobs, and economic and societal values related thereto, through permanent conversion of these lands to urban development requires significant mitigation to protect the agricultural industry, farmlands, productivity, workers, and jobs upon which the economic welfare of the county depends.

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Mitigation Policy:

Any discretionary action, approval, authorization, or permit by the county that results, or potentially results, in the change of use, conversion, or loss of agricultural lands or their agricultural productivity, which are located in agricultural, resources conservation, or open space land use classifications of this General Plan, shall be conditioned and required to mitigate the loss of that agricultural land, its productivity, and the loss of agricultural jobs and economic activities resultant therefrom.

The required mitigation, in the form of permanently dedicated agricultural land conservation easements or dedicated fee title upon agricultural land of equal or greater productivity value than the lands converted, changed, or lost, shall be, at a minimum, required on the following ratios:

1. Loss of prime farmlands/lands of national importance- 3 acres for every acre lost or converted
2. Loss of Agricultural Lands of Statewide Importance- 2.5 acres for every 1 acre lost or converted
3. Unique farmlands and Lands of Local Importance- 1 acre for every 1 acre lost or converted
4. These easements or lands may be held by the county or by a non-profit agricultural land trust or a conservancy.

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Thank you for your consideration and please do not hesitate to call if you have any questions or comments.

Sincerely,
Monterey County Agricultural and Historic Land Conservancy, Inc.

Richard Nutter, President

Cc: Board of Supervisors
Alana Knaster
Wayne Tanda
Lew Bauman
Charles McKee

Exhibit 4

O-1b

Monterey County Agricultural and Historic Land Conservancy
P.O. Box 1731, Salinas, CA 93902

September 30, 2007

Michael Novo
Monterey County Director of Planning

Re: Last week's meeting

Dear Mr. Novo:

Thank you for taking the time to meet with us regarding the agricultural policies of the 1982 General Plan. As was indicated at the meeting, these policies have been in full force and effect for the past 25 years and have guided the county's decisions regarding farmlands in the Salinas and Pajaro Valleys. Further, in 25 years, these policies have never been successfully challenged because they are clear, enforceable, and redundant in such a manner as to leave no room for interpretation or ambiguity. Additionally, any proposed changes or "watering down" in these policies, and the significant adverse impacts and consequences on farmland, water resources, agricultural enterprises, development patterns, and air quality resulting therefrom, will necessitate new, detailed, and revised environmental review in an EIR.

As was pointed out at the meeting, the renewal of these policies, and their specific criteria and enforceable standards, is of grave importance to MCAHLC, the landowners, and farmers who have participated since 1982 in executing conservation easements and securing the preservation of nearly 20,000 acres of prime farmland and grazing lands in our county. Further, re-adoption of these existing policies will avoid environmental disputes and conflicts.

As you know, Supervisor Calcagno, at an earlier meeting in August, asked one of our board members, Marc Del Piero, to identify the agricultural/open space/conservation protection and preservation policies from the existing general plan that needed to be included into the new plan. He did that and his letter is attached as part of this letter. Based on the comments and direction received from Sups. Calcagno and Salinas at our meeting last week, I am herewith attaching and including as part of this request that letter and attachments prepared by Marc that were distributed to the supervisors, Wayne Tanda, and you. These are the policies that we want continued as part of the new general plan, as they have been for the past 25 years.

MCAHLC hereby requests that all of these existing policies, and their criteria and standards, be specifically included and adopted into the new general plan so as to guarantee the sustained enforceability and continuity of the important county agricultural land preservation policies.

Monterey County
Planning and Building
Inspection Administration
JAN 31 2008
RECEIVED

O-1b

Respectfully,

Brian Rianda

cc. Alana Knaster, Fernando Armenta, Louis R. Calcagno, Simon Salinas, Jerry Smith,
Dave Potter

Exhibit 5

(TUE) SEP 25 2007 11:17/ST. 11:16/No. 6840591063 P 2

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Marc J. Del Piero
Attorney at Law

Specializing in
Environmental & Natural Resources Law

4062 El Bosque Drive
Pebble Beach, CA 93955-3011

(831) 626-4666 Telephone/Fax
mjdelpiero@aol.com
Monterey County
Planning and Building
Inspection Administration

TO: Supervisor Louis Calcagno

FROM: Marc Del Piero

RE: Agricultural Land Preservation Policies in the 1982 General Plan

JAN 20 2008

RECEIVED

During our last meeting with Sherwood Darington and Brian Rianda, you asked if I would identify for you the farmland preservation policies that I wrote into the 1982 General Plan. I have gone through the 1982 General Plan and attached are the set of policies that the Board of Supervisor adopted to implement the farmland preservation policies that were the underpinnings of the Land Use Element of the 1982 Plan. These policies are intended to be reciprocal, "overlapping", and work together to insure that no loopholes could be used to undermine the Board's intent to preserve our county's irreplaceable agricultural resources.

It may be appropriate for you to ask that your staff confirm that these policies and their specific language are all included in the new General Plan. If they are not all in the Plan, they should ALL be put into the New General Plan. Many have tried to change the language to "water down" the enforceability of these policies. None of these policies was successfully challenged in the 25 year history of the 1982 Plan because their mandates and language are clear, unambiguous, easily described and implemented by staff, and redundant (so no one can claim that there is some alternate meanings to the express language and intent of the policies).

I hope that this will help you to guarantee the future preservation of farmland in our county.

Aug. 28, 2007

Deliver to:
Dick, Sherwood, Brian, Kelly

08/26/2007 18:03 FAX 8314436838 AgLand_Conservancy 001/001

To: Mark
From: Sherwood

O-1b

**GOALS AND POLICIES
AGRICULTURE**

GENERAL AGRICULTURE

GOAL AG-1 *Protection, Preservation, Expansion, and*
PROMOTE THE LONG-TERM CONSERVATION OF PRODUCTIVE AND POTENTIALLY PRODUCTIVE AGRICULTURAL LAND.

Policies

AG-1.1 Land uses that would interfere with routine and ongoing agricultural operations on viable farmlands designated as ~~state or local importance~~ *state or local importance*, or of ~~local importance~~ shall be prohibited.

AG-1.2 The following criteria shall be used to establish agricultural buffers to protect existing agricultural operations:

a. Factors to consider include the type of non-agricultural use proposed, site conditions and anticipated agricultural practices. Other factors include weather patterns, crop type, machinery and pesticide use, existence of topographical features, trees and shrubs, and possible development of landscape berm to separate the non-agricultural use from the existing agricultural use. *including but not limited to prime, of statewide importance, unique, or local importance*

b. Drainage, shading, vegetation, and erosion control shall be considered in the establishment of an agricultural buffer area and be made beneficial to the adjacent agricultural use.

c. Buffers shall be designed to comply with applicable state and local laws regulating school buffers, pesticide setbacks, and other controls.

d. Agricultural buffers and/or easements shall be provided from the proposed new use and not from the adjacent agricultural land ~~unless by mutual agreement between the two landowners. (Delete)~~

e. Agricultural buffers are designed to be used for the purposes and manner described in this policy and for no other purposes unless agreed to by abutting landowners.

f. Buffer maintenance will be the responsibility of the underlying fee title owner and shall be enforced by the County of Monterey *Delete*

same ~~g. Buffers are not meant to be permanent and will be terminated once the underlying reason for the buffer no longer exists.~~

~~h. The Agricultural Advisory Committee shall review and recommend changes to established buffer zones. *Delete*~~

AG-1.5 Subdivision of Important Farmland (as mapped by the California Department of Conservation Farmland Mapping and Monitoring Program) and designated by the County as "Farmland" shall be allowed only for exclusive agricultural

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January 3, 2007

Page AG-2

08/26/2007 18:05 FAX 8314436838 AgLand_Conservancy 001/001

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AG-1.10 The Farmland Mapping and Monitoring Program (FMMP) Important Farmland Categories developed by the California Department of Conservation shall be used as ~~the~~ *the* means to identify important agricultural lands in the County.

AG-1.11 Permits for agriculture activities will be integrated with applicable permit coordination (streamlining) programs.

AG-1.12 The County shall prepare, adopt and implement a program that requires projects involving a change of land use designation resulting in the loss of Important Farmland (as mapped by the California Department of Conservation Farmland Mapping and Monitoring Program) or involving land to be annexed to an incorporated area, in consultation with the cities to mitigate the loss of Important Farmland resulting from annexation, to mitigate the loss of that acreage. The program may include ratios, payment of fees, or some other mechanisms. Until such time as the program has been established, the County shall consult and cooperate with the cities so that projects shall mitigate the loss of Important Farmland on an individual basis as much as is feasible as determined by the Board of Supervisors. The acreage in a project or annexation that is to be utilized for inclusionary housing shall not be subject to this mitigation policy. A Community Plan or Rural Center Plan that includes a mitigation program shall not be subject to this policy. This policy would not apply to annexations covered by the 2006 Greater Salinas Area Memorandum of Understanding (MOU) between the County of Monterey and the City of Salinas.

AGRICULTURAL SUPPORT USES

GOAL AG-2
PROVIDE OPPORTUNITIES TO RETAIN, DEVELOP AND EXPAND THOSE AGRICULTURE-RELATED ENTERPRISES AND AGRICULTURAL SUPPORT USES ESSENTIAL TO THE CONTINUING VIABILITY OF THE AGRICULTURAL INDUSTRY.

Policies

AG-2.1 Agricultural support facilities such as coolers, cold storage, warehouses, parking lots, greenhouses, temporary worker housing and offices, processing equipment and facilities, loading docks, workshops established to serve on-site and/or off-site farming and ranching activities shall be considered compatible and appropriate uses in the Farmlands, Permanent Grazing, and Rural Grazing land use designations. The County shall establish an ordinance that determines which uses require a discretionary permit.

AG-2.2 The establishment and retention of a broad range of agricultural support businesses and services to enhance the full development potential of the agricultural industry in the County shall be encouraged and supported.

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January 3, 2007

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**GOALS, OBJECTIVES, AND POLICIES
FOR NATURAL RESOURCES**

OPEN SPACE CONSERVATION

1 GOAL

TO RETAIN THE CHARACTER AND NATURAL BEAUTY OF MONTEREY COUNTY BY THE PRESERVATION, CONSERVATION, AND MAINTENANCE OF OPEN SPACE WITHIN CONSTITUTIONAL CONSTRAINTS.

Objective

* 1.1 Designate open space where its use will preserve, conserve, and maintain the natural resources and physical features of Monterey County.

Policies

* 1.1.1 Open space land use designations shall be used, as needed for compliance with the goals, objectives, and policies of this Plan.

1.1.2 Open space land use designations shall be used as needed to preserve the physical and natural features contributing to the County's outstanding natural beauty.

* 1.1.3 Landowners shall be encouraged voluntarily to restrict the development potential of property through grants of conservation easements, Williamson Act contracts, or other appropriate protections in areas designated for open space uses such as agriculture and resource conservation.

GEOLOGY, MINERALS, AND SOILS

2 GOAL

TO PROVIDE FOR THE CONSERVATION, UTILIZATION, AND DEVELOPMENT OF THE COUNTY'S MINERAL RESOURCES IN KEEPING WITH SOUND CONSERVATION PRACTICES AND TECHNIQUES.

Objective

2.1 Protect potentially significant mineral deposits and mining operations from encroachment by incompatible land uses, in accordance with established land use priorities.

Policies

2.1.1 The County shall work in conjunction with the State Division of Mines and Geology to inventory lands containing valuable mineral deposits and identify on-

significant mineral deposits from land uses which would permanently preclude mineral extraction.

Objective

2.2 Protect existing mining operations, including idle and reserve properties from encroachment by incompatible land uses, in accordance with established land use priorities.

Policies

2.2.1 Existing mining operations shall be inventoried and off-site incompatible land uses identified.

2.2.2 The County shall designate land use categories which will protect existing mining operations from incompatible land uses.

Objective

2.3 Provide for mineral extraction in keeping with sound conservation practices and for the reclamation of the extraction site to a condition consistent with the surrounding natural landscape and environmental setting.

Policies

2.3.1 A mining and reclamation plan shall be required for all proposed mineral extraction operations.

2.3.2 Mining operators shall be required to furnish the County with all information needed to make an environmental assessment of the proposed mineral extraction operation.

Objective

2.4 Support efforts to conserve raw mineral resources through recycling.

3 GOAL

TO PROMOTE THE CONSERVATION OF SOILS AS A VALUABLE NATURAL RESOURCE.

Objective

* 3.1 Establish procedures for the prevention of soil erosion and the repairing of erosion damage in critical areas on both public and private lands.

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Policies

3.1.1 Erosion control procedures shall be established and enforced for all private and public construction and grading projects.

* 3.1.2 The County shall support and encourage existing special district, state, and federal soil conservation and restoration programs within its borders.

* 3.1.3 In the absence of more detailed site specific studies, *for Dept. of Conservation mapping* determinations of soil suitability for particular land uses shall be made according to the Soil Conservation Service's *Soil Survey of Monterey County and the California Dept. of Conservation Farmland Mapping and Monitoring Program.*

Objective

3.2 The prevailing slope of the land shall be used as an additional criterion in evaluating land use activities.

Policies

3.2.1 A slope map shall be produced to identify areas in the County where slope poses severe constraints for particular land uses.

3.2.2 Lands having a prevailing slope above 30% shall require adequate special erosion control and construction techniques.

3.2.3 Lands having a high erosion potential as identified in the Soil Survey shall require adequate erosion control methods for agricultural uses.

3.2.4 Except in areas designated as medium or high density residential or in areas designated as commercial or industrial where residential use may be allowed, the following formula shall be used in the calculation of maximum possible residential density for individual parcels based upon slope:

- o Those portions of parcels with cross-slope of between zero and 19.9 percent shall be assigned 1 building site per each 1 acre.
- o Those portions of parcels with a cross-slope of between 20 and 29.9 percent shall be assigned 1 building site per each 2 acres.
- o Those portions of parcels with a cross-slope of 30 percent or greater shall be assigned zero building sites.
- o The density for a particular parcel shall be computed by determining the cross-slope of the various portions of the parcel applying the assigned densities listed above according to the percent of cross-slope and by adding the densities derived from this process. The maximum density derived by the procedure shall be used as one of the factors in final determination of the actual density that shall be allowed on a parcel.

Where an entire parcel would not be developable because of plan policies, an extremely low density of development should be allowed.

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GOAL

** 4* **TO PRESERVE AND ENHANCE ALL VIABLE AGRICULTURAL LANDS.**

Objective

* 4.1 Identify the extent and locations of important agricultural lands in the County and devise regulations and techniques which will be effective in preserving and enhancing these lands.

Policies

* 4.1.1 The Important Farmlands Inventory, developed by the USDA Soil Conservation Service and the California Department of Conservation and accepted by various County agencies, shall be used to identify important agricultural lands in the County.

* 4.1.2 The County shall establish agricultural zoning districts on prime farmlands, farmlands of statewide importance, unique farmlands, and farmlands of local importance.

* 4.1.3 All farmlands designated as prime, of statewide importance, unique, or of local importance shall be protected from incompatible uses on adjacent lands.

Objective

* 4.2 Identify agricultural lands which are used for grazing and related purposes and preserve and enhance this agricultural resource in Monterey County.

Policy

* 4.2.1 The County shall establish agricultural zoning districts for grazing and related purposes.

WATER RESOURCES

GOALS

** 5* **TO CONSERVE AND ENHANCE THE WATER SUPPLIES IN THE COUNTY AND ADEQUATELY PLAN FOR THE DEVELOPMENT AND PROTECTION OF THESE RESOURCES AND THEIR RELATED RESOURCES FOR FUTURE GENERATIONS.**

Objective

* 5.1 Protect and preserve watersheds and recharge areas, particularly those critical for the replenishment of reservoirs and aquifers.

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- 26.1.5 The County shall designate future land uses in a manner which will achieve compatibility with adjacent uses.
- 26.1.6 Development which preserves and enhances the County's scenic qualities shall be encouraged.
- 26.1.7 Where appropriate, the County shall develop standards and/or procedures to control development siting, design, and landscaping.
- 26.1.8 Development in scenic road and highway corridors shall be governed by policies located in the transportation section of this General Plan.
- 26.1.9 In order to preserve the County's scenic and rural character, ridgeline development shall not be allowed unless a special permit is first obtained. Such permit shall only be granted upon findings being made that the development as conditioned by permit will not create a substantially adverse visual impact when viewed from a common public viewing area. New subdivisions shall avoid lot configurations which create building sites that will constitute ridgeline development. Siting of new development visible from private viewing areas, may be taken into consideration during the subdivision process.
- 26.1.10 The County shall prohibit development on slopes greater than 30%. It is the general policy of the County to require dedication of scenic easement on a slope of 30% or greater. Upon application, an exception to allow development on slopes of 30% or greater may be granted at a noticed public hearing by the approving authority for discretionary permits or by the Planning Commission for building and grading permits. The exception may be granted if one or both of the following findings are made, based upon substantial evidence:
 - A) There is no alternative which would allow development to occur on slopes of less than 30% or,
 - B) the proposed development better achieves the resource protection objectives and policies contained in the Monterey County General Plan, accompanying Area Plans and Land Use Plans, and all applicable master plans.
- 26.1.11 The County shall encourage clustering in all development projects, where appropriate.
- 26.1.12 In order to preserve its open space and rural character, the County shall encourage the voluntary restriction of development through dedication of scenic or conservation easements, transfer of development rights and other appropriate techniques.
- 26.1.13 The County shall encourage infilling on vacant non-agricultural lands within existing developed areas and shall encourage new development within designated urban service areas. Infilling development shall be compatible with surrounding existing development.

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Policies

- 29.3.1 Industrially designated areas shall be compatible with surrounding land uses.
- 29.3.2 The County shall designate an amount of industrial land sufficient to meet foreseeable industrial needs.
- 29.3.3 The County shall discourage the conversion of designated vacant industrial lands to other permanent land uses.
- 29.3.4 In designating industrial areas, the County shall consider the proximity of other compatible land uses which have similar levels of utility and service requirements.

AGRICULTURAL

GOAL

TO PROTECT ALL VIABLE FARMLANDS DESIGNATED AS PRIME, OF STATEWIDE IMPORTANCE, UNIQUE, OR OF LOCAL IMPORTANCE FROM CONVERSION TO AND ENCROACHMENT OF NON-AGRICULTURAL USES.

Policies

- 30.0.1 The County shall prevent non-agricultural uses which could interfere with the potential of normal agricultural operations on viable farmlands designated as prime, of statewide importance, unique, or of local importance.
- 30.0.2 The County shall require that permanent, well-defined buffer areas be provided as part of new non-agricultural development proposals which are located adjacent to agricultural land uses on viable farm lands designated as prime, of statewide importance, unique, or of local importance. These buffer areas shall be dedicated in perpetuity, shall be of sufficient size to protect agriculture from the impacts of incompatible development and to mitigate against the effects of agricultural operations on adjacent land uses, and shall be credited as open space.
- 30.0.3 The County shall allow division of viable farmland designated as prime, of statewide importance, unique, or of local importance only for exclusive agricultural purposes, when demonstrated not to be detrimental to the agricultural viability of adjoining parcels.
- 30.0.4 The County shall make every effort to preserve, enhance, and expand viable agricultural land uses on farmland designated as prime, of statewide importance, unique, or of local importance through application of "agricultural" land use designations and encouragement of large lot agricultural zoning.

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UPDATE INDEX #8

MONTEREY COUNTY GENERAL PLAN

ADD POLICIES 1.1.3, 4.1, 26.12.12, 27.3.4, 30.0.5, 34.1.7 AND
40.2.2

ADDED DECEMBER 4, 1984

GENERAL PLAN AMENDMENTS

1.1.3 *Landowners shall be encouraged voluntarily to restrict the development potential of property through grants of conservation easements, Williamson Act contracts, or other appropriate protections in areas designated for open space uses such as agriculture and resource conservation.*

* 4.1 *Identify the extent and locations of important agricultural lands in the County and devise regulations and techniques which will be effective in preserving and enhancing these lands.*

* 26.1.12 *In order to preserve its open space and rural character, the County shall encourage the voluntary restriction of development through dedication of scenic or conservation easements, transfer or development rights and other appropriate techniques.*

* 27.3.4 *In areas designated for agricultural uses where development of legally subdivided land would promote incompatible residential development, the County shall solicit and encourage the voluntary donation of conservation easements or other development restrictions to the County or to a qualified private nonprofit organization in order to preserve the agricultural use of the land.*

* 30.0.5 *The County shall support other policies that provide tax and economic incentives which will enhance competitive capabilities of farms and ranches, thereby insuring long-term preservation, enhancement, and expansion of viable agricultural lands. Examples of these policies and programs may include the following:*

- 0 *establishment of a program to purchase and lease back agricultural lands near urban or developing areas for continued agricultural use.*
- 0 *use of voluntary restriction to agricultural uses through contributions of conservation easements or other appropriate techniques.*
- 0 *use of Williamson Act Contracts.*

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* 34.1.7

The County shall support the creation of private, nonprofit land trusts and conservation organizations to receive by voluntary donation or purchase, development rights on any lands to be preserved as open space.

40.2.2

Land use controls shall be applied or retained to protect the scenic corridor and to encourage sensitive selection of sites and open space preservation. Where land is designated for development at a density which should diminish scenic quality, the landowner shall be encouraged to voluntarily dedicate a scenic easements to protect scenic corridor.

MOCO GENERAL PLAN 1116092/MOOCOP.DXX

1116092

O-1b

UPDATE INDEX #22

MONTEREY COUNTY GENERAL PLAN

AMEND GENERAL PLAN TO ADD "COMPREHENSIVE PLANNED USE" OVERLAY

MARCH 30, 1993

Amend General Plan - "LAND USE PLAN PHILOSOPHY/AGRICULTURAL AND RESOURCE CONSERVATION"

* **Rural Grazing.** Rural grazing lands are designated in South County west of Lockwood, near Pleyto Road, and northeast of San Antonio Reservoir; at Reliz Canyon southwest of Greenfield; in the Arroyo Seco area; at Chualar Canyon; in portions of the upper Corral de Tierra; and in area south of Carmel Valley of Schulte Road and at Rancho San Carlos.

Rancho San Carlos may be considered for development of a "rural village." Allowable uses for Rancho San Carlos may consist of residential, visitor accommodation, community shopping, and recreational uses on approximately 2,500 acres. The balance of approximately 17,500 acres should be retained in grazing, recreational, and resource conservation.

* **Permanent Grazing.** The plan designates permanent grazing lands in the easterly and southeasterly portions of the County; in some areas west of the Salinas Valley; in portions of the Toro area; north and south of the Carmel Valley and northeast of the Carmel Valley Village; in the Cachagua area; and south of the Pajaro Valley.

Resource Conservation

* Resource conservation is shown on the land use plan in the North County water shortage area near Highway 101; along Highway 68 between the City of Monterey and the Toro area; in the Toro area off River Road, in the center of the Corral de Tierra/San Benancio Road "loop," and south of Toro Regional Park; in some portions of the Gabilan foothills east of the Salinas Valley; south of the Carmel Valley and northeast of Carmel Valley Village; and Rancho San Carlos subject to Comprehensive Planned Use Policies. Application of the resource conservation category in conjunction with the urban reserve overlay adjacent to incorporated cities is intended to encourage annexation prior to any intensive property development.

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Commercial

This category applies to areas which are suitable for the development of retail and service commercial uses, including visitor accommodation and professional office uses. In general, building intensity for commercial areas shall conform to standards which limit building height to a maximum of 35 feet and lot coverage to a maximum of 50 percent, excluding parking and landscaping requirements. It is anticipated that further detailed implementation and possible modification of these standards will be undertaken at the area plan and zoning implementation phases.

Industrial

This land use category applies to areas designated for the development of suitable types of manufacturing (with emphasis on agriculturally-related manufacturing), research, mineral extraction, and processing operations. In general, building intensity for industrial areas shall conform to standards which limit building height to a maximum range of 35 feet to 75 feet and lot coverage to a maximum of 50 percent, excluding parking and landscaping requirements. It is anticipated that further detailed implementation and possible modification of these standards will be undertaken at the area plan and zoning implementation phases.

* **Agricultural**

This category includes the sub-categories of farmlands, rural grazing lands, and permanent grazing lands.

* **Farmlands.** The farmlands sub-category includes those farmlands designated by the USDA Soil Conservation Service as prime, of statewide importance, unique, or of local importance. The minimum parcel size for these farmlands shall be 40 acres.

* Rural and permanent grazing lands are those which, according to the USDA Soil Conservation Service, display a high or moderate degree of capability/ suitability for grazing of livestock.

* **Rural Grazing Lands.** This land use sub-category is applied to grazing lands which are located in the County's developing areas, which are not restricted by a 20-year Williamson Act contract, and on which the County intends to allow mixed residential and agricultural land uses.

In rural grazing areas, minimum parcel sizes shall range from a 10-acre minimum to a 160-acre minimum, but they shall not be less than the existing zoning designation on the date of adoption of this General Plan. The local area plan citizens advisory committees shall recommend the appropriate rural grazing land lot sizes for their communities, but they shall not be less than the existing zoning designation on the date of adoption of this General Plan.

Clustering of residential uses shall be encouraged provided that total site density shall not exceed that allowed by the appropriate rural grazing land use category. Density for clustering shall be numerically consistent with minimum lot size; e.g., in an area which is designated rural grazing lands with a 10-acre minimum, allowable density shall be 10 acres per unit. As a condition of clustered residential development approval, the developer shall be required to enter into a permanent restriction to ensure continued grazing use on those portions of the property not developed for residential use.

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* **Permanent Grazing Lands.** This land use sub-category is applied to those portions of the County in which exclusive grazing use is to be preserved, enhanced, and expanded.

On permanent grazing lands, minimum parcel sizes shall be 40 acres and larger, but they shall not be less than the existing zoning designation on the date of adoption of this General Plan. The local area plan citizens advisory committees shall recommend the appropriate permanent grazing land lot sizes for their communities, but they shall not be less than 40 acres nor shall they be less than the existing zoning designation on the date of adoption of this General Plan.

* Only when they are clearly an accessory use to the exclusive agricultural use of the property, residential units may be developed at a density of 40 acres or more per unit.

Subdivision of land may be allowed only for agricultural purposes, for farm labor housing, or in order to create a building site for immediate family members and spouses.

The division of property to create a one-acre minimum building site may be considered by the County if the division is to accommodate housing for members of the immediate family of the property owner who earn their livelihood from grazing use of the family land immediately contiguous to the parcel being created by subdivision. Such subdivision shall be conditioned to allow for the exclusive occupancy by immediate family members and their spouses. Likewise, another condition shall require the parcel to be an accessory use to the ranch in question or to an adjoining ranch, providing the residence is accessory to the adjoining agricultural use and is occupied exclusively by immediate family owners and spouses of the owners or lessors.

Lands within the permanent grazing lands sub-category may be merged with adjacent lands which are involved in active grazing operations.

Resource Conservation

This category is intended to ensure conservation of a wide variety of the County's resources while allowing for some limited use of these properties. Typical of lands included in this category are watershed areas, riparian habitats, scenic resources, and lands which are generally remote, have steep slopes, or are inaccessible. This category also includes the floodways of the County's major rivers as well as its major water bodies. Uses in resource conservation areas must be in keeping with the conservation intent of this category. For example, allowed uses may include grazing and other agricultural uses, passive recreation such as camping, riding, and hiking, and timber harvesting conducted under an approved forest management plan.

Minimum parcel size in resource conservation areas shall range from a 10-acre minimum to a 160-acre minimum but they shall not be less than the existing zoning designation on the date of adoption of this General Plan. The local area citizens advisory committees shall recommend the appropriate resource conservation lot sizes for their communities, but they shall not be less than the existing zoning designation on the date of adoption of this General Plan. Residential uses are not a primary use in this category and will be allowed only if the applicant can demonstrate that conservation values are not compromised. Density for residential uses, if allowed, shall range from 10 acres or more per unit to 160 acres or more per unit.

Exhibit 6

O-1b

**MONTEREY COUNTY AGRICULTURAL AND
HISTORICAL LAND CONSERVANCY**

P.O. Box 1731, Salinas CA 93902

22 August 2006

Cosme Padilla, Chair
Monterey County Planning Commission
240 Church Street
Salinas, California 93901

Monterey County
Planning and Building
Inspection Administration

JAN 30 2007

RECEIVED

RE: *Consideration for Agricultural Conservation in the GPU4*

Dear Chairman Padilla and Commissioners,

The Monterey County Agricultural & Historical Conservancy, Inc. has existed in Monterey County for the past twenty-five years to protect and preserve the county's most valuable agricultural lands. In the County's 1982 General Plan, agricultural protection was addressed in many ways (e.g. Goal #30). The 1982 General Plan policy 30.0.5 directed the County's support for tax and economic incentives with the intent for such a policy to lead to long-term preservation.

It is our position Monterey County General Plan GPU4 does not address long-term agricultural preservation adequately enough. The closest GPU4 comes to such preservation is policy AG-1.5:

"AG-1.5 Policies that provide tax and economic incentives to enhance the competitive capabilities of farms and ranches, thereby insuring long-term conservation, enhancement, and expansion of viable agricultural lands shall be supported. Examples of these policies and programs include but are not limited to:

- a. *Establishment of a program to purchase and lease back agricultural lands near urban or developing areas for continued agricultural use.*
- b. *Payment of fees as mitigation for the loss of farmland to other uses.*
- c. *Voluntary restrictions to agricultural uses through contributions of onsite or off-site conservation easements or other appropriate techniques.*
- d. *Williamson Act Contracts*
- e. *Transfer of development rights.
(Root: GP policy 30.0.5)"*

O-1b

GPU# needs direction more than is proposed in AG-1.5. We ask that your commission consider the importance of agricultural conservation and the need to give specific direction (in the form of land replacement mitigation). To that end, mitigation for the loss of agricultural land should be required on the following ratios:

1. Loss of agricultural lands of national importance – 3:1
2. Loss of agricultural lands of Statewide importance – 2.5:1
3. Local and Unique farmlands – 1:1

The determination of the importance should use the Natural Resource Conservation Service criteria to determine the importance of the ag land in question. These criteria are not, in our estimation, forboding or restrictive on development, but do offer a reasonable resolution to the desire for development versus the need to conserve the viability of the County's agricultural lands. Please include all of the 1982 policies into the proposed draft plan. We are happy to discuss these issues with you and the full commission and look forward to favorable consideration of our request.

Sincerely,

Brian Rianda, Managing Director
MCAHLC, Inc.

Exhibit 7

O-1b

Monterey County Agricultural and Historic Land Conservancy
P.O. Box 1731, Salinas, CA 93902

July 2, 2003

Monterey County
Planning and Building
Inspection Administration

JAN 30 2003

RECEIVED

Mr. Scott Hennessey, Director
Monterey County Planning and Building Inspection Department
County Courthouse
Alisal and Church Streets
Salinas, CA. 93901

RE: Farmland Preservation Policies for the New General Plan

Dear Mr. Hennessey:

As you know, the Monterey County Agricultural and Historic Land Conservancy was organized in 1984 specifically to help facilitate the preservation, protection, and enhancement of Monterey County's invaluable farmlands. These policies and language come from the adopted 1982 Monterey County General Plan. The protection of farmers and farmland through the use of voluntary conservation easements is our primary objective.

Under the current, existing Monterey County General Plan policies adopted and approved in 1982 by the Board of Supervisors, the County encouraged the creation of our Conservancy to help farmers to have options available to them to preserve their farms and ranches and to preserve the natural resources (farmlands) upon which our billion-dollar agricultural industry is based. Those County policies also mandated the preservation of "prime farmlands", "farmlands of statewide importance", "unique farmlands", and "farmlands of local importance" in the 1982 General Plan in multiple specific sections. Further, permanent "buffer" easements to preserve farmlands have also been conditions on new developments mandated by the 1982 General Plan for the past 20 years. We ask that all of these existing 1982 farmland policies and open space policies related to farmland be fully incorporated and included in the new General Plan that your department is preparing.

MCAHLC and our volunteer Board of Directors have worked for over two decades to help landowners and farmers to have an option to avoid having to sell their invaluable farmlands for development. We have worked closely with Congressman Farr, the United States Department of Agriculture, the California Department of Food and Agriculture, and the California Department of Conservation to advance their well known policies of preserving our nation's farmlands. Additionally, we have worked cooperatively with the County to advance its adopted policies of farmland preservation and protection. Our numerous voluntary farmland conservation easements, totally thousands of acres that we have preserved, have caused Monterey County to be recognized nationally as being at the

O-1b

forefront of preserving irreplaceable farmlands and limiting the devastating urban sprawl that has decimated agricultural counties like Santa Clara County, Orange County, Los Angeles County, and Riverside County.

We intend to continue our efforts. We believe the existing 1982 General Plan policies should be preserved and should not be modified. Only these mandatory policies have prevented uncontrolled sprawl across the Salinas Valley for the last 20 years.

Please include all of the existing 1982 General Plan policies related to the preservation, protection, and enhancement of our agricultural lands into the new General Plan that you are preparing. We stand ready and will be happy to help in this process in any way that you deem appropriate. Please contact us at the appropriate time as your process progresses.



Respectfully,

Sherwood Darington
Managing Director

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Alliance of Monterey Area Preservationists

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FEB 02 2009

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February 2, 2009

Carl Holm
County of Monterey Planning
168 W Alisal St, 2nd Floor
Salinas, CA 93901

RE: Comments on the DEIR for the 2007 General Plan Update

Dear Sir:

Our President's Committee for Review of the DEIR was pleased by the obvious desire to preserve our historical resources that was demonstrated by the General Plan and DEIR. We were struck by the depth and breadth of the goals and policies in the General Plan, and by the efforts of the DEIR to use CEQA and best practices to mitigate for any negative effects on historic resources.

Several of our members have commented on how pleased they were with the addition of Mitigation Measure CUL-1.

An additional comment on the DEIR, Page 4.10-21, Mitigation Measures states "No mitigation beyond the 2007 General Plan policies, as modified by Mitigation Measure CUL-1, is necessary." There is a conflict with 4.10.4, Level of Significance After Mitigation, which states "All impacts on cultural resources would be less than significant with implementation of the measures in the 2007 General Plan, and no additional mitigation would be required." 4.10.4 should include language including Mitigation Measure CUL-1 in order to be complete.

Thanks for the opportunity to comment on the DEIR, and thanks in advance for the opportunity to work with the County of Monterey on preservation in the future.

Mike Dawson, President of AMAP

AMAP, a 501(c)(3) corporation dedicated to the appreciation and preservation of the Monterey Area's historic assets for public benefit, supports activities that interpret and share our rich cultural heritage with residents and visitors and encourages them to be advocates for ideas that contribute to the understanding of our cultural, ethnic, artistic, & architectural legacy.
Post Office Box 2752, Monterey CA 93942 831-646-8142 mike@dawsonmonterey.com

Calderon, Vanessa A. x5186

From: Mary Ann Matthews [mmatthews2@comcast.net]
Sent: Monday, February 02, 2009 5:00 PM
To: caqacommments
Cc: Carol Leneve; Rosemary Donlon
Subject: GPU 5 Comments by CNPS

Monterey County
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Red as CEQA
Comments 2/2/09
5:00 pm

Feb. 2, 2009

Mike Novo, Acting Planning Director
RMA--Planning, Salinas Permit Center
168 West Alisal St., 2nd Floor
Salinas, CA 93901

Subject: Draft Environmental Impact Report (DEIR) for GPU 5

Dear Mr. Novo:

The Monterey Bay Chapter of CNPS would like to submit the following comments on what has become known as GPU5:
We are deeply concerned that in many cases this document is claimed to have fewer impacts than the 1982 General Plan, which is certainly to be expected because of the additional constraints that are recognized by today's planners. However, the actuality is that this document, in almost all cases with which we are familiar having to do with the protection of sensitive habitat, would increase the environmental impacts and worsen the quality of life for our citizens. Because of the loosening of standards in many areas, the impacts on biological resources, our chief concern, would be unacceptably increased. The generally appropriate goals cited under General Land Use in GPU5 appear to be based largely on GP82, but the detailed policies to carry them out actually create incentives to sprawl, promoting serious impacts particularly on biological resources. Open Space policies focus on protection of scenic views rather than on biological resources, and policies are proposed that would seriously weaken protection of our county's plant and animal resources.

For example, the policy on native plants is extremely inadequate if not legally defective in limiting protection of plants to those listed by the State or Federal agencies as threatened or endangered. CEQA requires consideration of all species identified as sensitive or special status species in local or regional plans, policies or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Services. We urge you to return to the much sounder policies of GP82. The language should state that "Qualified scientists" shall be consulted and appropriate measures shall be taken to protect rare and endangered plant species and their habitat."

The policy on development has been severely weakened from the GP82 policy. We urge retention of the latter policy, which states: "Development shall be carefully planned in, or adjacent to, areas containing limited or threatened plant communities, and shall provide for the conservation and maintenance of the plant communities."

The document states "Landowners and developers shall be encouraged to preserve the integrity of existing terrain and native vegetation in visually sensitive areas such as hillsides, ridges, and watersheds. Routine and ongoing agriculture shall be exempt from this policy." The latter activities should be carefully spelled out, as some types of ag activities can be very destructive of hillsides, ridges, and watersheds, and must not be given a blank check.

We strongly support the policy encouraging the use of drought-tolerant native plants and urge that lawns be specifically minimized by using drought-tolerant native and native-compatible groundcovers.

The list of routine and ongoing agricultural activities that may be exempt from GPU5 policies also includes other activities that could be harmful to the public health and welfare. These include conversion of previously uncultivated rangeland to cultivated agricultural use (which should not be allowed on slopes over 25% because of recognized problems with erosion, loss of important wildlife habitat, loss of oak woodlands, increased use of water and chemical inputs, etc.; fumigating and other pest control activities; and streambank alterations. We urge that these areas specifically not be included in exempted activities. Even allowing conversion with a permit gives carte blanche to environmentally destructive actions, particularly in view of the new protections afforded oak woodland by state law (AB 32) and the impact on climate change.

The policy (CV 6.2) stating that rural agriculture in Carmel Valley should be encouraged, "except on slopes of 25% or greater or where it would require the conversion of extensive removal of existing native vegetation. This policy does not clearly prohibit conversion of uncultivated vegetation to agriculture on slopes above 25%. The existing policy prohibiting conversion of uncultivated slopes in excess of 25% should be retained for the reasons listed above and should be applied to other erosion-prone areas of the county. We are also very concerned about the promotion of Winery Corridor Plans when no standards have been developed to assure the protection of sensitive plants, wildlife, and their habitats. The importance of preserving critical wildlife corridors should be clearly spelled out in this document.

02/02/2009

The native Monterey Pine Forest is a sensitive biological resource that at the present time does not even have the protection accorded much less threatened species such as redwoods, oaks, and madrones, which all have special protections in the Monterey Co. Trees Ordinance. It is a serious oversight that the Monterey pine (*Pinus radiata*) is not protected in either the Carmel Valley Area Plan, the Greater Monterey Peninsula Area Plan or the overall General Plan. Some years ago when scientists became alarmed by the spread of pitch canker and urged that healthy Monterey pine should be preserved, CNPS and other groups asked Supervisor Dave Potter to propose an ordinance to protect the native trees. He responded that the time to do that would be during the GP update. We and others have repeatedly asked that this be done, but this issue has been ignored.

The policy listing criteria for mines and quarries in the Carmel River watershed needs to be refined. Because of the severe erosion problems that the Carmel River has had over the years, mines and quarries can no longer be justified in the Carmel River watershed because of the severe environmental damage they cause. This policy should also apply to other areas of the county.

The list of protected trees should also include the Monterey Pine Forest. The protected habitats list should include the Monterey Pine Forest.

The policy stating that new development that causes a drawdown of the aquifer shall be designed in a manner so that it does not threaten natural vegetation should be altered. Drawing down the aquifer is likely to harm or kill riparian vegetation that keeps the river banks from eroding away in high water. It is prohibited by the MPWMD. The State Water Resources Control Board has already determined that the Carmel River is overpumped by over 10,000 acre feet per year. The policy should be deleted or revised as follows: "New development is prohibited that would draw down the Carmel River aquifer."

Please retain the wording in the 1982 GMPAP "In order to preserve scenic and rural character, ridgeline development shall not be allowed unless a special permit is first obtained."

We understand that the Planning Commission is currently discussing these issues. We would appreciate it very much if you would be kind enough to see that the commissioners receive a copy of these comments. Thank you for your consideration. We are sending this by email to meet the deadline but will submit the comments on our letterhead.

Sincerely yours,

Mary Ann Matthews, Conservation Chair
Monterey Bay Chapter, CNPS

02/02/2009



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October 22, 2008

O-4

Carl Holm, Assistant Director
Monterey County Planning Department
168 W. Alisal St., 2nd Floor
Salinas, CA 93901

Re: GPU5

Dear Mr. Holm:

The California Oak Foundation (COF) writes with General Plan Update DEIR (GPU5) comments regarding Monterey County oak woodlands planning analysis covering 425,000 acres. COF has identified several errors of omission and commission in the GPU5 biological resources and air quality analyses.

Background: On a county basis, Monterey County's oak woodlands are the most diverse and biologically valuable in California. Where other county's privately owned oak woodlands are generally dominated by a single oak species, Monterey County is home to hundreds of thousands of woodland acres almost equally divided between blue oaks and coast live oaks. Centrally located in the state, Monterey County's adjacent inland blue/coastal live oak habitats serve hundreds of resident and migratory wildlife species, including dozens of GPU5-listed special status species. Concurrently, these Monterey County oak woodlands presently store an estimated 4.8 million metric tons of carbon dioxide (CO2) and will continue to capture atmospheric CO2 unless converted to non-forest use. (Oaks 2040)

Biological Resources

DEIR: "Future development anticipated by the 2007 General Plan would be consistent with local tree ordinances ... This impact is less than significant." (DEIR at 4.9-2)

Comment: Section 4.9.4.2, State Regulatory review fails to reference Public Resources Code (PRC) §21083.4 or recognize that aspects of the current Monterey County tree ordinance conflict with California Environmental Quality Act (CEQA) law. This DEIR deficiency raises substantial issues regarding GPU5 legal sufficiency.

DEIR: "The overall 25-year trend is an average [vineyard] increase of about 300 acres per year, but between 1996 and 2006, there was an annual average increase of about 800 acres per year in vineyard acreage ... Specifically, the 25-year trend of habitat conversion from 1982 to 2006 (approximately 450 acres per year on average) is used to estimate potential future habitat conversion in the impact analysis as more representative of long-term conditions than the last 10 years ... Spatial analysis of the vineyard development indicated that most of the recent vineyard expansion is at the valley edges and upslope." (DEIR at 4.9-45, 46, 63)

O-4

Comment: GPU5 is specious claiming that future agricultural trends are reflected by pre-1996 data. Between 1982-1995 vineyard acreage didn't increase. All vineyard conversion increases for the 25-year period occurred between 1996-2006, demonstrating the expansive appetite of Monterey County's contemporary viticulture industry. GPU5 vineyard acreage conversion figures also don't account for permanent oak habitat impacts from the many failed vineyards that bulldozed oak woodlands to create their impermanent bouny. The GPU5 habitat conversion rate projection for agriculture should be 1,125 acres per year, not 450 acres annually. This revised yearly rate accurately represents the 11,250 acres of natural resources subject to vineyard conversions between 1996-2006. (DEIR at 4.9-45)

It is deceptive for GPU5 to use dated data to dilute the relevant annual habitat conversion rate to vineyards in forecasting 2030 buildout impacts. Moreover, the DEIR expressly acknowledges that future vineyard conversions will be concentrated in areas where oak woodlands are copious. GPU5's departure from current GP steep slope policies implemented under Title 21 will make huge swaths of previously protected oak-studded hillsides available for cultivation.

DEIR: "The County shall prepare, adopt and implement a program that allows projects to mitigate the loss of oak woodlands. The program would include ratios for replacement, payment of fees to mitigate the loss or direct replacement for the loss of oak woodlands and monitoring for compliance. The program would identify criteria for suitable donor sites. Mitigation for the loss of oak tree woodlands may be either on-site or off-site. The program would allow payment to a local fund established by the County. Until such time as the County program is implemented, payment of a fee may be made to the State Oak Woodlands Conservation Program. Replacement of oak woodlands shall be on a minimum 1:1 ratio." (DEIR at 4.9-86)

Comment: Project mitigation contributions to the state Oak Woodlands Conservation Fund (OWCF) should stipulate that these funds shall be returned to Monterey County in the form of purchased local oak woodlands.

Mitigating oak woodland effects with an OWCF replacement contribution equivalent in acreage and ecological function to the oak resources impacted sufficiently addresses both wildlife habitat impacts and CO2 biological emission impacts (see attached). A proportional contribution to the OWCF mitigates two ecological impacts with one mitigation measure and this mitigation standard is easily understood by all interested parties. Furthermore, OWCF mitigation moneys will be leveraged with other Wildlife Conservation Board funds to return more bang for the buck when the mitigation contributions come back to Monterey County. It is very unlikely that Monterey County has the wherewithal to devise an alternative Oak Woodlands Mitigation Program that provides equal compliance with CEQA, ease of use and effective local application of biological mitigation measures.

Climate Change

DEIR: "Development allowed by the 2007 General Plan would result in the conversion of natural vegetation and agricultural lands that would result in the loss of carbon sinks. Given the uncertainties associated with estimated GHG fluxes associated with natural vegetation and agricultural lands, the potential loss of carbon sinks was not quantified, but would nevertheless contribute GHG emissions along with other sources. As discussed below a number of 2007 General Plan policies seek to limit the amount of natural land conversion due to urban growth." (DEIR at 4.16-22)

Comment: GPU5 disregards CEQA, the opinions of the California Attorney General and recent court decisions by failing to make a meaningful attempt to analyze or mitigate CO2 emissions due to the conversion of oak woodlands to non-forest use. The analytic tools and specific methodology for measuring oak woodlands carbon sequestration or release are described in the California Air Resources Board's Forest Protocol. No imaginary "GHG flux" uncertainties are associated with CARB's scientific standards for measuring oak woodland CO2 emissions. GPU5 urban growth policies that lessen CO2 impacts by conserving open space do nothing to mitigate CO2 emissions due to a land-use change that

O-4

results in the loss of oak woodlands carbon storage capacity and CO₂ releases from the burning of oak fuelwood.

In determining CEQA significant effects to oak woodlands, both wildlife impacts and CO₂ emission impacts must be considered for mitigated negative declarations and environmental impact reports. These dual oak woodland impacts, plus Monterey County's diminutive three (3) oak tree CEQA trigger, result in a very low threshold for determining MND or EIR significant woodland effects and the need for proportional mitigation measures. Notably, agricultural activities and cities are exempt from PRC §21083.4 mitigation requirements but the conversion of oak woodlands to vineyards or urban growth aren't excused from CEQA CO₂ analysis and mitigation.

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COF strongly disagrees with the Table 4.9-7 and Table 4.9-8 estimates that only 6,300 acres of oak woodlands and oak savannas may be converted to other land uses by 2030. COF's peer-reviewed Oaks 2040 survey calculates that Monterey County has 24,000 acres of oak woodlands potentially at risk of development by 2040, with development defined as greater than 32 housing units per square mile. Oaks 2040 at risk projections don't include Monterey County oak resource conversion figures due to vineyard expansions.

Summary

- GPU5 fails to recognize Public Resources Code §21083.4.
- GPU5 deliberately minimizes the potential significant effects to Monterey County's uniquely valuable blue/coast live/valley oak resources from agriculture and development conversions.
- GPU5 must explain the necessity for abandoning the current General Plan/Title 21 steep slope restrictions in light of the low GPU5 agriculture and development buildout projections.
- GPU5 fails to make a good faith effort to analyze substantial oak woodland CO₂ emissions related to climate change.
- GPU5 must directly state that Mitigation Measure BIO-2.2 requires 1:1 replacement with oak woodlands equivalent in acreage and ecological function to those woodlands impacted.

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Until the cited GPU5 oak woodlands analysis and CEQA inconsistencies are adequately addressed, the California Oak Foundation objects to GPU5 approval and adoption of the DEIR.

Sincerely,

Janet S. Cobb, President
California Oak Foundation

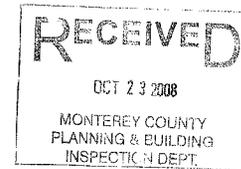
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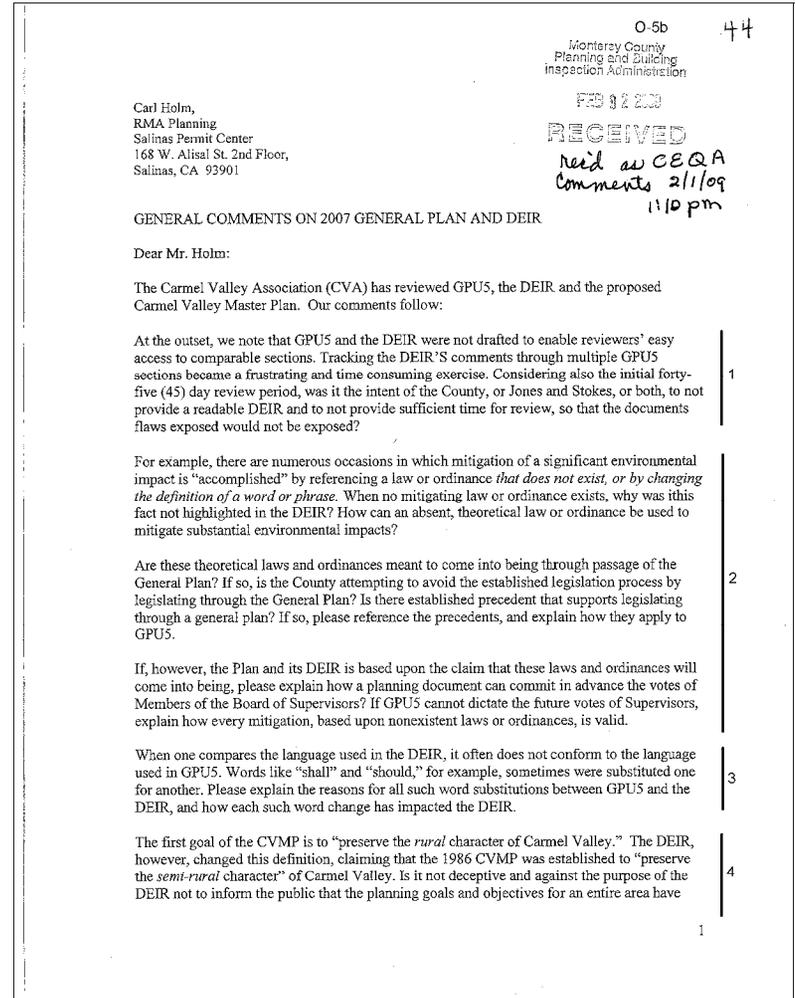
References

East-West Forestry Associates (Gaman and Firman 2006). Oaks 2040: The Status and Future of Oaks in California (www.californiaoaks.org/2040.html). Published by the California Oak Foundation.

East-West Forestry Associates (Gaman 2008). Oaks 2040: Carbon Resources in California Oak Woodlands (www.californiaoaks.org/2040.html). Published by the California Oak Foundation.

O-4





O-5b

been changed?

Moreover, changing the "rural" definition of Carmel Valley seemingly has been used to mask the DEIR'S finding that additional traffic on Carmel Valley Road has been "mitigated." Is this alleged "mitigation" based upon the DEIR'S defining down the meaning of "C" and "D" road segments? If no, explain why different road standard definitions apply to different parts of the County. Is this use of different road standard definitions not discriminatory, and prohibited by law? If yes, explain how changing road standard definitions mitigate increased traffic on the road?

Generally, the DEIR does not meet the standards of technical and scientific competence, nor of direct and objective analysis and reporting required by CEQA guidelines. For example, CEQA Guidelines 15064a1, 15064b, 15063a3, 15384a, 15151, and 15084e, are all violated in one way or another in the DEIR. Please explain for each subsection why the scientific standards of the CEQA guidelines were not used, and use them where required.

COMMENTS ON INDIVIDUAL SECTIONS OF THE DEIR

Comments on § 4.16 (Climate Change) Of the DEIR For the 2007 General Plan (GPU5)

Introductory Summary

The Plan itself lacks a section climate change, and on greenhouse gas (GHG) emission in particular. Various events since the passage of AB 32 in 2006 make it clear that the single provision in the Plan addressing climate change (OS-10.11) is insufficient. This section of the DEIR attempts to address that insufficiency with a series of policy recommendations in the form of "mitigations."

The proposed "mitigations" are in effect an attempt at legislation through the back door, using the EIR as a mechanism for remedying a substantial legislative omission.

Policy OS-10.11 itself simply requires "development of a detailed GHG inventory and adoption of a GHG reduction plan" and contains no provisions for establishing County GHG reduction goals nor for developing measures to achieve those goals. AB 32 provides overall State-mandated objectives toward which every county must contribute and the 2007 General Plan does not reflect the contributions required from Monterey County.

Adopting a series of "mitigations" in the DEIR in order to address an entire planning category missing from the Plan does not remedy the deficiency. Whether the mitigations would be

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included in the Plan is unknown. The "mitigations" taken as a whole should be reviewed and incorporated into a suitable set of policy statements that should constitute a coherent unit. An environmental impact report that evaluates the entire climate change element then should be undertaken. The need for subjecting the DEIR's "mitigations" to the full planning process is especially evident in the comments below, which show that the proposed "mitigations" themselves are inadequate.

Please explain why Section 4.16 of the DEIR at its outset does not confront directly this defect in the Plan, stating clearly the inadequacy of OS-10.11 and indicating that an additional section of the Plan should be developed and subjected to the usual planning process, including environmental review and comment.

The regulatory mandates quoted in the DEIR, and the data cited, are not reflected fully and accurately in the significance determinations and conclusions. The reasonable inference to be drawn from the data, examined in the light of State mandates used as standards of significance, is that adverse environmental impacts of the Plan (including cumulative) would be considerable under all scenarios examined. Please explain why "less than significant" or "less than considerable" was used as a determination of significance, or as significance conclusion, anywhere in this document, given the data provided.

Detailed discussion

Overall

I. The "no new development, no GHG reduction" scenario (not covered in the DEIR) shows the magnitude of the task for the Plan with respect to climate change. In this scenario new development is discontinued and GHG emission continues as currently. This scenario should have been considered in the DEIR. (The analysis is slightly complicated by the fact that three different values for current County GHG emissions are given in the DEIR, namely 492 MMT, 484 MMT (p. 4.16-4) and 480 MMT (p. 4.16-16); as a result we consider the full range from 480 to 492 MMT; the 1990 level is taken to be 427 MMT (p. 4.16-16).) The ratios of existing GHG to the 1990 mandated level for 2020 and the 80% of 1990 mandated level for 2050 are as follows, respectively:

Existing/1990	1.12 – 1.15	(12% to 15% in excess)
Existing/(80% of 1990)	1.41 – 1.44	(41% to 44% in excess)

A "no new development, full GHG reduction" scenario, meaning that the GHG reductions listed in Table 4.16-3 are implemented but with no new development, produces instead the following:

Existing, full GHG reduction/1990	0.93 – 0.94	(4% to 7% below)
Existing, full GHG reduction/(80% of 1990)	1.17 – 1.19	(17% to 19% in excess)

Thus there would be room for new development to 2020, by perhaps as much as 7% of existing capacity if all GHG emission-reduction mechanisms were in place right now, which clearly is not the case. (Note that development-permissive biases in the data in the DEIR analysis may be

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biased by this order of magnitude, and therefore there may be no room for development. See item 48. below, for example.) Moreover, the Plan apparently allows about 8.3% new development by 2020, so even in the wholly unrealistic scenario of having GHG emission defenses fully implemented at present, efforts at reducing GHG emissions to the State mandate by 2020 would be overwhelmed by the Plan's development allowances. The situation gets substantially worse after 2020, so meeting the regulatory requirements under the 2007 General Plan is impossible.

Furthermore, the GHG emission estimates probably are underestimates. The analysis lacks, for example, the effects of loss of carbon dioxide sinks; and it ignores potential energy consumption for water production through desalination. Also, the basis used in the DEIR for establishing the 1990 standards appears likely to be biased (as discussed below), and some policy changes from the current plan to the 2007 Plan are likely to be GHG emission-inducing (again, see below).

The point is that just the task of reducing existing GHG emissions to State mandated levels, even with little further development, would be very difficult and, as a practical matter, highly unlikely to be accomplished. Clearly, ongoing development at the level allowed by the Plan would increase the problem enormously. Please give a full explanation of why this obvious kind of analysis, based on existing development alone, was not provided in the DEIR.

2. There is no quantitative or qualitative evidence in the entire section on climate change that indicates that the criteria for adequate environmental protection plausibly can be met by the Plan or by the Plan plus proposed "mitigations." Please explain in detail the justification for assertions in the DEIR that contradict this assessment (e.g., in the Abstract and in the final "Significance Conclusion" – see comments on those below).

3. Generally speaking, aside from accumulating data, the DEIR does not meet the standards of technical and scientific competence, nor of direct and objective analysis and reporting set out in CEQA guidelines. (See, for example, CEQA Guidelines 15064a.1, 15064b, 15063a3, 15384a, 15151, and 15084e, all of which are violated in one way or another in this DEIR.) The comments that follow, though extensive, are far from exhaustive in their examination of inadequacies in the report. Please explain why the CEQA Guidelines were not fully respected, with special emphasis on matters of technical, scientific and reportorial competence and integrity, in the preparation and completion of this DEIR.

4.16.1

4. The Abstract (section 4.16.1) does not adequately or accurately reflect the actual content of the remainder of section 4.16. Indeed it is inconsistent with, and contradicts, both the analysis and certain of the conclusions of the section; it is highly misleading. Please explain why such inconsistencies and contradictions are included in the DEIR -- why, for example, the abstract says "the County's contribution [to GHG emissions] would be less than considerable in 2020" (next-to-last sentence, 2nd paragraph, p.4.16-1) whereas the impact analysis of section 4.15.5.3 states contradictorily that "Development of the 2007 General Plan would contribute considerably to GHG emissions and global climate change [in 2020]" (top of p. 4.16-18).

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5. The material in the second paragraph contains assertions that are highly speculative, as indicated by, for instance, the statements that "mitigation measures are described in this section to further inform the GHG Reduction Plan and to begin to implement reduction strategies," that "By 2012 the state's regulations will be fully enacted" and that "[By 2012] the framework will be in place to achieve substantial GHG emission reductions by 2020 that will be consistent with overall state goals," followed by "As ... efforts proceed ... the County's contribution would be less than considerable" (emphases added). Please describe what provisions exist in the Plan that serve insure that

- (1) the indicated mitigation measures actually would be adopted,
- (2) "informing" the GHG Reduction Plan would rigorously require the necessary actions,
- (3) "beginning to implement ... strategies" provides sufficient imperative to achieve required goals,
- (4) necessary future enactments by the State will occur in the time specified, and
- (5) a "framework" for "substantial reductions" and "efforts" meets CEQA requirements for specificity and feasibility.

Further, given the degree of uncertainty implied by each of these several questions, please explain why the firm claim that "the County's contribution would be less than considerable" ought to be regarded as credible. Finally, why is this indefiniteness not stated clearly and distinctly, and why is the need for mitigation not emphasized as a specific and fundamental defect in the Plan?

6. The "mitigations" proposed in the DEIR generally recommend further study and deferral to the outcomes of actions presumed to occur subsequent to their adoption. (For example, they include establishing an inventory; undertaking new forecasting efforts; [determining requirements for] monitoring and reporting; identifying certain methods, funding and goals; and quantifying; adopting as-yet-non-existent ordinances; promoting activities; evaluating and quantifying certain information; developing further planning efforts; etc.). Therefore they are inadequate as mitigations according to CEQA. Please explain why the proposed "mitigations" of absent policies should be considered adequate under CEQA guidelines.

7. On page 4.16-1, third paragraph, line three, the phrase "which requires, by 2050, reduction" should replace the phrase "which requires reduction" – that is, the 2050 deadline should be inserted. Why isn't the regulatory and planning timeline shown clearly and in tabular form so that the reader can understand easily the various constraints they impose, and can discern why certain dates show up persistently in the report? The rationale for the latter must be inferred by the reader from evidence scattered throughout section 4.16 and other parts of the report. This is important to understanding the report.

8. Apparently the deadline scheme goes something like this:
- 1990 – baseline year for GHG emissions from S-3-05
 - 2000 – a second baseline year from S-3-05
 - 2010 – year for instituting AB 32 regulation, and a deadline in S-3-05
 - 2020 – a deadline year in S-3-05
 - 2030 – planning horizon for General Plan
 - 2040 – population estimate of 59 M (section 4.16.3.2, last paragraph)
 - 2050 – a deadline year in S-3-05.

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Is this correct in its essentials and is it adequate for understanding the roles of these years in the DEIR? If not, please provide a correct tabulation. Please explain why this degree of clarity was not made available to the public in the DEIR.

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9. Apparently the scheme for calculating quantities used later in section 4.16 is approximately the following:

- Use 2006 (and 2004) GHG inventory data and AMBAG population projections to extrapolate to 2030 (plan horizon) GHG levels
- Use this 2030 estimates as a baseline for all further calculations
- Extrapolate backwards, using 2030 estimates, to 2020 and earlier in order to assess compliance with regulatory levels
- Extrapolate forward, again using 2030 estimates, in order to assess compliance with 2050 regulatory levels (S-3-05) and estimate buildout levels

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Please indicate whether this is an essentially correct interpretation of the method used. If it is not, please give a correct description and explain it.

10. On page 4.16-1, third paragraph, line seven and following, the statement "along with state and federal actions might be able" (emphasis added) indicates a high degree of uncertainty about the effectiveness of the proposed mitigations, and on line nine "he means to effect such emissions are not known at this time" confirms that uncertainty. It is emphasized again in the fourth paragraph on that page: "The extent of such change ... is not fully understood at present." This should have been dealt with directly in the Plan, the range of consequences of the relevant uncertainties should have been assessed in the Plan, and firm provisions should be included to avoid the most adverse consequences of the uncertainties. Please explain why a clearer, more principled and understandable approach to the critical matter of uncertainties and related issues was not used in the DEIR.

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11. Please clarify what the bases are for future GHG emission reduction standards (e.g., the reduction to 2000 levels and 1990 levels as in Executive Order S-3-05, but all other relevant levels as well). (See third paragraph, p. 4.16-1; Exec. Order S 3-05, p. 4.16-7). Are these standards based on absolute levels observed in 2000 and 1990, or are they per-capita, or per-unit-of-economic output or other relative levels that would rise with increases in population, economic activity or both, or with other changes? Failure to be specific about this could result in very substantial planning errors.

18

12. On p.4.16-1, third paragraph, penultimate line, "considerably" should read "considerable" instead. Please make the correction.

19

13. The "mitigation" referred to in paragraph four on p. 4.15-1 speaks of "development and implementation of a Climate Change Preparedness Plan for the County starting within 5 years of adoption" which, given the rapidity with which evidence for climate change and its magnitude is gathering, is far too late and creates far too slow a process to meet probable needs. Please explain why a more urgent planning effort is not called for, especially in the light of the high potential for underestimating climate change. The rate of accumulation of data is accelerating, and evidence is growing that change (in particular global warming trends) may be occurring faster than earlier anticipated. (Some uncertainties are narrowing and shifting toward

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more serious rather than less serious consequences, with newer data appearing to be centered on more rapid and more extensive changes.) Please respond to these concerns.

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14. Whatever one may conclude concerning climate change itself, the statement at the top of p. 4.16-2 asserting "new development will be more resilient to these inevitable changes and would avoid subjecting persons or property to otherwise avoidable additional harm" is highly speculative and inappropriate. There is nothing in the Plan to support such a conclusion. The Plan at present does not include plausible "adaptation" to climate change, nor are there any clear provisions to "integrate into County planning" any such "adaptation," as the numerous "mitigations" listed in 4.16 clearly demonstrate. The "mitigations" do not support the statement. Please explain why such a non-objective, speculative and biased assessment of future events, unsupported by currently available evidence, is included in the DEIR.

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4.16.3.2

15. Several of the impacts listed here (p. 4.16-2) have special relevance to human habitation in Monterey County. Around Monterey Bay and the river estuaries, rising sea levels should be anticipated; extreme heat would be expected to affect humans in the agricultural valleys; increases in peak stream flows and flooding would follow from more severe winter storms, with special consequences for the County's critically important rivers and watersheds; changes in growing season conditions would have major effects on agriculture. Why is there no discussion of the relative importance of these issues, including, of course, the relative uncertainties involved?

22

16. Is the estimate of population growth (in the final paragraph of this section) based on linear or exponential (compound interest) growth? For planning purposes over the span of climate change regulations this makes a considerable difference. For example, the annual population growth in 2050 would be 1,218,000 under the exponential assumption and only 781,000 under the linear assumption. Please clarify, and provide data showing quantitatively how the population growth projections are made, and, aside from other contingencies, how they would affect prospects for meeting existing and proposed GHG standards. Please describe why the particular populations assumptions that were used were the ones chosen.

23

17. The 2050 estimates of annual population growth above assume that the 34 M initial population is for the year 2008 (the year of this report) although the CEC document from which the data was taken was dated 2005. It is impossible to know, from the information given, whether the 34 M was an extrapolation from 2000 census data to 2004 or 2005, or to 2008. Neither is the extrapolation to 2040 described. Since the method used in this DEIR for estimating GHG emissions appears to be highly population-sensitive (both with respect to sources of GHG and to their effect on County residents), the differences may have significant effects in the "out years", specifically 2040 in this Please clarify the basis for estimating population, and please clarify quantitatively the sensitivity of GHG emission extrapolations to population estimates, and do the same with respect to the effects of GHG emissions.

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4.16.3.3

18. Please clarify the basis for the estimate that California is the "12th to 16th largest emitter of CO₂." Is that among all nations? Per unit of land area? Per capita? Does this refer to

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specifically anthropogenic emissions? The utility of the claim is questionable without specification of the basis. The relevant assertion here appears to be that about 2% or 1/50 th of the earth's anthropogenic (?) CO ₂ emissions occur within California. Or is it really GHG emissions as measured in MMT of CO ₂ E? These numbers help convey the local importance of the issue, but they should be precise enough to be both credible and meaningful. Please provide enough information to support both the credibility and meaningfulness of the numbers.	25
19. Paragraphs two and three (p. 4.16-4) appear to report the same kinds of data from two different sources (CEC and CARB), which differ slightly from one another. Please explain the differences and indicate why they are not shown more clearly, as for example in tabular form, or with a single set of composite (e.g., average) data to be used in the DEIR.	26
20. Please clarify the meaning of "for the local government operations" in paragraph two on p. 4.16-5. Does this refer to GHG-emitting operations under local government jurisdictions, or to the method of assessing GHG inventories by local governments, or to something else?	27
21. The column labeled "GHG Emissions" in Table 16.4-1 does not show any units. Do the numbers refer to metric tons of CO ₂ E emissions? If that is so, this would indicate that the County emits between 0.283% and 0.288% of California GHG. Is this correct? Please provide the correct units, and specify clearly the approximate percentage or fraction of California emissions. This is important because of the numerous references to California data, generally expressed in MMT.	28
22. Top of page 4.16-6, line 3: Should "2006" read "2007" instead?	29
<u>4.16.4.1</u> 23. Please interpret the acronym "NEPA."	30
24. Please scan all of section 4.16 for acronyms and "terms of art" and be sure that all of them are included in the report's list of acronyms and glossary. Several from this section in fact are not included. Please provide complete lists.	31
<u>4.16.4.2</u> 25. On p. 4.16-7, first paragraph, third line from last, should "water energy" read "water, energy" instead? If not, to what does the phrase refer? Please respond.	32
26. On p. 4.16-7, third paragraph, end of second line, shouldn't "would reduce" read "would, if met, reduce" instead? Please respond.	33
27. On p. 4.16-7, fourth paragraph, fifth line, the sentence beginning "Since the California rules ... " is a non sequitur. Without further information or assumptions it does not follow logically that because GHG standards that are more effective at reducing GHGs than are CAFÉ standards, then GHG standards necessarily are better at increasing fuel efficiency. "Since" is the troublesome word; this refers to correlation, not necessarily to a cause. The data	34
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evidently do support such a conclusion, so the sentence should be modified. For example, it would be correct if the word "since" at the beginning of the sentence were dropped, and in the third line from the bottom of the paragraph "program, they also" were replaced by "program, and they also." Please correct the error.	35
28. On p. 4.16-8, fifth bullet, "January 1, 1010" should read "January 1, 2010" instead. Please make the correction.	36
29. On p. 4.16-8, last paragraph and top of next page, reference is made to reductions in GHG emissions "relative to projected levels." Does this mean relative to otherwise-projected levels? Is it relative to BAU levels? Please be precise.	37
30. On p. 4.16-9, second paragraph from the bottom, third line from the bottom, should "carbon dioxide for person" read "carbon dioxide per person" instead?	38
31. Presumably Table 4.16-2 refers to 2020 reductions for the State of California but it is nowhere made explicit that it is for the State rather than for the County. Please insert in the table's caption a clear indication that the numbers refer to California, not Monterey County, reductions, or explain why this presumption is incorrect and give the correct interpretation).	39
32. Since the DEIR is for a Monterey County Plan, a column in Table 4.16-2 indicating suitable estimates of the County's share of the reductions should be shown, or else a separate table should be prepared showing these estimates. Please explain why such tabulated estimates of 2020 reductions for the County are not included, and please correct the omission. This may require assumptions such as County/State proportionality, but reasonable estimates can be made with fairly simple assumptions; for example, per capita estimated reductions are given on p. 4.16-9 and this approach could serve as a basis for County/State comparisons.	40
33. Incidentally, are the goals established in S-3-05 and in AB 32 fixed levels (referred to 1990), or are they allowed to slip in accordance with BAU or some other standard of change? Please explain in detail, and cite specific authorities to support your assertion.	41
34. "Shaded reductions" are not included in Table 4.16-2 table even though they are promised in the second entry line. Please correct the omission.	44
35. Please explain how the "emissions cap of 365 MMTCO ₂ E" asserted in the second entry line of Table 4.16-2 is obtained, and how it is related quantitatively to the different estimates for 2004 GHG emissions on p. 4.16-4, of 484 and 492 MMTCO ₂ E of GHG, and of 480 at the top of p. 4.16-16. Without this information it is difficult and perhaps impossible to correlate and evaluate other GHG emission estimates provided throughout section 4.16.	45
36. Simple addition of the quantities in the 2020 Reductions column of Table 4.16-2 yields a total of 175.1, not 169. Please explain in detail why the latter figure is used.	46
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37. In Table 4.16-2 the category "Additional ... Sectors" is a very vague yet accounts for more than 20% of the total reductions claimed. Please explain this, and include a definition of "Additional ... Sectors". 47

4.16.4.4

38. For the 2nd bullet item (p. 4.16-13), please provide the total electricity consumption from which the approximate 686,000 kwh reduction is being achieved. What is the fraction of consumption this retrofit program represents? Also, please provide a conversion factor that can be used to convert this reduction from kwh electrical consumption to MMTCO2E. 48

39. How effective, quantitatively, in terms of MMTCO2E reductions and of percentage reduction, are the programs indicated in bullet items 4 and 5 on p. 4.16-13? It is inadequate (often useless) to quote isolated numbers without context and without comparative baselines. This and the matter discussed just above (referring to the second bullet item on the page) are critical to any quantitative assessment of current efforts toward GHG reduction. They may seem relatively trivial but nevertheless serve as initial stages of significant effort. (They are the only items in this subsection containing potentially useful quantitative information.) 49

4.16.5.2

40. Please describe in detail how the figures at the top of p. 4.16-16 for the State of California are obtained, namely
- 1990, 2020 - 427 MMTCO2E
- 2004 - 480 MMTCO2E
- 2020 - 596 MMTCO2E BAU 50

In particular, please indicate the methods of extrapolation (e.g., linear or exponential) used and the basis for extrapolated estimates (i.e., the base time from which extrapolations are taken, the proxy used -- such as population or economic growth assumptions -- and the data source for the GHG emissions assumed at the base time, being explicit about the character of the underlying assumptions). Probably this can be done in a simple tabular or quasi-tabular form that is easy to read. Also please indicate the relationship of these figures and their sources to the values and sources given on p. 4.16-4, near the bottom of the page.

41. The key word in the second paragraph on p.4.16-16 is "if" and that word should begin the paragraph in order to give it proper emphasis. Please delete the first four words in the paragraph, namely "Thus, on a state level," or explain convincingly why they should not be dropped. 51

42. In the fifth paragraph on p. 4.16-16, fourth line from the bottom, please delete the word "percent" since the % symbol appears just ahead of it. 52

4.16.5.3

43. Presumably the data in the column labeled "GHG Emissions" in Table 4.16-3 are measured in MMTCO2E, but no units are shown for the column. Is this presumption correct? Please correct the table by showing the appropriate units. 53

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44. No 1990 benchmark figure for GHG emissions (measured in MMTCO2E) is provided for Monterey County in the DEIR. Please provide this critical number, cite relevant authority for it, and indicate how it is obtained from other data (e.g., a percentage of another specified datum, such as in the same ratio to current Monterey County emissions as the Statewide ratio, or 89% -- see top of p. 4.16-16). Alternatively, direct our attention to its location in this DEIR document. 54

45. Where is it stated in the relevant regulatory (or quasi-regulatory) documents that the proper significance criteria are to be measured relative to BAU conditions? Both S-3-05 and AB 32 (as stated and discussed in the DEIR) appear to establish that the criteria should be determined in terms of actual 1990 conditions, not BAU conditions. That is the plain meaning of S-3-05 and AB 32 as reported in the DEIR. That is, please explain the use of BAU conditions in determining significance of impact, and provide references to regulatory authority for this choice. 55

46. Use of BAU conditions interposes two additional extrapolations into the calculations, namely, one to estimate State BAU from current conditions, and another to estimate County BAU from current conditions. There is no reason to expect the extrapolations to be strictly proportional. Therefore the "simplest measure of whether GHG emissions in Monterey County will be cumulatively considerable" is not to use BAU estimates, but rather is to use the plain meaning of "1990 levels" as determined by State regulatory agencies. Please explain why use of the additional BAU extrapolations is preferred in this DEIR to using the plain meaning of the regulations to estimate the significance of impacts. (If it is claimed that they lead to essentially the same results, please explain why the simpler basis for comparison -- the "plain meaning version -- is not preferred.) Please provide the "plain meaning" results. 56

47. Three different values for California's 2004 GHG emissions are reported in this DEIR, namely 492, 484 and 480 MMT, as noted above. The sources of these numbers are cited as CEC, CARB, and none, respectively. If the 1990 level acceptable (by CARB, guessing from the context) is 427 MMT, this is 86.9%, 88.2% or 89.0% of 2004 levels, depending on which "current level" is chosen. Please explain why the value of 480 MMT is chosen as baseline rather than either of the others, especially given that there is no citation in the DEIR for source of this number. It is noteworthy that this apparently arbitrary choice effectively minimizes the reduction of GHG emissions required to reach "no significant impact" levels, and biases the conclusions by as much as 2.4%. Please respond to this observation. 57

48. Accepting the plain meaning of the language in the DEIR concerning S-3-05 and AB 32, and accepting that the base level for "current" Monterey County GHG emissions is 1.394 MMT CO2E (Table 4.16-3, "Total for Existing Development", assuming that the units used in the GHG Emissions column are T CO2E), the GHG emissions goal for 2020 for Monterey County should be 1.210, 1.230 or 1.240 MMT, depending on which 2004 CA baseline (see preceding paragraph) is used. Monterey County GHG emissions for 2020, with all GHG restrictions in place, are 1.282 MMT according to Table 4.16-3. This is 3.3% above the most development-tolerant of the three 2020 goals and therefore must be regarded as considerable and unavoidable. At the 2030 Plan horizon, County GHG emissions would be 1.371 MMT CO2E or about 11% above the 2020 threshold and would be more considerable and 58

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unavoidable without further Countywide restrictions on GHG emissions that exceed prospective State standards. (Note that these conclusions do not utilize nor depend in any way on BAU.) Please explain fully, in light of this, the conclusion at the top of p. 4.16-18 that the Plan's contribution to climate change would be "mitigated to less than considerable", when the mitigations offered are largely conjectural and are not accompanied by any analysis of their capacity to reduced GHG emissions.

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49. The use of "business as usual" (BAU) data is interesting and potentially useful for general comparison, but BAU is inappropriate for use in assessing significance of impact. The only proper basis, given the State mandates, is 1990 GHG emission levels for 2020 (and 80% of 1990 levels for 2050). The introduction of the auxiliary BAU variable in assessing significance is not helpful and can cause unnecessary confusion. Since BAU is used in no context other than significance assessment, the utility of its role in section 4.16 is unclear. Please explain the functional role of BAU in the GHG analysis, and describe why it was introduced. Explain also why BAU was used as the standard against which significance was measured in the DEIR.

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50. The DEIR's "current" Monterey County GHG estimates apparently are based on 2006 data, and "current" California GHG estimates appear to be based on 2004 data (although varying slightly and from different sources). Please explain why there is no evident reconciliation of this difference in baselines, and why the County data is not extrapolated backwards by the two years to produce approximately equivalent baselines. Failure to do this creates a slight bias against the size of reduction of GHG needed to meet probable emissions requirements, and slight biases may produce important consequences (see, for example, item 1. above).

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51. What matters for planning purposes (Table 4.16-3) is "percent excess over 1990," not "percent change from 2006" as recorded in the table. The baseline year in the regulations for GHG limits is 1990. While there is nothing wrong with including the 2006 information in the table, the reader should be directed immediately to comparisons with the 1990-based goals. In particular the key comparison is excess over the 1990 limit, and that percentage or ratio should appear prominently. Please explain why the key quantity -- percent excess of 2020 emissions over 1990-based goals, or ratio of 2020 GHG emissions to 1990-based goals -- was omitted from the table. Depending on the 2004 State baseline chosen, the percentages of 2020 GPU levels for GHG emissions above 1990 levels are 24% - 27% for development according to BAU, 16% - 19% for the next higher level of GHG reduction measures, and 3% - 6% for the most vigorous measures shown in the table. For the 2030 Plan horizon these percentages are, respectively, 32% - 36%, 24% - 26% and 11% - 13%. This information should have been displayed clearly and prominently. Please explain why these principal data were not included in Table 4.16-3 or in an additional table for easy access to the reader.

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52. Please explain why the significance criteria shown as bulleted items on p. 4.16-16 and 4.16-17 are expressed in terms of BAU conditions instead of in terms of the 1990 level of emissions as specified in S-3-05 and AB 32, which are the effective regulatory criteria. There is no evident justification for this choice as opposed to use of 1990 estimates of GHG emission levels, and the choice complicates understanding of the criteria being applied, thus reducing clarity. This may significantly affect one's understanding of the ability of the Plan's provisions

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and of the proposed "mitigations" to meet State regulatory requirements. Please provide a table showing a direct quantitative comparison between the significance standard as expressed in BAU and as expressed in the straightforward 1990 standards.

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4.16.5.3

53. The 2020 and 2030 GHG emission levels in Impact CC1 should be expressed directly and naturally in terms of the 1990 baseline specified by S-3-05 and AB 32 (namely, by their ratio to the 1990 level specified in those documents) rather than in terms of BAU (i.e., 72% of BAU for 2020). Indeed, for clarity they should be displayed in tabular form. Please explain why they are not.

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54. Under the heading "Significance Conclusions" (page 4.16-33) it is erroneously stated that OS-10.11 "requires ... adoption of a Greenhouse Reduction Plan" whereas in fact it only promises to develop such a plan; it does not actually require even the plan's development since the word "shall" is absent, and in addition, developing a plan is not the same as adopting one. In its entirety, the policy reads as follows:

OS-10.11 Within 24 months of the adoption of the General Plan, Monterey County will develop a Greenhouse Gas Reduction Plan to reduce emissions by 2020 to the 1990 level. At a minimum, said Plan will:

- a. Establish an inventory of current emissions in the County of Monterey; and
- b. Include an inventory of emissions as of 1990.

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Note that, according to the Plan, even the minimal task of accumulating inventories need not occur until 2011 or later, which is less than a decade from the State deadline for reduction to 1990 GHG emissions. Given the degree to which the Plan, under the most rigorous measures included in Table 4.16-3, would fail to reach the 1990 levels, the two-year delay built into OS-10.11, along with its lack of mandatory action, indicate that the Plan is wholly inadequate with respect to GHG emissions and climate change.

In light of this, please explain how "implementation of the GHG Reduction Plan by the County would reduce emissions to the significance threshold," as stated in the last paragraph on p. 4.16-29. This is an entirely speculative assertion for which no evidence exists, much less quantitative evidence, as is demonstrated by the remainder of the paragraph. Please explain what justifies its presence in the DEIR.

55. In the penultimate paragraph on p. 4.6-29 a significance criterion again is stated in terms of a percentage of 2020 BAU GHG emissions rather than in terms of the 2020 ratio to (or percentage above) 1990 emissions. As stated above, this reduces the clarity of the results. Please give a compelling justification for this approach.

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56. Since the prospective removal of CO₂ sinks is not quantified in the DEIR (p. 4.16-22), and since an increase in CO₂ sinks is highly unlikely, it is probable that the report's estimates of GHG emissions are underestimates by unknown amounts. The lone suggestion that such amounts may not be large is based on the proposition that "General Plan policies seek to limit the amount of natural land conversion due to urban growth," which could be supported only if

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such policies are rigorously carried out. Please provide evidence that rigorous enforcement of these policies is to be expected and that the evidence is supported by past and current practice.

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57. Further, please explain why the quantities used to establish whether significance criteria are met are not as expressed as quantities greater than (>) the calculated estimates (e.g., in Table 4.16-3, bottom, "Total for 2020 >1,281,828"), given the uncertainties and general biases toward low estimates (resulting from, for example, unquantified -- and therefore unaccounted for -- loss of sinks, as above). That is, why is there not a prominent acknowledgement of these systematic biases, in the statements and discussions of significance determinations and conclusions?

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58. Changes in County policy represented by this Plan (relative to the current 1982 plan) are likely to affect GHG emissions and should have been acknowledged under the heading "Impact of Development with Policies." Current emissions are based on conditions existing under the current Plan, so all changes in policy from the present General Plan to the 2007 Plan represent effects imposed by the latter. For example, the lowering of roadway level-of-service standard from LOS C to LOS D clearly is a traffic-inducing change (by permitting greater development) and has implications for GHG emissions, which should have been analyzed. While this is a report on the 2007 Plan and not explicitly its predecessor, the LOS standard has significant implications, and at a minimum, the relative effects of adopting LOS D rather than the current standard of LOS C should have been examined quantitatively with respect to GHG emissions. (This is an important example of how legislation through DEIR "mitigation" should be unacceptable.) Please explain whether and why this change, and other potential GHG emission-inducing policy changes from the current Plan to the 2007 Plan, were ignored.

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59. The various "mitigations" proposed on pp. 4.16-30 - 33 constitute a legislative package that goes well beyond the appropriate realm of mitigations to specific impacts. They require careful study in the context of the legal and existing State legislative framework, including current developments in CEQA and recent court settlements concerning AB-32 (including that with San Bernardino County). The capacity of the proposed mitigations to accomplish the objectives laid out in the Significance Determination and Significance Conclusion is questionable, but deserves investigation. Have you consulted the settlement between the State and the County of San Bernardino concerning climate change? Have you made inquiries of the State Attorney General's Office, and other agencies that Office suggests, concerning what minimum requirements concerning climate change ought to appear in a general plan? Have you consulted current CEQA requirements and guidelines in this area? Please explain why such an extensive legislative burden is appropriately relegated to "mitigations" in a DEIR. We request a response to each of these questions.

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60. The proposed "mitigations" are in the form of proposals for further study and deferral of action, and even deferral to further proposed legislation, and thus appear to be inadequate as mitigations under CEQA. As "mitigations" do CC-1a, CC-2, CC-3, CC-4 (PS-5.5), CC-11, CC-12, CC-2 and CC-13 meet CEQA requirements? Please respond and explain.

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61. Additional consideration of specific defensive measures against the consequences of climate change (e.g., protection against potential increases in flooding and against potential

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increases in frequency or length of drought) should be included in section 4.16. In particular, evaluation of the effectiveness of policies with respect to adaptations to climate change, rather than mere listing of them, is needed in certain of the material under "2007 General Plan Policies" on p.4.16-22 to -29. The discussions on p. 4.16-39ff broach these subjects, but they need to be taken more seriously in General Plan policies that are focused on the 2030 planning horizon, and even in evaluating the effectiveness of the 2020 deadlines. Please explain why these matters (including those listed in the second from last paragraph on p. 4.16-43) are not examined more completely and are not included in the determinations of significance for 2020 and 2030 earlier in the DEIR.

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62. On p. 4.16-29, last paragraph, the Significance Determination states that "Implementation of the GHG Reduction Plan by the County would reduce emissions to the significance threshold." And yet later it says, "without the articulation of specific requirements for GHG reductions, the 2007 General Plan would result in a considerable contribution to cumulative GHG emissions and global climate change." These statements are directly contradictory, the former being false (the GHG reduction plan does not exist and certainly could not do what is asserted), and the latter is correct. How is one to make sense of a DEIR that contains such extraordinary contradictions? Please explain why the document's conclusions in general should be regarded as credible or even plausible in view of this.

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63. The DEIR's claims, at the bottom of p. 4.16-33, intended to support the conclusion of a "less than considerable" Monterey County contribution to GHG emissions "at 2020" is entirely conjectural, and even if it were true (unlikely) it flies in the face of the quantitative evidence in the DEIR itself (see above). Please explain why this conclusion should not be rejected? Why is the phrase "without the articulation of specific requirements for GHG reductions", which appeared in the Determination, excluded from the Conclusion? Please respond fully. Is your answer that the "mitigations" are responsible for the change between the Determination and the Conclusion? If so, please describe in quantitative detail how the "mitigations" in fact "articulate specific requirements" that provide substantial evidence justifying the change from determination to conclusion.

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64. The total buildout GHG emission levels in Table 4.16-4 exceed the announced 2050 California criteria by from 122% to 127% for BAU conditions, and by 88% to 93% for the circumstance in which the State GHG emission-limiting policy tools are in place. (The ranges of percentages here arise from differences in assumed values for 2004 emissions presented in the DEIR, and therefore for the 1990 emission criteria.) When buildout would be reached, even the most restrictive of the conditions now contemplated are likely to be deemed entirely inadequate, so at best the then-existing criteria would be nearly certain to be exceeded by huge margins. The "Significance Determination" on p. 4.16-42 does not sufficiently recognize the magnitude of the discrepancy between the 2050 mandates and buildout conditions, and contains highly dubious claim that "Implementation of the GHG Reduction Plan by the County would reduce the emissions to the significance threshold."

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What substantial evidence is provided in the DEIR or in the Plan to support this claim? How is it possible for a "GHG Reduction Plan" -- that has not been formulated let alone adopted as part of the General Plan, and that contains no actionable quantitative provisions in any case --

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to "reduce the emissions to the significance threshold"? Have you noticed that the only elements specified in the "GHG Reduction Plan" are to establish current and 1990 inventories of GHG emissions for the County? What provisions assure that the quantitative "significance threshold" would be met? Please respond in full to these questions.

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65. The 'Significance Conclusion' on p. 4.16-44 contains the wholly unsupported and implausible assertion that

"With implementation of the policies in the Climate Change Preparedness Plan over time, new development will be resilient to these inevitable changes and would avoid additional physical harm to persons and property resultant from climate change effects. Thus, with mitigation, the 2007 General Plan would not make a considerable contribution to a cumulative impact related to adaptation to climate change effects."

This is strictly conjecture, with no evidence whatsoever presented to support its highly optimistic assumptions. The best that can be said is that it is unreasonable to attempt extrapolation to buildout and expect it to be realistic, but in any case the barriers to successful implementation of the Plan within the likely limits on GHG emission required at buildout should be expected to be extremely high if not insurmountable. In fact there is no "Climate Change Preparedness Plan" and the speculation that "new development will be resilient to these inevitable changes and would avoid additional physical harm" utterly lacks substantive evidence. Not only is it devoid of "scientific" character of the sort encouraged and expected by CEQA, the statement is not reasonable under any criteria. Its only connection with scientific characterization is in the realm of science fiction. Please explain why such irresponsible language appears in this document. Include a discussion of why the false implications that (1) a Climate Change Preparedness Plan exists, and that (2) it contains explicit policies, and that (3) these nonexistent policies would "be resilient to ... inevitable [climate] changes and would avoid ... physical harm" are contained in the "Significance Conclusion." Please respond in full.

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Special general remarks

66. Criteria for evaluating public comments. In some instances, responses to critical public comments concerning EIRs have been dismissive of the content of the criticism because the analysis used in the comment differs from that of the EIR or is claimed to be "unconventional" in some respect. That, of course, is a wholly inappropriate and unacceptable response. The issue is not the "conventionality" of a comment or its analysis, but rather is its credibility on grounds of available evidence, relevant scientific criteria and logical coherence. Please confirm explicitly that the latter are the standards that are applied in your responses.

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67. The possibility of a practical and realistic Plan meeting CEQA and the concerns expressed above. Note that a practical, realistic planning document, responding directly to the criticisms above is possible and in fact is demanded by current circumstances. It would consist of a positive active program of GHG emission monitoring requirements and with specific time-based quantitative emission milestones and well-defined monitoring criteria. Please explain why a positive program of action, acceptable under CEQA, was not recommended, and further study and delay were advocated, when the DEIR already contains significant evidence and data.

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- a. Waiting periods of months and years, as in OS-10.11 and the "mitigations," is not acceptable; specific action should be underway upon adoption. The County already should have actively begun the program even before adoption because it is a necessary part of conducting County business even before the Plan is in effect. Please explain why lengthy delays were deemed adequate in the DEIR, in the face of (1) stringent State requirements, (2) growing evidence of a need for direct action, (3) increasing availability of relevant data, and (4) concerted parallel GHG evaluation efforts throughout the State which could be used as potential models for action and sources of information.
- b. The program should start immediately (even before Plan approval) based initially on the data collected for this DEIR as well as data already assembled by the County, with provisions for timely updating in order to meet State mandates. It would link the enabling of development quantitatively to the meeting of quantitative emission milestones, and the latter would be tied to the phasing of GHG emission objectives over the life of the Plan. Regular updating can minimize inadequacies and uncertainties in the available data and evidence and improve the rigor of the program. Initial ambiguities in this case are not so great as to provide and excuse for further delay. Please explain why firm recommendations for immediate implementation, based on current data, were not made as part of the mitigation program of the DEIR.
- c. Since this will need to be done all across the State, Monterey County need not produce such a program in isolation, developing it "from scratch." In effect, the State climate change mandates not only promote but require this kind of response, with such indefinite terms as "should," "will" and "encourage" obviated entirely in the Plan, in favor of imperatives such as "shall" and "require". (In this last respect, the "mitigations" come close to meeting the need for firmness of intention.)
- d. The County should indeed pursue vigorously many if not all of the study and organization objectives stated in the DEIR's "mitigations" but many of these should be directives to the agencies responsible for implementing the Plan, not elements of the Plan itself. Please explain why a clear distinction between appropriate Plan provisions, on the one hand, and agency directives (supplementary to the Plan), on the other, was not made in the DEIR's "mitigations."

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Concluding Summary

The first thing to note is that all four of the categories examined in this section for impact significance should receive "considerable and unavoidable" significance conclusions. That is what the evidence supports. There are no grounds in the DEIR for a less severe conclusion. The quantitative information available in the document is quite clear on that, and there is no substantial evidence of any kind presented to refute this assessment.

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It is unfortunate that unsupported determinations and conclusions appeared in the document, since they raise serious questions about the manner in which the EIR process has been conducted.

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Reviewing and commenting on Section 4.16 of the DEIR is especially awkward because there is no section in the Plan on climate change to which the DEIR is a response. The critical defect therefore is in the Plan, and thus the DEIR is a response to an almost total absence of relevant plan content (the only exception being the paltry single policy entry OS-10.11). The DEIR should be an evaluation of the substance of Plan policies (such as the material provided as "mitigations" in the DEIR but that are absent in the Plan itself). The effect of the DEIR then, is to be an attempt at legislation by mitigation, an entirely unsatisfactory process that flies in the face of the obvious intent of CEQA.

The matter of climate change is extraordinarily important in planning, and must be confronted in spite of the serious challenges it presents. It should be treated with civic integrity and with a high degree of respect for scientific perspectives and criteria, and should be executed with technical competence.

There is much analysis in Section 4.16 that can serve as a foundation for preparing a suitable climate change section in the Plan itself. Our comments are directed toward improving the quality, reliability, clarity and readability of such a section when it is developed.

In its current form, however, section 4.16 on climate change is highly deficient and misleading, and this part of the DEIR should be rejected. Please respond to this conclusion.

**Comments On Section 4.6 (Transportation)
Of the DEIR
For the 2007 General Plan Update (GPU5)**

Some of the detailed comments below may appear to be duplicative, but each serves a particular purpose and should be read carefully. Because it is important that the discussion be accurate, CVA requests that the EIR preparer respond to each question separately and not combine the responses to several questions into a single response (which likely would lead to inadequate responses to individual questions). We have reviewed the DEIR in detail. Because the transportation and traffic section of the DEIR is confusing and inadequate on several levels there is a multitude of questions that must be raised. Each of our questions and comments is raised for a specific purpose. We ask that the effort put into the responses respect the time and resources put into the review of the DEIR by members of the Carmel Valley Association.

Initial General Comments

The environmental impacts of the 2007 General Plan with respect to traffic levels of service and emergency access (Section 4.6) are stated as "significant and unavoidable" in all four categories of study (impacts TRAN-1B,E; TRAN-2B,E; TRAN-3B,F and TRAN-4B,F, covering "existing plus project" and "cumulative plus project", both for the 2030 planning horizon and for the buildout horizon).

We agree that these determinations and conclusions are implied by the data provided in the

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DEIR. This means that the 2007 General Plan would unavoidably cause significant and irreversible degradation of roadway levels of service (traffic significantly in excess of capacity) on roadways in the County, and would unavoidably cause degradation in access to emergency services for County citizens.

However, the analysis provided in the DEIR underestimates the level of service deterioration in several ways. This underestimation arises from a variety of flaws in the study that need to be addressed. The degree of environmental impact, as well as the existence of impact, is important, and the actual degree of impact is significantly greater than the DEIR discloses in many cases. In our judgment, and based on our research for this and other projects, and our review of this and other EIRs, and our familiarity with the County road system, reporting the extent of impact is an extremely important component of an environmental impact report because it provides decision-makers with information needed to take appropriate action, and also because it is part of the evidence required to establish the significance of impacts. Deficiencies in the DEIR relevant to the underestimation of impacts therefore require comment and deserve response.

Many omissions, errors and other defects are listed below, with requests for specific responses. Several types of problems with the document are especially troublesome, including the following:

- A. No analysis is provided in the DEIR for County roadway intersection levels of service. Only road segment performance is analyzed, yet many County intersections already operate at deficient and marginal levels, according to County records. At a minimum this omission should be directly addressed and a rationale for it should be provided. Please explain why this was not done. Please provide an appropriate analysis of intersections, disclosure of current operational levels, and investigate and analyze impacts of the proposed project, including cumulative impacts. For all such analyses, please identify the source of your data, the date and title of the reference documents relied upon, and the method of investigation. Also, please show your assumptions and calculations.
- B. With respect to the determinations and conclusions in the DEIR that describe "project-specific impacts" (TRAN-1A, TRAN-2A, TRAN-3A, TRAN4-A), we understand the notion that such impacts would be self-curing if three conditions are met: (1) impacts are adequately studied and accurately assessed, (2) LOS standards are fully enforced and (3) supposed "mitigation measures" actually ensure that roadway performance "does not degrade below the level without development." However, the existing roadway performance data and the County's record for preventing degradation of roadway performance (which may account for much of the existing performance data) do not inspire confidence. Current roadway levels of service provide strong evidence that one or more of the three conditions for self-curing projects were absent in many past projects. This record is part of existing on-the-ground conditions. In many instances, the County has failed to adequately study and assess impacts, LOS standards have not been enforced or have been adjusted downward, and mitigation measures do not provide metrics for review and have not been tracked for effectiveness. Further, the analysis ignores the availability of findings of overriding consideration to approve

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projects that have significant unmitigated traffic impacts. Please explain why the DEIR assessment of "less than significant" for project-specific impacts was not accompanied by a caveat such as "contingent upon accurate assessment of project impacts, full enforcement of standards and full mitigation to prevent degradation of roadway performance" to reflect the effect of past and present circumstances on the potential effectiveness of the Plan. The DEIR should consider a mitigation that mandates the three conditions be met prior to project implementation. Please respond.

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C. In this connection, the effects of numerous development projects are evident in the 2030 Existing plus Project traffic scenario and especially in the Cumulative plus Project scenario. According to the DEIR, the growth in traffic in these scenarios arises from AMBAG growth forecasts, which would represent the Plan's generation of housing and businesses, which would give rise to individual projects, which in turn would produce increases in traffic (please confirm). Since all project-specific impacts are treated in the EIR as self-curing and are presumed always to have less than significant impacts, the considerable and unavoidable traffic growth in the County that the DEIR reports for 2030 would not be possible. Thus project-specific impacts should be considered "unknown" rather than "less than significant." Also, the system of mitigations contemplated in the DEIR should be re-examined in order to establish a system that does not lead to the very substantial increases in traffic on substandard roads that occur in this Plan. Please explain why project-specific impacts, taken consistently to be individually "less than significant" in the DEIR because of the self-curing character of the process, nevertheless produce the "significant and unavoidable" cumulative traffic impacts indicated for 2030, with two thirds of vehicles traveling on substandard roads (see below). Further, the DEIR should address the significant project-specific impacts due to the County's failure to implement adequately CEQA and traffic standards and provide ongoing accountability.

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D. Full assessment and discussion of the Plan's actual impact on traffic does not appear in the DEIR. The number of road segments at or below a given LOS category, which is a count of the number of sites where impacts occur, does not measure the impact itself. The DEIR fails to identify or discuss this important analytical point, or how its avoidance of this quantitative analysis affects the DEIR conclusions. The number of vehicles traveling on roads at LOS F, for example, is the traffic impact occurring on those roads. This information is available in the data provided in the DEIR appendices but is not used in the DEIR's analysis. While 25% of the 286 road segments for which data is available in Appendix C are at LOS F currently, they carry 44% of the traffic. If LOS E and F together both are considered substandard, 30% of the segments are substandard, but the traffic on those segments is 52% of the total. In other words, more than half the traffic currently is traveling on substandard roads according to the Plan's standard of LOS D. Why is the already-high proportion of traffic on substandard roadways not acknowledged or discussed in the DEIR's consideration of existing conditions? The DEIR ignores the on-the-ground conditions and therefore fails to adequately analyze the project impacts.

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E. Similarly, analysis of the data provided in Appendix C shows that at the 2030 Plan horizon 41% of the road segments are projected to be substandard, but 68% of the traffic -- more than two-thirds -- would be traveling on substandard roads. (See Figures 1-3, at the end of these comments on Section 4.6, for graphical representations of the

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impacts of traffic based directly on V/C listed the segment entries in Tables A and C of Appendix C.) Why is this exceptionally high proportion of traffic that is projected to be traveling on substandard roadways in 2030 not acknowledged or discussed? The DEIR should disclose and discuss these impacts.

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F. Also in this connection, note that according to the data in Appendix C the total existing ADT for the county is 71% of total existing road capacity, and the total 2030 cumulative ADT is 93% of 2030 capacity in the cumulative road capacity. That is, if traffic were distributed evenly across County roadways, traffic now is at 71% of road capacity, and by 2030 would be at 93%. This is a remarkable change that is not disclosed, investigated or analyzed in the DEIR text. Since this represents total ADT and total capacity with no correlation between where the traffic exists and where the capacity is located, the 93% figure is exceptionally high and is cause for serious and cautionary comment. It indicates that the County as a whole would receive an unacceptable collective rating of LOS E or a barely "passing" very low D. Please explain why this circumstance is not mentioned in the DEIR. Please investigate, discuss, and provide site-specific information as to these impacts.

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G. The existing LOS standard for Monterey County is LOS C (Monterey County General Plan, 1982 (updated), p. 130), so comparisons of existing LOS values with those projected for 2030 (and beyond) should include accounting of the effects of this change. By the current standard of LOS C, 52% of road segments are at substandard LOS D, E or F, and 71% of traffic is traveling on substandard road segments. If that standard were continued in the next General Plan, 66% of road segments would, in 2030, be substandard, and the traffic on them would be 83% of total traffic. That is to say, if current standards were maintained, in 2030 more than four-fifths of the County's traffic would be traveling on roadways viewed as inadequate. Because the 2007 General Plan proposes to reduce the acceptable standard to LOS D, the same roadways that are now at LOS D (and are unacceptable) would be measured under a different standard under the proposed Plan, and thereby become acceptable. The DEIR fails to adequately identify or discuss these impacts, and the changed paper standards that would apply to the same roadways. Please explain why these effects of the change in LOS standard are not acknowledged or discussed in the assessments of Section 4.6, and supply a full analysis and discussion.

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H. The change in LOS standard has actual physical effects, and its evaluation should be included in the DEIR. Note for example, that "impacts to roadway LOS ... would be identified in [environmental] studies and ... development would be fully responsible ... If a roadway already falls below the County's LOS standard, then the development is required to mitigate ..." (DEIR, p. 4-6.33). Changes in LOS standard have environmental impacts that must be identified, quantified, and mitigated. Under the proposed Plan change in standards, 71 of 286 road segments (see Table C of Appendix C), or about 25%, carrying about 15% of the traffic would be eliminated from the requirement that significant impacts be mitigated. Please explain why in the DEIR no mention is made of the proposed Plan's change of County standard from LOS C to LOS D, and no attempt is made to account for its environmental impact. This is a huge informational gap. The undeniable impacts of this change would affect every driver and passenger in the County.

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I. The "No Project scenario" is the 1982 General Plan, which includes LOS C as the

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existing and 2030 standard. It is not at all clear what assumptions were used for "No Project". Because the assumptions that are used control the outcome of the analysis, please list all assumptions for the No Project alternative. The 1982 Plan is more specific with respect to traffic standards than is implied by the phrase "acceptable level of service" on the first page of Section 5.3.2.6. (See p. 129, bottom, of the 1982 Plan). The DEIR reference to Table 4.6-24 in Sect. 5.3.2.6 appears to be incorrect, and suggests a lack of thoroughness in the No Project analysis. Please fix the table. The less speculative 2030 horizon appears to be absent in the No Project analysis, but the text states that "the LOS impacts of buildout of the 2007 General Plan would be greater than those of the 1982 General Plan." That unsupported conclusion contradicts the claim that the 1982 plan would have greater environmental impacts as compared to the 2007 General Plan on transportation. As to the transportation comparisons made in Section 5.3.2.6 and in Section 5.3, please list all your assumptions, describe your investigation and consideration of impacts, and show your calculations. The DEIR should include the quantitative traffic impact analysis of the project and the No Project alternative.

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J. LOS standards are only vaguely defined in the proposed Plan, and the DEIR fails to use a consistent interpretation of LOS (different for Carmel Valley) in evaluating the Plan's impacts. In particular Carmel Valley is given an interpretation distinctly different from the rest of the County. Several options are available as measurement parameters, including V/C (using ADT), PTSF, vehicle density (vehicles per mile per lane), peak hour traffic (using direct traffic count or PTSF), etc. However, the parameter -- or specific type of measure -- used to identify or evaluate LOS often is not clearly specified in the DEIR (for example "peak hour" is ambiguous as to the specific measurement parameter used). The DEIR should consider a mitigation that requires a uniform, well-defined standard for LOS for the entire County. In particular, please explain why the V/C and related data are omitted from Tables A, B, and C of Appendix C for most of Carmel Valley Road (G16) and several segments of SR-1. Please supply this missing data. If different measurements (metrics) are required, please in each case explain clearly the specific reason, specify the measurements used, and provide specific quantitative criteria for determining LOS letter descriptions. Without this it is impossible for lead agencies to exercise the informed judgment required by CEQA, and for the public to assess an EIR and its impact evaluations.

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K. Complete tables of quantitative criteria corresponding to LOS letter-grades should be provided both in the Plan and in the DEIR for each type of measure (ADT, PTSF, etc.) actually used. This is not done. The DEIR does not comment on the Plan's omission in this respect, or on the resulting inability of the DEIR to adequately assess and analyze the impacts. The DEIR should specify and reveal to the public both the type of LOS measure to be used (e.g., ADT, PTSF) and the quantitative criteria for each of the various LOS "grades" (A, B, C, D, E, F). The DEIR's deviations from the explicitly adopted Countywide standard(s) should be explained and described for any special circumstances (as in the case of Carmel Valley Road) in additional supplementary discussion, not as a replacement for descriptions using the standard for non-Carmel Valley areas. Variations from a uniform standard are, in themselves, environmental effects because physical consequences are contingent on the standards (required mitigations and improvements, etc.). The DEIR should investigate and comment

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critically on the Plan's failure to provide a clear quantitatively usable standard for LOS, and analyze and disclose the informational gap resulting from that failure. Please respond fully.

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L. According to the tables in Appendix C, the same V/C values correspond to different LOS letter grades, depending on the character of a road segment. Please confirm this or clarify this issue. However, the reader is given no guide to the correspondence or correlation between V/C values and LOS grades for different roadway types. The DEIR fails to provide understandable tables of quantitative criteria for each LOS grade within each type of measurement used. Please provide such tables.

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M. Please explain why the very wide ranges of V/C values in Appendix C occur for a single LOS category. For example, in Table C there are V/C values as low as 0.3425 for LOS D and as high as 0.956 for LOS C; LOS B has V/C values as high as 0.667. Are these errors or are these accurate? If they are accurate, please explain the cause and reason for the range, providing specific on-the-ground examples for the high and low end of the range, as well as all the analysis. If errors are involved, please supply corrected tables.

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N. Emergency service access is a critical component of traffic impact. Although this is discussed in the DEIR for some scenarios (except project-specific impacts), and although the relevant impacts in each scenario are given as "significant and unavoidable", the accompanying DEIR analysis does not investigate or disclose the relationship or comparison of emergency service delivery areas to areas of heavy traffic impacts. This relationship has a strong connection with real response times. The specific locations of traffic congestion are highly relevant to emergency service access. The degree of significance of impacts to emergency service access resulting from traffic congestion can be determined only by disclosure and knowledge of these linkages. Emergency access standards, including response times, should be determined within each local emergency service area, and the impacts of traffic on such access should be evaluated within those areas. The DEIR should give a countywide summary evaluation of environmental impacts on emergency access, and also identify specifically where (geographically) deficiencies are significant or especially high and therefore significant or especially dangerous. Please respond fully to these concerns, and provide a map of the congested areas of the County and the emergency service areas. On the map, please identify the impacts likely to result from the proposed Plan. Many of the proposed "mitigations" do not mitigate or relieve adverse impacts of the Plan. For example, one mitigation clearly is an exacerbation rather than reduction of impact (p.4.6-71) because it produces a weaker LOS standard on certain road segments (see below). More generally the "mitigations" offered do not appear to reduce impacts reliably or accountably and therefore do not distinguish significance conclusions from significance determinations. In the DEIR there is little or no quantitative evaluation of the efficacy of the proposed mitigations. For each of the "mitigations" proposed, please investigate, and provide for each a quantitative analysis of its prospective efficacy, given County budget limitations, staff limitations, and historic failure to follow through or implement EIR mitigations.

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O. The proposed mitigations generally are extensive and complex policy proposals, and appear in some cases to be attempts at legislating rather than to be efforts to mitigate traffic impacts effectively. Please describe how the proposed policies would actually

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mitigate traffic potentially caused or induced by the Plan. Please be as specific as possible, and explain in ways the general public would understand. The general public would be directly impacted by the traffic; the general public should be respected with a reasonable and clear explanation of the traffic mitigations. What are the impacts of each of the "mitigations"? Those impacts must be analyzed and presented in this DEIR, but we cannot find the discussion thereof. Please respond fully and accurately, and explain in laymen's terms, where possible

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Q. The DEIR's ambiguity in the definition of LOS is exploited egregiously in the discussion with respect to Carmel Valley Road, where application of substantially weaker LOS criteria are used in the DEIR's analysis, and are proposed to be adopted for the Carmel Valley Master Plan (CVMP) Area, than for elsewhere. The assertions made in DEIR to support this change in standards, or difference in interpretation (viz., peak-hour as opposed to ADT V/C, PTSF as opposed to traffic count), are (1) "because the CVMP policies establish LOS standards based on peak hour" (p.4.6-9), and (2) "because it is a more project-specific and accurate method of analysis," and "at the project-specific or small planning area level of analysis" the alternative measure "should be used to overcome inaccuracies and impact over-estimation characteristic of daily V/C Ratio analysis." (p. 4.6-61f) The first assertion is factually false. (See CVMP, Policy 39.3.2.1, where ADT is specifically indicated.) The second assertion indicates that both inaccuracy and impact over-estimation are acceptable for the rest of the County. Neither assertion justifies the less restrictive, more development-permissive LOS standard of analysis used by the DEIR in Carmel Valley than is used for the rest of the County. In brief, according to the DEIR, LOS means something quite different in Carmel Valley than in other parts of the County, and this LOS grades to signify lower service levels in Carmel Valley than elsewhere. This is a patently discriminatory analytical procedure; it renders meaningless, from the perspective of impact reporting, the claim implicit in Policy C-1.1 that in the 2007 General Plan the County would impose definite LOS standards. Please respond. In sum, with respect to the DEIR itself, this means that a greater level of environmental impact would be allowed in the Carmel Valley Master Plan area than the supposed LOS C standard would imply. Worse still, its "justification" is based on a false assertion. This is not what CEQA permits in the selection and definition of significance criteria. Please explain why the decision was made to apply different LOS standards in the CVMP area. Please give details on how the standards were determined. What sources did you rely on to make the choices? On what persons did you rely in making those choices? Who made the choices? Please give a full and candid picture of how this decision occurred. The DEIR analysis should be revised to disclose with specificity the LOS standards that are used in each discussion. Any differences should be fully disclosed and the rationales for them presented. The impacts of choosing each LOS standard should be investigated, quantified, and discussed.

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R. Entries for critical segments of Carmel Valley Road are conspicuously absent from Tables A, B and C of Appendix C, although those segments are present in Tables D and E. (Compare, for example, the segments of County Road G16 in Tables D and E of Appendix C with those in Tables A, B and C of the same appendix.) Also, entries for the segments of State Route 1 between Carpenter Street and Riley Ranch Road are missing from the same tables. Notably these are segments that interact strongly with

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Carmel Valley Road. Between Ocean Avenue and Carmel Valley Road, SR-1 operates currently at LOS F, while between Carmel Valley Road and Rio Road it operates at LOS E (Table 4.6-4), both well below the County standard even under the proposed General Plan. Two critical intersections of SR-1 involving the segments north of Carmel Valley Road have been reported in County records to operate currently at LOS E or F, but intersection information is not provided in the DEIR. Please explain fully and candidly why certain road segments and related data present in Tables C and D of Appendix C were absent in table A, B and C of the appendix. Please supply the missing data, and provide complete tables with entries for all the road segments (that are listed in the presumably complete Tables D and E of Appendix C). Please revise your analysis to include this data.

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S. Most road segments on Carmel Valley Road currently operate at much lower LOS than the DEIR asserts (e.g., in Table 4.6-5), according to County ADT data and DEIR road capacity data. (See relevant portions of Tables D and E of Appendix C, Tables 4.6-5, 18 and 21, for example, where the related data can be found, although some calculation is required.) Existing V/C ratios are at LOS F for 3 of 10 segments (4 of 11 using the Appendix listing of segments), two more are at LOS E, three are at LOS D, and only two are at or below the LOS standards assigned to them, when one uses the DEIR's road segment capacity data for Carmel Valley Road (as given in Appendix C, tables D and E), together with 2007 Carmel Valley Road ADT data from the County. These deficiencies would have been apparent if Appendix C had been complete and had County standards been applied uniformly. The data gap creates an informational gap in the DEIR. Nowhere in the DEIR are these omissions and uneven application mentioned or discussed. (Segment capacities used in these calculations are from Tables D and E of Appendix C because the relevant entries are missing from Table A, but had capacities been available in Table A they would have been no larger than those in Tables D and E, and therefore the LOS would have been no better than those just listed.) Please explain (1) these differences, discrepancies, and omissions in the DEIR, and (2) their relationship with the on-the-ground circumstances in general and (3) the DEIR's analysis itself, in full detail. Please provide the omitted information and apply the same standards consistently, or clearly disclose and explain the rationale for different standards. Then please present the revised analysis to the public for review.

T. The extraordinary special attention given to Carmel Valley Road in the DEIR strongly suggests intent to weaken road segment standards there, with the specific further intent of undermining Board of Supervisors Resolution 02-024, which restricts local subdivision development. This is a wholly inappropriate use of the DEIR and raises serious questions about the objectivity and independence of the document, which is required to meet CEQA standards. This concern is heightened by the presence of obviously deceptive devices used in the DEIR "analysis" of Carmel Valley Road traffic. Please explain how, why and by whom it was decided that the DEIR provide this special attention to Carmel Valley Road. Please explain how, why and by whom the decision was made to pay insufficient attention to levels of service on SR-1 and other connecting roadways at and near the Mouth of the Valley. Please identify by name, title and date the sources that were researched and relied on in making each of these decisions. Who from the public, and which County employees, provided information that influenced this decision?

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U. Throughout the DEIR discussion of transportation and traffic, the conclusion "significant and unavoidable" is virtually always accompanied by DEIR language that indicates inadequate financing (e.g., "funding shortfall") as a principal reason in arriving at the conclusion. The insufficiency of development fees to underwrite current and emerging needs for roadway improvements is abundantly clear in this DEIR, and it is also clear that the situation will become exponentially worse with the continuation of new development without a dramatic transformation in monitoring and funding. Financing traffic improvements with development fees has become, effectively, a Ponzi scheme, with fees from each new development used to fund obligations incurred from previous development, with the term "mitigation" disguising the character of the transaction. Ponzi schemes always fail in the long run, and failure of this one has, and will have, major consequences for the people of Monterey County. Yet the cumulative effect and significance of the "funding shortfalls" acknowledged in the DEIR is not addressed in the report. Please describe the on-the-ground situation, with the information to date as to past traffic mitigations and their effectiveness. Also, please provide an analysis, general and approximate but quantitative, of the long-term (to 2030, and to buildout) behavior of the road maintenance and improvement funding process in light of the financial needs created by the plan. The analysis should reflect the current financial reality.

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V. Finally, the poor organization and arrangements of sub-section headings in this section of the DEIR demands comment. The document is exceptionally difficult to follow and to read. Headings of subsections do not have fonts proportional to their organizational functions, and material that belongs in some subsections appears in others. The great bulk – roughly three fourths – of the principal discussion appears in section 4.6.3.5, and the subsets of material in that section are not segmented in a logical, clearly visible way; they lack clear delineation by way of informative, appropriately ranked (by font size and character if not by number) titles. It is insulting to decision-makers and members of the public to be forced to find their way back and forth through such a welter of forward- and backward-referenced technical material with such poor guideposts. Please explain why such an inappropriate format was adopted, and comment on how it should be improved. Please revise and correct the section, reorganizing the materials, and responding to the comments by our organization and by other members of the public, and re-issue the DEIR for public review.

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These facts are sufficient to demonstrate that the DEIR is significantly defective. In all cases we have found, the environmental impacts of the 2007 General Plan are more adverse, that is to say more damaging, than the conclusions in the DEIR. Because the impacts are more significantly adverse than the DEIR reports, the conclusions "significant and unavoidable" arrived at in the DEIR are fully warranted. For that reason, any temptation to regard them as marginally rather than fully justified should be resisted and should require a new environmental impact report in which all of the comments provided here are completely accounted for. This DEIR does not meet CEQA requirements, including those of adequacy, accuracy, objectivity, and sufficiency of quantitative analysis. This DEIR does not properly evaluate the environmental consequences of adopting the 2007 General Plan. Please respond directly and fully.

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The comments below provide an extensive but not exhaustive catalogue of these and other defects in the DEIR, and include requests for direct and full responses.

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Detailed Comments

1. The purpose of policy C-1.1 of the 2007 General Plan is to designate the "acceptable level of service [LOS] for County roads and intersections," yet this DEIR evaluates service levels only for roadway segments and does not assess intersection LOS at all. Intersection behavior often is critical to the quality of service on a roadway, and some EIRs focus heavily on intersection characteristics and their LOS values. Evaluation of environmental impacts on roadway intersections in Monterey County should be included in this DEIR. In places where the segment data is not provided either (e.g., SR-1 near Carmel), there is no roadway data at all for 2030, yet both segment and intersection performance may be very poor (as is true for the example given) and the relevant road deficiencies are not in the record. This exclusion of intersection effects on circulation renders the DEIR defective and inadequate. Please respond fully, address the identified problems in detail, and provide the information and correct the analysis, or provide clear rationale for the DEIR's omissions.

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2. On p. 4.6-6, the second sentence of the second paragraph states that "LOS is a qualitative term" and the third states that "The LOS categories and their pairing with specific ranges of volume-to-capacity ranges are a matter of convention" But the DEIR relies entirely on the quantitative "conventions" in reporting LOS, which unfortunately are not stated explicitly in the report. Failure to include these critical data in the DEIR prevents evaluation, by County decision-makers and the public and alike, of DEIR assertions concerning LOS. Please provide the full quantitative description and all "conventions" for each LOS category used in preparing the DEIR, including a tabular summary of the criteria used to distinguish between LOS A and B, between LOS Band C, between LOS C and D, between LOS D and E, and between LOS E and F as used at any place in this DEIR. (A quick look at Appendix C demonstrates that this should not be hard to construct and probably could be fit onto a single page or less.) The DEIR is a legally required document for providing the general public and decision-makers with the information required for making careful judgments; these data are critical to understanding its meaning and are easy to make available in the DEIR. Why is this quantitative information not provided already in the DEIR itself? (See, for example, CEQA Guidelines 15147, especially "relevant information sufficient to permit full assessment ... by ... members of the public.") Please respond to this question directly and fully.

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3. Please explain why the change from a roadway standard of LOS C in the existing General Plan to LOS D in the proposed General Plan is not considered in this DEIR to be either a "direct physical change" or as causing "reasonably foreseeable indirect changes" in the environment (CEQA Guidelines, 15064d). The existing condition for the County is a standard of LOS C. Why are not all comparisons with existing conditions made against the LOS C (existing standard) so that the DEIR would assess the actual environmental effect of adopting the new and different standards of the 2007 General Plan? Please respond directly and in detail. Why is this change of standards not discussed in quantitative detail in section 4.6 of the DEIR, and why is the effect of the change not considered explicitly in all determinations and

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conclusions that involve existing conditions? All comparisons should be with existing conditions (which include the LOS C standard), and the DEIR should adequately assess the impacts. Also, please explain why the switch from LOS C standard to LOS D standard is not included in the criteria for determining significance. Please provide comparisons that fully correct these omissions.

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4. LOS criteria supplied in the DEIR are not consistent with the corresponding criteria used by the Department of Public Works (see and compare, for example, the nearly constant segment capacities for Carmel Valley Road shown on p. D-10 or E-37 of Appendix C of the DEIR, with the "threshold" data, which vary widely from segment to segment, in CVMP Annual Evaluation Of Traffic Volume, 2007). Why do these discrepancies exist? Which criteria were controlling, and why? Which criteria should be controlling? What is the protocol for resolving such inconsistencies? Why are the discrepancies not discussed in the DEIR, and why is a resolution of the differences not described? Please respond in accurate detail, discuss the issue fully, and propose a suitable resolution to the discrepancies. Please provide cogent justification for your response. Please investigate and analyze the impacts of each decision to use one criterion in the place of another.

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5. Given the discrepancies mentioned in the previous paragraph please describe exactly how the references listed on p. 4.6-9 (specifically: "a recent draft traffic analysis of the CVMP and the Carmel Valley Transportation Program was available (CVMP Traffic Study, July 2007)") were utilized in preparing the DEIR. Please describe specifically how the CVMP annual evaluations of traffic were relied upon in preparing the DEIR. To what extent was the CVTIP study relied upon? If the latter was relied upon, page references in the DEIR should have been provided to the public because of the length of the document, and important tables should have been reproduced. Why was this not done? The DSEIR for the CVTIP had been prepared well before this 2007 General Plan DEIR was prepared, and public comments on the DSEIR for CVTIP also had been submitted and were available at that time. Were these documents consulted in developing this DEIR? If so, please describe the investigation, research of the documents and their impacts on the analysis of the DEIR. If they were not, why were they not? Please respond fully to all of these questions. Also, we understand from the County that the DEIR on the CVMP traffic plan is "on hold" pending the outcome of this GPU-5 DEIR or perhaps the GPU5 itself. Is this true? And if so, please explain all the reasons it is on hold, and what kinds of effects the EIR for the GPU5, or the GPU5 itself, will have on the traffic plan. Please give full details.

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6. Table 4.6-5 (p. 4.6-10) does not show the data on which the LOS assignments are based, nor does it show which of several available parameters are used to assess peak hour service. Because of this informational gap, no independent evaluation of the LOS assignments is possible. Please provide this missing information, revise the analysis, and show your work. Furthermore, there is no explanation why only one segment of SR-1 (Carpenter St. to Ocean Ave.), disjoined from Carmel Valley Road, is included in the table. Please explain why the DEIR makes this distinction. The LOS value cited for the relevant segment of SR-1 is at substantial variance from the existing LOS for that segment provided in Table 4.6-21 (p. 4.6-81ff). Please explain all investigatory efforts, research and analysis for this data. Please address the contradiction between the two tables and correct the corresponding defects. (It is

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not sufficient to note that different standards were used in the Table 4.6-5 and in Table 4.6-21. Please reconcile the data and provide the criteria used to do so.) In other words: Please describe all research, investigation, analysis and reference documents used for the content of Table 4.6-5. That is, please provide the evidence and criteria on which the LOS grades for Carmel Valley Road in Table 4.6-5 are based, and correct or revise the table to accurately reflect on-the-ground conditions. Note that the relevant data for Carmel Valley Road are missing from tables A, B and C of Appendix C, and the pertinent criteria for LOS given in tables D and E of Appendix C differ from those in the CVMP Annual Evaluation of Traffic Volume for all recent years. Please explain why this situation exists in the DEIR. Please provide the missing data and redo the analysis, showing your work. The public cannot verify that the data and analysis are accurate without access to the data used in the DEIR.

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7. Westbound Carmel Valley Road is contiguous with northbound SR-1 at their intersection; there is no entrance or exit for those lanes at the intersection. Yet the existing LOS reported in Table 4.6-5 for the relevant lanes of Carmel Valley Road is A/B and for SR-1 the existing LOS in Table 6.4-22 for SR-1 is reported as F. Both roadways are two lanes in the relevant directions. The DEIR data is inconsistent and contradictory. Please provide all data and analysis for this significant discrepancy. Please provide the accurate information, redo the analysis, and show your work.

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8. According to the DEIR (Table 4.6-21, "Existing Conditions" column), several segments of SR-1 and other County roads (Rio Road, Ocean Avenue, Carpenter Street) in the general neighborhood of the SR-1/Carmel Valley Road intersection currently operate at LOS F and are firmly beyond the threshold for LOS F. This is a critical issue with respect to the environmental impacts from further development affecting Carmel Valley, especially in the western portion of the Valley, since nearly all such traffic passes through the Mouth of the Valley and through intersections affecting these segments. Please explain why implementation of the Plan would not cause "significant and unavoidable" impacts on these segments that would amount to essentially the same impacts for most roads accessed through the Mouth of the Valley. Based on the data and our members' daily experience with these roads, we believe that the Plan would cause significant unavoidable impacts on these segments. Please provide all investigation, research, the analysis for the DEIR's conclusion, and whether there was any contradictory evidence, and if so, why that contradictory evidence was discounted or ignored.

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9. The discussion of Carmel Valley Area Plan is confusingly interposed in the section on 2030 Cumulative plus Project impacts (beginning on p. 4.6-59), with a general discussion pages 4.6-62 and 63, a table on p. 4.6-64, but then an abrupt, unannounced return to countywide matters, regional roadways in particular, at the bottom of p. 4.6-64. Carmel Valley appears next in a single sentence at the end of the last paragraph of the "significance determination" on p. 4.6-68, with a return in the next paragraph to countywide matters. But all of the extensive mitigations offered are only for Carmel Valley specifically. Moreover, the material on Carmel Valley is itself confusing and contradictory (see below). The peculiar organization of this section is especially detrimental to the capacity of the DEIR to serve its intended function. Due to the confusing DEIR presentation we cannot tell when the DEIR is addressing solely Carmel Valley issues and when it is discussing Countywide issues. Please explain, in full detail, why this confusing manner of "integrating" Carmel Valley into the

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report was adopted. Please revise the section on 2030 Cumulative plus Project impacts to give a clear, balanced, and accurate representation of (a) 2030 conditions in the County, (b) Carmel Valley, and (c) Carmel Valley's relation to the County-wide conditions.

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10. Using (1) the roadway capacities specified in Tables D and E of Appendix C for Carmel Valley Road segments 1-10 (as described on p. 4.6-62, and including the division of segment 5 into two parts in Tables D and E of Appendix C), and (2) CVMP annual County traffic evaluations for 2007, one finds that segments 5, 7 and 8 would be operating currently at LOS F, segment 6 would be more than 96% of LOS F, and segment 4 would be at more than 92% of LOS F. Note that this is LOS F, not LOS D (proposed County standard) nor LOS C (Carmel Valley and current County standard). This also means that segments 4 and 6 would be near the upper limits of LOS E, well beyond either CVMP or County standards. In fact, segments 7 and 8 are far beyond the LOS F threshold. On Table 4.6-21 on page 4.6-81, the DEIR presents similar results in the columns labeled "Existing Conditions"; the slight differences between Table 4.6-21 and the results mentioned above apparently come from using ADT data from a different annual or semiannual CVMP measurement. (See Table 1.) Please confirm this. Thus eight of the ten segments violate LOS C already, some by very wide margins. Please explain why this is not noted and discussed in the DEIR. Please explain and resolve the various discrepancies. Also please discuss in full detail why, with reference to the 2007 General Plan's policies and the DEIR's V/C criteria as they are applied to the rest of the County, this significant issue was not discussed. The information should have been discussed and analyzed to conclude that adverse environmental impact that is significant and unavoidable would result from further development, and in particular residential subdivision development, in the CVMP plan area.

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Table 1. Existing LOS for Carmel Valley Road using the DEIR's V/C Criteria. See accompanying text.

Segment	2007 ADT	DEIR appendix C D-10, E-37 level E cap.	2007 data		Table 4.6-21	
			V/C	LOS - using DEIR criteria	V/C	LOS - using DEIR criteria
1	3,431	11,880	0.2938	C		
2	4,024	11,880	0.3445	C		
3	8,628	11,880	0.7387	D	0.7450	D
4	10,816	11,880	0.9260	E-	0.9330	E
5a	11,844	11,880	1.0140	F	0.9460	E
5b	11,844	11,880	1.0140	F	1.0060	F
6	14,070	14,800	0.9637	E-	1.0100	F
7	15,767	11,880	1.3499	F	1.4340	F
8	20,166	14,800	1.3812	F	1.3050	F
9	23,800	30,900	0.7702	D	0.7020	D
10	23,837	30,900	0.7714	D	0.8330	D

[Notes on the table: (1) "DEIR criteria" refers to road capacities shown in Tables D and E of Appendix C. (2) Segments 5a and 5b appear because entries listed in Appendix C pp. D-10, E-37 differ from those on p. 4.6-62. (3) There are no entries in the last two columns for segments 1 and 2 because Table 4.6-21 had no entries with that data. (4) E- and E- appear in the 2007 LOS column because segments 4 and 6 are very close to LOS F. (5) Using the most recent 4-year averages of ADT measurements places segment 6 within just 20 ADT of LOS F.]

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11. There are stark differences between the data in item 10 above and in Table 1 on one hand, and those in Table 4.6-5 on the other. For each difference, please discuss fully this difference, and explain why it exists. Please describe your investigation, research and analysis for the significant differences among the data used in different places in the DEIR. Please explain and describe particularly the relationships among these differences on one hand, and on the other, the ambiguity of the LOS standard proposed in the General Plan (C-1.1 ff), which does not specify either a quantitative parameter (e.g., ADT, PTSF, density, peak hour volumes) or the quantitative level-of-performance criteria to be used in evaluating LOS.

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12. The reference (p. 4.6-62, last paragraph) to Table 4.6-16 should have been to Table 4.6-17. This was the difficult to ascertain because of the peculiar arrangement of material in this section. Please confirm or correct this interpretation.

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13. The last paragraph on p. 4.6-62, (concerning Carmel Valley and referring to Table 4.6-16 (sic - see item 12 above)) states that "these roads are significantly impacted", but this is not acknowledged in the "significance determination" on p. 4.6-68. Of the three roads described in the last paragraph on page 4.6-62, only Laureles Grade Rd. is included in the "mitigation measures ... proposed in the CVMP Traffic study (sic)" and even for it no capacity-increasing measure that would reduce V/C is proposed. Therefore the "mitigation measures" in the CVTIP DSEIR (if that is the intended reference) could not reduce the impacts on the three segments in question. Please clarify whether the reference to the CVMP Traffic study should have been to the CVTIP DSEIR. Please explain the DEIR's conclusion that impacts on Carmel Valley Road could be considered "less than significant" given the issues raised in these comments. Please include in the discussion the other issues raised above and below in these comments that bear on impact significance on Carmel Valley Road and connected roadways.

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14. In Table 4.6-18 the 2030 Cumulative plus Project segments of Carmel Valley Road from Laureles Grade Rd. to Rancho San Carlos Rd. are shown as LOS E, yet in the Existing Conditions column of Table 4.6-21 these segments are shown as LOS F (except for the partial segment from Laureles Grade Rd. to Miramonte Rd., which is given as LOS E). Further, the segment from Rancho San Carlos Rd. to Rio Rd. is shown as A/B in Table 4.6-18 for the 2030 horizon, yet existing LOS for that segment is given as F according to Table 6.4-21. Why? Please explain in detail. The DEIR suggests that the 2007 General Plan would have the effect of reducing LOS for certain segments, which is wholly inconsistent with available accurate data. Please describe your analysis of the environmental impacts in the face of such discrepancies and contradictory evidence in the DEIR. Please provide specific analysis of this issue and the data relied upon. We are deeply concerned that different standards (by way of different measures of traffic) were used in the DEIR. It is apparent that the preparation of the DEIR was not properly coordinated with County data, and that discrepancies between County evaluations and DEIR evaluations were not examined and resolved. Please provide an accurate,

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complete, and more coherent assessment of segment performance for Carmel Valley Road that does not contain such anomalies, and include your investigation efforts, research and analysis explaining inconsistencies and discrepancies, and describing the methods and criteria used to resolve them. 121

15. Since the existing LOS standard for Monterey County is LOS C, an additional column should appear in Table A of Appendix C (which displays "Existing Conditions") showing the V/C ratio that defines the transition from LOS C to LOS D for each segment. This is needed in order to correctly identify currently existing conditions. (Alternatively an additional table with this information could be provided.) Why was this not done? Please describe the investigation and analysis done in the existing DEIR for this issue, and discuss the impacts of the omission of the currently prevailing limit of LOS D capacities. The information in the DEIR is misleading. Please provide this data in full. 122

16. Please explain why references to the appropriate table entries in Appendix C are not provided wherever data from them are used in the body of section 4.6 (or elsewhere). The tables provide important explanatory data. The DEIR should provide specific page citations and should indicate where the data are used. The reader should be directed to the relevant tabulations wherever explicit use of them occurs. Please provide the indicated and requested references where relevant. Without them the DEIR is confusing, and contains informational gaps. 123

17. The semiannual CVMP traffic study is distinct from and inconsistent with the Carmel Valley Traffic Improvement Program. Additionally, the document entitled "Carmel Valley Transportation Improvement Program" (pp. 9, 61 and 97) does not exist. Please clarify the precise names and documents being referenced. Without knowing what you are referring, we cannot adequately comment. On this point, the DEIR is confusing for several reasons. Presumably the "Carmel Valley Transportation Improvement Program" refers to the Carmel Valley Traffic Improvement Program Draft Subsequent Environmental Impact Report (CVTIP DSEIR), and presumably the annual "CVMP Annual Evaluation of Traffic Volume" based on semiannual measurements of ADT and often called the CVMP traffic study, was not relied upon at all for the DEIR, nor was a separate document called the "Carmel Valley Traffic Improvement Program" (not the DSEIR). Please explain how members of the public and County decision-makers could reliably evaluate the assertions made in the DEIR when the source references, such as these, are unclear, incorrect and/or missing. The public should not have to expend personal time and effort, paid and unpaid, to locate the source information when it is inadequately referenced. 124

18. The DEIR incorrectly and misleadingly states, on p.4.6-9, that "CVMP policies establish LOS standards based on peak hour (CV-2.18-d)." The current policy is 39.3.2.1 of the 1986 (rev. 1996) Carmel Valley Master Plan, and the term "peak hour" does not occur in that policy or in any subsequent draft. In fact, the standards are stated explicitly in terms of ADT. Moreover, Policy CV-2.18 of the proposed 2007 General Plan is identical with 39.3.2.1 and therefore also does not contain the term "peak hour" and also states standards in terms of ADT. The proposed mitigation on p. 4.6-71 of the DEIR does include the term peak hour, but obviously it is not adopted policy and cannot be considered an appropriate source for the 125

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assertion. This important matter is described inaccurately and misleadingly. Please provide a copy of the CVMP plan relied on for GPU-5 DEIR preparation; our organization would like to inspect all of the documents relied on to determine the accuracy of the claim. Please provide an accurate and clear definition of the term "peak hour" as used in the DEIR. Please clarify the term's use with relation to the actual Carmel Valley Master Plan, and confirm that the term does not appear therein. Please explain how, why and by whom the decision was made to include the assertion that "CVMP policies establish LOS standards based on peak hour." Please revise the DEIR. 126

19. On p. 4.6-9 the following sentence (which appears twice on the page) is unclear in its meaning and its intent: "Integration of this analysis into the 2007 General Plan EIR allows for consistency between documents." What is meant by this sentence, in plain English? Precisely to what does "this analysis" refer? Why is "allows for consistency" used in preference to a more assertive expression such as "would provide necessary consistency"? If it means "that the roadway standards for Carmel Valley should be clarified and made internally consistent, and should then be integrated with the rest of the General Plan in such a way that the Plan is a coherent whole, with the intended distinctions in standards described accurately and understandably," please say so. How would "this analysis" be integrated into the 2007 GP EIR? What would the "integration" look like, and who will do it? What impacts will the "integration of this analysis" have on the EIR and on the environment? Please address, clarify and respond to this issue. The intended goal and use of the DEIR should be stated directly and explicitly. If the goal intended by the DEIR is as stated above ("that the roadway ... understandably"), it has not been met, and has not been analyzed in the DEIR. If this meaning is not the one intended, then the desired interpretation should be stated without ambiguity. Please provide a clear statement of the DEIR's intended meaning and the analysis and research documents used to reach the DEIR's meaning. 127

20. Also on p.4.6-9 the following sentence appears in the next-to-last paragraph: "Two performance measures are used in the CVMP analysis; two-lane roadways are analyzed based on [(1) PTSF or] percentage of time vehicles must travel in groups behind slower vehicles due to inability to pass, while four-lane roadways are analyzed based on the [(2)] density of vehicles [or passenger cars per mile per lane], or how closely vehicles travel together making it difficult to change lanes or pass." This misrepresents the actual situation in several ways. (1) The annual CVMP evaluation is confused here with the CVTIP DSEIR. Please clarify. (2) The latter, not the CVMP annual study, uses the two different techniques for evaluating two-lane and four-lane roadways. (3) The CVMP evaluation, however, uses comparison of semiannual measurement of ADT on road segments with "thresholds" for those segments. It also reports certain peak-hour data that is not used in the threshold analysis. It uses a single type of measurement, namely ADT, on all segments, 4-lane as well as 2-lane; ADT indeed is the same measurement type used for the rest of the County in the DEIR. Please explain clearly and accurately the several different issues that have been confounded in the discussion on p. 4.6-9 - the distinct studies and the different metrics used for evaluating traffic levels. Also please clarify the meaning intended by the EIR preparer and significance of the discussion and analysis of the four paragraphs on Carmel Valley on p. 4.6-9 and the top of p. 4.6-10. They are confusing, and because we cannot discern what they mean, we cannot comment on them. 128

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21. Please explain why there are 10 segments of Carmel Valley Road described on p. 4.6-62 – 63 (Table 4.6-18), but there are 12 segments on pp. D-10 and E-37 of Appendix C. Also, please explain why, in Table 4.6-18 and Appendix C, divisions into segments are different for some parts of the road, making comparison between the text and Appendices confusing, and making adequate review impossible. (This has nothing to do with segments 11 and 12 in the annual CVMP traffic volume evaluations; those segments are not included in the material referred to above.) Why are these differences not mentioned, explained and resolved in a clear and understandable way in the DEIR? Please respond by explaining in detail and resolving the differences and ambiguities, and remove the confusion caused by them. Please present the corrected information, and revise the analysis.

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22. Why are entries for the western portion of Carmel Valley Road (Carmel Valley Village and west to SR-1) missing from Appendix C, Tables A, B, and C (existing, existing plus project, and cumulative conditions)? Please provide all data, research and analysis used to prepare these sections. These entries are significant. Please provide them for public review, providing also sufficient public availability, and notice of their availability as required by CEQA. For this reason and for the reason of the many other missing and incorrect data, the entire DEIR should be corrected, revised, and recirculated for public comment.

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23. The presence of "Existing Conditions" data for Carmel Valley Road in Table 4.6-21 confirms that the V/C data relevant to Carmel Valley was present in the DEIR's source material, and could have been included in Table A of Appendix C. Did the originating versions of Tables A, B and C of Appendix C contain the Carmel Valley Road (and nearby) data that was deleted for the published version of the DEIR? It appears that was the case. Please describe in detail and with full candor whether such a deletion occurred, why it occurred, and how the decision to delete was arrived at. Please describe all investigatory efforts, research, and analysis for this omission, including the identities of persons consulted and persons relied upon. Please confirm this was a purposeful omission. Please revise the DEIR data to include this information in all relevant places, and revise the analysis based on the more complete and accurate information.

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24. Please identify all other discrepancies that exist among DEIR tables and text relating to Carmel Valley Road (G16), Laureles Grade Road (G20), Robinson Canyon Road, Rio Road, Esquiline Road, Carmel Rancho Boulevard, and SR-1 between Carpenter Street and Riley Ranch Road. Because critically important information on Carmel Valley Road is missing in the DEIR, and because the information that is included has been managed and presented inconsistently and ambiguously in the DEIR, all data related to Carmel Valley Road and to its "tributary" roads is suspect, and should be re-examined, corrected where necessary, and re-stated properly so that it can be reviewed and assessed understandably by members of the public, and by planners and County decision-makers whose role is to serve as the citizenry's agents and proxies. Please respond fully and provide all missing data (see above), and revise the DEIR analysis. Please describe your investigative efforts (both prior to release of the DEIR, and after public comments on the DEIR are received) to confirm that the data is complete and accurate.

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25. The DEIR represents the independent judgment of the "lead agency," and the lead agency has sent the DEIR out for public review; the lead agency is responsible for the adequacy and objectivity of the DEIR (CEQA Guidelines, 15084c). Please describe the way in which this responsibility will be exercised subsequently (after the public comment period) with respect to inadequacies observed in this DEIR and reported in the comments, as well as with respect to inadequacies in the 2007 General Plan that are reflected in the DEIR's proposed "mitigations." Also, please indicate how and when members of the public will be informed of this exercise of responsibility in a way that will satisfy all CEQA requirements.

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26. Table 4.6-11 contains year 2000 data, and 2030 and buildout projections, but does not contain corresponding 2008 projections (from the 2000 data). Thus it does not contain "existing" data and conditions, which should be the essential basis for comparison between future and current conditions. The DEIR should include an additional column with the 2008 projections, which easily can be found elsewhere or extrapolated from 2000 data on the basis of simple stated assumptions. Please explain this omission (which is misleading) and provide the appropriate comparative (2008) data.

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27. Data in the third and fourth columns in Table 4.6-11 of the DEIR appear to have been interchanged, leading to erroneous interpretations. Please investigate and correct this, and check the data elsewhere in the table to insure that it does not contain further errors. Please describe the investigation, research and analysis done to compile this table. Please provide the names of all reference documents used to create the table.

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28. The absence of "methodology or measure of performance used to determine level of service" (section 4.6.3.4, p. 4.6-29) in the General Plan is not described in the DEIR as a significant defect in the Plan. What are the environmental impacts of the absence of such "methodology or measure"? As a mitigation, the DEIR should propose a methodology or measure of performance, which would reduce the impacts. This omission of analysis in the DEIR means that determination of significance of impact is left vague and indeed arbitrary because there is no clear quantitative LOS standard in any part of the Plan. Any one of several combinations of methods and measures of performance should be utilized to define LOS letter values. This already has happened, as is demonstrated comments above. The DEIR itself, not the Plan, defines the LOS values that appear in the DEIR. Thus the standards themselves, both method and measures of performance, are established and evaluated by the DEIR. To understand the significance of this, consider that policy 39.3.2.1 of the CVMP does specify that the "yearly evaluation report ... would compare average daily traffic (ADT) counts with service volumes for levels of service." The service volumes are established as "the level of service ... (as defined in the Keith Higgins Traffic Report which is part of ... the Environmental Impact Report ... for the ... "CVMP")." So the CVMP uses quantitative ADT data specified in an existing EIR to determine the criteria for acceptability. The CVMP itself – the Plan, not a subsequent evaluation of traffic – determines the character of the measurements to be made (ADT) and, by reference, the quantitative "acceptable level" (otherwise known subsequently as the "triggers" or "thresholds") against which future measurements are to be evaluated. This illustrates the principle of embedding in the General Plan a proper basis for planning, monitoring and evaluation that is capable of being responsive to CEQA requirements. It is apparent that the drafters of the General Plan did not fully understand,

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appreciate, or identify the broad ambiguity in the meanings of LOS letter grades by themselves. Please discuss this in detail, clarify the ambiguity, and explain how specific measures will address the corresponding defect in the General Plan, and specify what methods and measurement criteria would be adequate and appropriate in prescribing clear, unambiguous and enforceable mitigations.

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29. To explain and understand the considerable difference between LOS "standards" provided by different methods and different criteria, consider the following: Table 2 (of this document) shows existing LOS letter values for Carmel Valley Road segments using the ADT and V/C method used in the DEIR for all of Monterey County except Carmel Valley Road, compared with the 2030 cumulative plus project data using the "peak hour" method used only for Carmel Valley Road and reported on p. 4.6-63 of the DEIR. The next-to-last column should have worse letter grades by a wide margin. However, for all but one segment the LOS letter value given in that column (evaluated by the method for Carmel Valley Road) is better for the more congested 2030 Cumulative plus Project scenario than that for the existing V/C LOS value (evaluated by the method used for the rest of the County). In other words, the method used to define LOS in the DEIR for Carmel Valley simply is more permissive of development than is the V/C standard used for the rest of the County. Thus the choice of "peak hour" method is not a matter of choosing a "more accurate" measure of LOS for Carmel Valley as implied in the DEIR; rather it is a matter of choosing a more lax and development-accommodating "standard" for Carmel Valley. What exactly does the term "impact over-estimation" mean, in plain English? The term "impact over-estimation" (p. 4.6-62) is an obvious circumlocution for impact-permissive, there being no way to provide "more accurate" estimation, since the choices of LOS measurement and quantitative criteria themselves are used to define impacts! Please respond by explaining in candid detail why the implicit meaning of LOS (the original CVMP and Countywide V/C, ADT standard) is circumvented in the DEIR for Carmel Valley Road by using a more development-permissive measure. Please address, discuss and provide site-specific information for the measures and standards used to analyze this issue. Please provide statutory and case law authority for the measures and standards used in this DEIR.

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Table 2. Comparison of LOS for Carmel Valley Road using different measures for LOS.

segment	Existing		2030 cumulative + project	
	2007 CVMP data	Table 4.6-21	Table 4.6-16	
	EXISTING LOS - DEIR COUNTY criteria	EXISTING LOS - DEIR COUNTY criteria	2030 LOS - Special CV area criteria	peak hour measure
1	C		C	PTSF ?
2	C		C	PTSF ?
3	[D]	D	D	PTSF ?
4	E-	E	D	PTSF ?
5a	F	E	E	PTSF ?
5b	F	F	E	PTSF ?
6	E-	F	E	PTSF ?
7	F	F	E	PTSF ?

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30. The DEIR engages in logically fallacious and technically unsound argument by using the DEIR-determined combination of LOS measures and quantitative criteria to define environmental impact, and then selecting a different combination of measure and criteria to evaluate "measured" LOS, and therefore impact. (For instance: On p.4.6-29 under "4.6.3.4 Criteria for Determining for Significance" the DEIR says "For analysis of the General Plan, the level of service (LOS) for roadway segments is based on the ratio of projected daily traffic volume to the capacity of the roadway (V/C Ratio)." This determination is repeated at the end of the same paragraph: "For the analysis of the General Plan, the analysis is based on daily traffic volumes." But on p. 4.6-9 it says "The roadway level of service analysis for the Carmel Valley Master Plan (CVMP) area is based on peak hour (AM and PM peak) information." On p. 4.6-20 it says "the V/C Ratio planning measure is a good indicator of expected peak hour traffic congestion." And so on, with "justifications" going from one measure to another and back again -- as between V/C and "peak hour", which itself is ambiguous -- all of them selected by the DEIR itself -- and only the qualitative "LOS D" specified by the General Plan.) Using these maneuvers, the DEIR effectively chooses its conclusions, within wide constraints allowed by the different choices of data sets, by selecting which sorts of data to report and in which context to report them. The DEIR's significance determinations and conclusions fail to meet elementary technical and scientific standards of credibility, which require external and well-defined and fixed standards against which to measure performance. The criteria are not consistent, and the measurements are not consistent. Neither are they explained to the public coherently, nor are the impacts of choosing one measure or criterion over another measure or criterion described or explained. This makes the DEIR impossible to review and comment on. The DEIR should not be deemed to meet CEQA requirements based on these flaws. Please respond.

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31. In this connection, note the huge discrepancy in the DEIR in LOS values between Table 4.6.5 representing "existing conditions", and the entries in Table 4.6-21 for Carmel Valley Road, under "Existing Conditions" (e.g., AB/BB vs. F between Rio Road and Rancho San Carlos Road). This is a result of the DEIR's pretense that LOS by itself is a "standard"; instead it is, as indicated above, many standards, depending on specific assumptions

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concerning the measure to be used and the quantitative criteria adopted. This is another example of how the logical fallacy in the DEIR of comparing impact defined by one technique with measurements using another leads to nonsensical and technically impermissible results. This approach is misleading. The DEIR should explain why this misleading approach was adopted. The DEIR should describe where else in the DEIR similarly misleading or deceptive practices were used. Each instance should be disclosed and corrected for consistency.

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32. In line with the preceding paragraph, Policy C-1.1 of the General Plan fails to adequately specify an acceptable level of service for County roads and intersections because it does not define LOS D specifically in terms of measures of service level (e.g., ADT, PTSF, peak volume during specific time periods, or other measure) nor, of course, does it specify quantitative values for whatever measure is to be used. Furthermore, by allowing lower LOS for unspecified reasons and with unspecified limits (is LOS F acceptable in some cases -- which would mean effectively no limit to roadway degradation?) "through the Community Plan process," it abandons General Plan control of what could be critical County road segments and intersections. Please explain why these serious deficiencies in Policy C-1.1 and its potential environmental impacts are not addressed directly and clearly in the DEIR, and mitigations not proposed. A mitigation should be to define each LOS specifically in terms of measures of service level and to specify quantitative values for each measure to be used. A further mitigation would be to limit allowing lower LOS to specified reasons and with specified limits.

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33. The DEIR's significance criteria (section 4.6.3.4) for roadway level of service (LOS) are ill-defined and therefore are inadequate as thresholds of significance for several reasons, including the following: First, as noted above, in the General Plan neither the measures (metrics) used nor the quantitative standards for acceptability are defined adequately in order for the public to understand clearly what level of development would exceed General Plan criteria; the thresholds of significance are embedded in the DEIR, not in the General Plan. Put another way, the DEIR evaluates whether its own choices of impact definitions are met, not whether the General Plan's specifications are met. It is the General Plan, not the DEIR that produces the impact. That is, the DEIR is not evaluating against "the County's adopted standard of LOS D" (bottom of p. 4.6-29); instead the DEIR is evaluating against the DEIR's own interpretation of that standard. The County easily could have, and should have, adopted a clear and meaningful set of standards, but this did not happen. Please explain why not, and describe the effects of the decision to not adopt clear and meaningful standards. The DEIR should address the impacts of the General Plan, not create new impact definitions to analyze in the DEIR. Second, also noted above, the exception allowing community plans to adopt a level of service below LOS D through a "community plan process" (whose definition we have not been able to locate at the time of writing) leaves considerable ambiguity in the potential significance of the impact of County traffic growth in and near "community areas". Please explain exactly what a "community plan process" is and how that process will be evaluated under CEQA. Please give examples. A proposed mitigation for the impacts of this exception is necessary. Third, in some tables of Appendix C certain road segments are omitted, and in other tables the tabulated LOS E capacity values (V/C ratios) differ significantly from those used in other County documents (e.g., the CVMP annual evaluations for Carmel Valley Road). These omissions and inconsistencies raise the question whether the capacity values in the table

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are consistent throughout the DEIR as well as consistent with other County traffic evaluations. Please explain and resolve the inconsistencies and omissions. Fourth, with specific reference to Carmel Valley, threshold capacity values for V/C at LOS C should be included in Appendix C for roads and road segments. The ambiguities in the DEIR are confusing. The DEIR does not provide accurate definitions of quantitative LOS standards, and therefore the significance criteria are not defined in a way that is fully independent from choices made in the DEIR itself. To help obviate such circumstances, CEQA encourages public agencies "to develop and publish thresholds of significance" which are "identifiable quantitative, qualitative or performance level[s]" (emphasis added), but this has not been done in this case. The lack of adequate basis in the General Plan for significance criteria (that is, an absence of adequately specified County thresholds of significance) was not discussed adequately and in detail in the DEIR. The DEIR should provide specific and firm recommendations for modifications that would mitigate this problem. Please explain why the County has not developed and published thresholds of significance that are identifiable quantitative performance levels with clear qualitative descriptions. The absence thereof make this DEIR analysis very slippery, ambiguous, and subjective.

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34. On page 4.6-31 the DEIR states that "Under 2007 General Plan policies new development is required to mitigate project-specific local impacts to maintain the County's LOS standard," but evidence from past experience and County records does not support the notion that the mere existence of such policies, without clearly specified restrictions, remedies and penalties for failure to comply, would be reliable barriers against significant adverse effects. Past degradation of County roads in the wake of development projects, in spite of the existing LOS C standard has continued. The General Plan, in response, proposes a reduction of standard to LOS D, effectively confirming the phenomenon. According to Table A (existing conditions) of Appendix C (aside from those segments of Carmel Valley Road and SR-1 that were omitted), around 52% of County roadway segments fall below the current standard of LOS C, 30% are at E or below, and 25% are at F. In terms of the more effective measure of impact, the vehicles on roads below the LOS C standard currently is 70%, while at E or below it is 52%, and at F it is 44%. County records show that reliance on policies and mitigations that are not backed by solid enforcement, or metrics that are verifiable by the public, has not worked to guard effectively against significant adverse environmental effects. These impacts of these failed or ineffective policies and mitigations are significant. Why has the DEIR not included an assessment of evidence concerning the effectiveness and timeliness of implementation of "mitigations" imposed on past projects in the County? If mitigations are relied upon to avoid significant adverse environmental impacts, there should be an assessment in the DEIR of the performance of the County's past mitigations at achieving the maintenance or reduction of LOS intended by the mitigation. Please provide all investigation, research and analysis for this issue. Please cite specifically the documents relied upon for your response, and the research undertaken of County records to determine success of past policies and required mitigations. The DEIR should consider mitigation measures that provide for accountability, funding, and implementation of the LOS standards described in the General Plan. The DEIR should acknowledge and disclose the reality of the on-the-ground conditions. As a result, the DEIR should ensure that the mitigations proposed in the General Plan are enforced and effective. At this stage, the DEIR fails to do so. Please respond in full.

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35. Please respond in particular to the potential impacts of the following in affecting environmental outcomes: (1) the exceptions in Policy C-1.3, (2) the delay implicit (18 months) in C-1.2, (3) the additional delay (12 months) in C-1.11, (4) the delays or inadequacies that typically accompany "fair-share payment" options, and (5) ambiguities that this combination of policies engender. The DEIR fails to address them adequately. These items in the General Plan actually are not policies, but are provisions and mandates to create policies. Approval of projects with as-yet-unspecified policy conditions presents special problems and has environmental impacts that should be addressed directly in the DEIR. This was not done. Please provide explanatory details where the DEIR addresses this issue. Please cite specific examples and propose mitigations in the DEIR for each issue raised above. Please provide all research, analysis and reference documents for your conclusions, and explain why the DEIR ignored these important circumstances.

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36. The claim implicit in the significance determination on p.4.6-32 and the significance conclusion on p. 4.6-33, that Plan policies, including those listed on p. 4.6-31f, would be adequate to forestall significant adverse environmental impacts is highly speculative in the absence of evidential support. Evidence should include comparison of pre-project and post-project LOS values (using a consistent and well-defined LOS standard) for projects that have been completed during the last 20 years; delay times between project completion and mitigation implementation, together with the number of mitigations or conditions not yet implemented; comparison of the numbers of vehicles currently traveling on roads with LOS A-C with those currently traveling on roads with LOS D-F using a consistent V/C criterion (given that LOS C is the current standard, and LOS D-F represents below-standard and therefore the failure to maintain the standard); similarly, comparison of LOS A-C traffic V/C with LOS A-D traffic V/C to show the immediate effect of dropping the standard from LOS C to LOS D by demonstrating directly the environmental impact of the change in LOS standard (the difference, divided by LOS A-C traffic, would represent the proportional impact); etc. The provisions of CEQA prohibit speculation and conjecture. The significance determination and conclusion on pp. 4.6-31 to 32 should not be accepted without accurate and understandable evidence to support them. Please describe your investigation and analysis for your conclusions, and describe in detail the process by which you reached your conclusions.

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37. Similar determinations and conclusions claiming less-than-significant impacts, relying exclusively or almost exclusively on Plan policies as rationale, also occur elsewhere in the DEIR. Please explain why they should be accepted without additional substantial evidential support. Please provide all evidence of investigation, research and analysis for each determination that a less-than-significant impact exists. Please provide the documents relied upon to reach each conclusion.

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38. Please explain and discuss cogently the reliance of the last paragraph of p. 4.6-31 on traffic impact fees to achieve the equivalent of concurrent road improvements. Provide your research, data, and analysis, based on past County experience, concerning the period of delay, and the likelihood of delay, between project construction and implementation of relevant road improvements when the traffic impact fee is used as an alternative to concurrent construction. Please provide all evidence that supports this conclusion. If there is any contradictory evidence, please provide it and explain the impact of this evidence on the conclusion made. Include an

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itemization of all projects that in the past have paid the fees levied on the project but for which the relevant needed roadway improvements still have not yet been implemented.

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39. In the significance determination that includes the top of p. 4.6-33, several clauses require explanation or further definition and clarification, which include:

- "impacts to roadway LOS and project access would be identified"
- "development would be fully responsible for ... mitigation ... or for its fair share of the mitigation"
- "if a roadway already falls below the County's LOS standard, then the development is required to mitigate ... so that ... the roadway does not degrade beyond the level without development."

Based on experience, our personal observations concerning these matters include:

- EIRs sometimes fail to identify significant impacts to roadway LOS, which explains why 52% of County road segments listed in Appendix C do not meet current LOS standards, and 30% (and higher percentages of vehicles traveling on those segments) do not currently meet the proposed lower standards. The DEIR should propose a mitigation based on current on-the-ground conditions to address this issue so that LOS standards are met.
- It is not made clear in the Plan how meeting this responsibility would be assured in full. Existing evidence in County records show that often compliance does not occur spontaneously without responsible enforcement action taken by the County.
- [Engaging in development where roads already are inadequate creates greater impacts than where roads are adequate, and that therefore mitigations which include accountability, funding, and implementation are necessary to improve degraded roadways to County standards before further development is allowed in such locations. Restoration, not just resistance to further degradation should be the County's aim when and where standards, especially proposed standards, have been violated. The cumulative effect of past neglect and proposed development should be considered together in assessing significant environmental impact.

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Please respond in detail to each of these observations and the corresponding clauses from the DEIR, and include consideration of the County's past failure to maintain road standards. The DEIR should consider County records in its analysis of the issues raised above and should propose mitigations that will ensure that the General Plan policies are implemented within a specific time frame, with accountability for all parties, and specify the funding necessary to do so, and the current status of that funding.

40. The significance conclusion on p. 4.6-33 includes a parenthetical statement that is inaccurate because the fair-share payment does not assure concurrent mitigation. Please respond, providing all investigation, analysis and calculations for this statement.

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41. Please describe in detail the environmental impacts of the matters raised in the two preceding Comments affect the significance conclusion on p. 4.6-33. Please provide all research, analysis and quantitative data used to reach the determination.

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42. In the diagram, Exhibit 4.6-7, almost all of Carmel Valley Road is missing (along with Carmel River). Please provide all analysis done to create this diagram. Please include the

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name of the person who prepared the diagram, and explain the glaring omissions. Also discuss fully whether this omission is connected in any way with the missing Carmel Valley Road data in Tables A, B and C of Appendix C. The omission of significant data impairs the ability of the public to verify the accuracy of the statements made in the DEIR. Please correct the exhibits. 149

43. Because of the flaws in the DEIR analysis, including those described above, the conclusion that project-specific impacts would be less than significant is not credible or accurate. The significance determination and the significance conclusion should be reconsidered based on accurate, quantitative data. The DEIR should take explicitly into account the analytical inadequacies pointed out here and elsewhere. In particular, please explain and account for the very large 2030 cumulative impacts in the absence of project-specific impacts. Please provide all research, investigation and analysis performed for the 2030 impacts. The DEIR should analyze the less-than-significant determination and conclusion taking into account actual on-the-ground conditions. Please provide fully all evidence used to reach these conclusions, including analysis performed and calculations relied upon. 150

44. Under Impact TRAN-1B on p. 4.6-33, the word "exceed" (appearing twice) should be replaced by "fall below" in order to be unambiguous, correct and consistent with more general usage. This incongruity appears elsewhere in section 4.6, and a consistent usage should be adopted for the entire section of the EIR. Please correct these errors, or explain why it is deemed appropriate not to correct them. Please clarify the definition of the word "exceed" in each context in which it is used. Please employ a consistent expression for use in describing "degradation to below the standard," which is what is meant. 151

45. On p. 4.6-42, under the heading Carmel Valley Master Plan, it is stated that policies "2.13 through 2.15 encourage alternate modes" but there is nothing in 2.13 or 2.14 that refers to alternative transportation. Please explain the inclusion of these policies under the alternative transportation rubric, or correct the references and allow the public time to respond. 152

46. On p. 4.6-43, CVMP policy 2.15 (CV-2.15) is claimed to "support consideration for a ... climbing lane on Laureles Grade", but the policy does not do so. Please explain why policy CV-2.15 is incorrectly described and correct the reference or description. If the EIR preparers believe this to be accurate, please provide all data, which supports this statement. 153

47. On p. 4.6-42 the DEIR mischaracterizes policy C-2.1, stating that it "encourages establishing safety standards" whereas the policy makes no mention of safety. Taken together with the matters discussed in the two preceding comments above, this pattern of errors suggests that there may be more such mischaracterizations. Please review descriptions of Plan policies throughout the DEIR text to insure that policies are correctly characterized, and please correct them where they are mistaken. Please provide a list of all incorrectly cited policies and specify the inaccuracies for each. 154

48. The third paragraph on p. 4.6-44 does not make sense as it stands. Perhaps "Despite development contributions to roadway improvement funding as a result of fees generated by 155

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project-specific" should replace "Despite development contributions to" Please respond by providing a sentence with the intended meaning. 156

49. The next-to-last sentence, under Significance Conclusion on p. 4.6-45, requires a second reading because it is confusing and ambiguous. If the word "but" were replaced by "even though" the logical flow of the paragraph would be more sensible. Please respond by providing a replacement sentence that would be more appropriate logically and convey the meaning intended. 157

50. Under Impact TRAN 1-C there is no mention of the interaction between roadway traffic and the airport, even though it is well known that airport vehicle traffic can have very significant impacts on the efficacy of air transportation, especially with respect to delays and waiting times arising from road or parking congestion. Why are questions concerning the adequacy of airport and nearby parking and traffic management facilities not evaluated either here or in the other roadway discussions in the DEIR? This omission is especially significant given the emphasis on tourist air traffic potentially generated by the Agricultural and Wine Corridor. Population growth in general also would likely increase air traffic to and from the area, and therefore would increase airport-associated road traffic. Even given the adequacy of the airport for passenger traffic as large as that in 1978, nearby commercial development and other events since then, including highway traffic changes on SR-68, and on SR-218, would have an effect on vehicle-serving facilities at and near the airport. Please respond in detail, providing assessments of the vehicle traffic/airport interaction not only for this section of the DEIR, but wherever appropriate throughout the DEIR. Please provide all analysis for this issue and explain the impacts arising because of this issue. Please also provide mitigation that provides for the impacts of future commercial development at or near the airport. 158

51. The determinative sentence in the Significance Determination for Roadway Hazards (p. 4.6-49f) is "The 2007 General Plan also has policies to limit incompatible land uses." However, there is no evaluation of the policies' impacts, or the adequacy of those policies to prevent significant adverse environmental effects. The presence of policies, without assessment of their efficacy, is inadequate basis for making such a determination. Please explain what evidence was used by the EIR preparer, beyond the mere existence of cited Plan policies without reference to their specific capacities to limit adverse impacts, to support the determination. Please assess whether or not, and specifically how, existing policies have prevented current significant roadway hazards or incompatible land uses from occurring, and explain how this information bears on arriving at the significance determination and the significance conclusion for roadway hazards. Please cite specific examples. Please alter the determination and/or conclusion; which should be based on the additional information, and explain the analysis, investigation and research performed. How effectively will the policies limit incompatible land uses? Exactly which policies are those? Please be specific, citing the policy number and Plan page. 159

52. On p. 4.6-51, under Land Use Element, fourth line, "Police 1.9" should read "Policy 1.9" The same misspelling occurs on pp. 4.6-19, 56, 78, 93 and 108. 160

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53. Under the Emergency Access heading, on pp. 4.6-50 through 53, there is no reference to Public Service policies and specifications related to them; these would include provisions that are critical to emergency access standards. In particular, Table PS-1 contains adjacent columns showing emergency response times and "road intersection service." In many cases (1) the response times are exceptionally long, (2) the entries do not distinguish among the different emergency services, and (3) the table includes notations that indicate substantial relaxation of the stated standards under a significant range of circumstances. In effect, various policies affecting safety and emergency access are in conflict with other policies, including land use and circulation policies. When the conflicts are confronted in the Plan they generally are resolved in opposition to emergency access and safety needs. Although the paragraph under "Land Use Element" does mention this situation, the specific relevant Public Service policies should have been cited, in order to clarify the basis for the significance determination and the significance conclusion. There is clear bias toward relaxed safety and emergency standards in the DEIR. Safety and emergency standards are critical issues, and because of the bias the public cannot rely on the analysis in the DEIR for accurate and complete information. The DEIR should enforce the safety and emergency standards with specific mitigations that address the issues raised here. Please respond fully.

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54. In this same connection, examination of Table PS-1 reveals that the table refers only to roadway intersections in connection with emergency services, and road segment performance is excluded, whereas the DEIR text studies only road segments and excludes intersections. Thus the analysis of traffic in section 4.6 provides no basis for evaluating impacts of traffic on emergency access that accord with Table PS-1. Both the table and the DEIR should have analyzed both intersections and road segments in order to provide adequate environmental assessment. Please explain why this issue was not addressed. Accurate and complete analysis should be presented in the DEIR for all existing road conditions.

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55. In the Emergency Access discussion, primary emphasis is given to the ability of emergency vehicles to reach the sites of emergency need. This is a critical safety concern and represents the highest frequency of incidents, but evacuation capacities also are critically important and represent potentially higher levels of threat to large numbers of people and much property. Evacuation from Tsunamis is mentioned, but more likely threats requiring evacuation are wildfire, flooding and earthquake, which are ignored in the DEIR and which may require different strategies than escape from Tsunamis. Please explain this deficiency, and please address the issues involved. Even though the General Plan does not include the coastal zone, evacuation from tsunamis affects inland areas. Inland facilities, for example, must provide traffic capacities for evacuation and accommodations for evacuees.

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56. The emergency access policy discussed on p. 4.6-52 with reference to the Carmel Valley Master Plan (CV-4.4) is, by itself, inadequate to the situation pertaining in the Valley. More general evacuation issues need to be addressed, given the long, narrow principal access route, the many dead-end side roads, and the confining effects of the narrow, deep valley. Why was this not addressed explicitly? Please respond and provide a complete analysis of all evacuation routes, the obstacles associated with each route, and a proposed plan that incorporates all of these issues.

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57. On p. 4.6-56, beginning the second paragraph under Significance Determination, the statement, "The land uses allowed under the General Plan, if consistent with policy, would increase the need for transit service with concentrations of development in existing transit-served corridors, community areas, and near incorporated cities," is critically important and analysis of this issue and its impacts should be included prominently in other land-use and roadway traffic sections of the DEIR. The DEIR should analyze this issue and its impacts, and the full analysis should be included in the DEIR, where the information should play a role in the relevant evaluations (land use, roadways, public services, etc.). Please respond fully, addressing this issue.

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58. After the first sentence of the second paragraph under Significance Determination on p. 4-56, there is a sentence fragment that should be deleted: "The transit-supportive". Please delete this fragment.

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59. The critical clause preceding "therefore", in the Significance Determination on p. 4.6-56, is "The increase in demand for transit service is consistent with MST's strategic goals of increasing transit ridership, expanding service, and introducing new services" This, combined with the first sentence in that paragraph, clearly demonstrates the need for a mitigation that places conditions on development that depend on the meeting of MST's strategic goals. Please explain why such mitigation was not proposed, and consider it now.

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60. Since the kind of mitigation just described was not included, there is no provision for "ensuring development conforms to County policies and design standards, and are consistent with the goals and strategies of MST, the County's transit service provider" (p. 4.6-53, Significance Conclusion). As a result, the "less than significant impact" does not logically follow. Please review this incomplete analysis and respond cogently and thoroughly. Please provide your investigation and research into this issue.

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61. On p. 4.6-57, third paragraph under Year 2030 Cumulative plus Project, the appearance of "No Project scenario" serves as a reminder that data for this scenario should be based on LOS C as the Countywide standard, since "No Project" means not adopting the 2007 General Plan and instead retaining the current standards. Was this done in producing the "No Project scenario"? Please respond directly, and if LOS C was not retained, explain why, and please revise the DEIR analysis to include retaining LOS C.

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62. On p. 4.6-58, under the 2007 General Plan Policies subheading, under "Project-Specific Impacts of the Development under 2030 Cumulative plus Project Conditions," the text says "The policies ... apply to the Existing Plus Project Buildout scenario," which is completely out of place. What does this mean? Please explain and clarify the meaning of this paragraph, and explain what analysis it is intended to provide.

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63. The Significance Determination and Significance Conclusion on pp. 4.6-56 and -58 are essentially identical with those on p. 4.6-32f, with most of the text being word-for-word. As a result, all the observations and comments made above for p. 4.6-33 (see item 38 and subsequent items) apply here. In particular, issues raised above in these comments about the adequacy of the basis for the determinations and conclusions apply here also. The

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determination and conclusion do not reflect the available facts. Evidence is even stronger here because cumulative effects are well known to be generally greater than isolated project (program) effects; that is why CEQA requires a separate analysis. Please analyze the significance determination and conclusion on pp. 4.6-58f, taking into account all the relevant issues raised above (e.g., as in items 36 and those that follow), and also provide a more analytical examination and description of the differences between cumulative and single-project contributions to environmental impacts.

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64. According to Appendix C, ADT on a few road segments decreases under cumulative conditions, whereas on most segments it increases. (See for example SR-1 south of Riley Ranch Road.) Please explain why this occurs and provide the analysis, research and investigation for that conclusion in the DEIR. If incorrect, please correct and revise the DEIR analysis.

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65. The assertions on p. 4.6-61 that "the roadway level of service analysis for the Carmel Valley Master Plan (CVMP) area is based on peak hour (AM and PM peak) information" and "the CVMP policies establish LOS standards based on peak hour (CV-2.18-d)" have two fundamental flaws and are highly misleading. First, they are factually incorrect, as review of existing CVMP policy 39.3.2.1 clearly demonstrates, and the many annual CVMP County traffic evaluations for Carmel Valley Road confirm. Second, the reference to policy CV-2.18(d) is grossly misleading, because in the proposed 2007 General Plan, the policy labeled CV-2.18(d) is identical with policy 39.3.2.1(d) of the present plan, which contradicts the assertions. If the EIR preparer asserts that this reference is to the DEIR's mitigation policy labeled CV-2.18(d), that is incorrect because that policy is distinctly different from the others and is crafted to reflect choices made in the DEIR, not the policy in either the existing CVMP nor in the proposed 2007 General Plan. This cannot be conceived as anything but a purposeful deception. Please explain these misstatements in the DEIR and describe how they became part of the DEIR. Please identify all persons with whom this matter was discussed by the preparer of this report, and indicate on what communications the preparer relied for making the assertions in question.

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66. No evidence is supplied anywhere in the DEIR or its appendices to support the claims that "the peak hour as opposed to the daily analysis ... is a more project-specific and accurate method of analysis" or that "at the project-specific or small planning area level of analysis, a peak hour operational analysis should be used to overcome the inaccuracies and impact over-estimation characteristic of daily V/C Ratio analysis." (What this really says is that the peak-hour technique used here is a less stringent and more permissive standard than V/C using ADT; there is no standard of "accuracy" available, nor of "impact over-estimation," since impact estimation is simply the LOS measure itself and the numerical estimations selected. This argument is entirely circular. And it is argument, not analysis. Furthermore, the claim implies that "inaccuracy" and "impact over-estimation" would be adequate for the rest of the County.) There are no data provided in the DEIR by which to make comparisons among relevant quantitative LOS criteria that would justify such statements. Please explain fully and cogently the deviation from Countywide LOS technique and specific standards (ADT and V/C) for Carmel Valley. Recall that CEQA requires that an EIR "shall include ... relevant information sufficient to permit full assessment of environmental impacts by reviewing agencies and

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members of the public." That has not been accomplished in this DEIR. Among other things, no V/C ratios should have been omitted from Appendix C, including those for segments of Carmel Valley Road and of SR-1, and other areas. Please explain why the plain meaning of CEQA was not respected in producing this DEIR. The DEIR should use the CEQA guidelines to prepare its analysis.

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67. A full-fledged analysis of the CVMP area (such as the one on pp. 4.6-61 –4.6-63 under "2030 Cumulative plus Project") was not included in each of the five scenarios (or conditions) for which the five tables are provided in Appendix C. If such an analysis is warranted for "cumulative conditions" it is warranted for "existing", "existing plus project", etc. Please respond, and explain, clearly, fully, candidly and straightforwardly the assumptions made in the DEIR relevant to analysis of the CVMP area and vicinity (e.g., SR-1). Please identify all persons, not employed by the consultant, upon whom those making the relevant decisions relied.

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68. Why is it that "the modeling for these traffic studies assumed a higher amount of development in the CVMP area in 2030 than the analysis of the rest of the County under the 2030 Cumulative plus Project scenario" (p.4.6-62)? Please explain in exact detail why this assumption was adopted, given Carmel Valley's various vulnerabilities to roadway degradation and inadequate emergency services, among other issues. Include in this explanation specific account of the relation of this matter to the foregoing observations concerning the Carmel Valley Master Plan, including the adoption of an interpretation of LOS that is different from that for the rest of the County. What are the impacts of that assumption, or of using a different assumption? Who made that assumption, and on what grounds?

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69. Where did the number 1,188 for new housing units in the CVMP area (p. 4.6-63) come from? The current status of a housing cap has been highly controversial; County officials and staff repeatedly have failed to provide a firm and reliable accounting of available unbuild housing capacity in spite of many requests. Please provide a full accounting of the origin of this numerical assumption, including a clear provenance for the data.

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70. The fourth line from the bottom of the next-to-last paragraph of p. 4.6-62 includes reference to Table 4.6-17, but apparently it should be to Table 4.6-18.

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71. The next-to-last sentence of the next-to-last paragraph on p.4.6-62 fails to point out that according to Table 4.6-4 the existing LOS for SR-1 is LOS F between Carmel Valley Road and Ocean Avenue, and LOS E between Carmel Valley Road and Rio Road, using the Countywide ADT standards. Please respond fully and address this issue.

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72. 73. The following apparently gratuitous and astounding statement concerning CVMP conditions appears on p. 4.6-68, under "Significance Determination" for 2030 Cumulative plus Project (Impact TRAN-2B): "Within the CVMP, three segments of Carmel Valley Road are projected to exceed LOS standards, but mitigation measures are proposed in the CVMP Traffic study [sic] to improve these impacts to less than significant." First, according to Table 4.6-21, four of 10 segments of Carmel Valley Road currently are at LOS F, two are at LOS E, and four are at LOS D. The standard for Carmel Valley Road nominally is supposed to be C. (There is

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considerable confusion and controversy about the standard, but a clarification by the Superior Court in 1987, and still in effect, states "LOS C is the traffic standard adopted by COUNTY in the Carmel Valley Master Plan." Please describe how the proposed mitigations would turn back the clock and return these segments to LOS levels below the values specified in the current CVMP (policy 39.3.2.1) in order to accommodate cumulative 2030 traffic, and assuming that to be possible, please indicate further how this mitigative time machine could return them all the way back to LOS C! Second, presumably "the CVMP Traffic study" refers to the DSEIR for the Carmel Valley Traffic Improvement Program (CVTIP) of 2006, which contains many flaws that have been noted in public comments on the DSEIR. The FEIR for the CVTIP still has not been released, and cannot be depended upon as a source of mitigations, especially ones as miraculous as these. Please explain how this invocation of mitigations from another document, which has not yet been fully vetted, approved or adopted, can be regarded as adequate under CEQA. Third, in light of all this, please explain how the impact of "2030 cumulative plus project" development in Carmel Valley could possibly be regarded as "less than significant" even if unusually generous funding were available! Please explain this "determination" with particular reference to all the different LOS interpretations used in the CVMP area, as discussed in the foregoing paragraphs and pages, including Tables 1 and 2 above, and in the related text.

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73. Material on Carmel Valley Road was inserted in the midst of material on "2030 Cumulative plus Project" to the extent that most of the discussion under "2030 Cumulative plus Project" is really about CVMP, with more general text and tables about the County as a whole scattered here and there. The information should be reorganized because it is confusing. The DEIR's "mitigation measures" listed at the bottom of p. 4.6-68 and top of 4.6-69 apparently refer to countywide matters, whereas the text farther down p. 4.6-69 clearly is focused on Carmel Valley in particular. Please confirm this. In the midst of the page the following statement is especially relevant to the CVMP and describes the situation there with clarity, but is not specifically identified with Carmel Valley: "Many of the mitigations for roadways segments are likely infeasible due to physical, topographical, and environmental constraints, as well the social and economic impacts related to the acquisition of commercial and residential property, or loss of access, and lack of community consensus for roadway capacity-enhancing projects." The paragraph that follows on the same page, though less lucid, implies that traffic improvement funding from development fees would be hopelessly outpaced by projected development so that the cost of mitigations required by the development could not be met. This, too, is directly relevant to the CVMP area. Taken together, these fully support the determination and the conclusion that the impact of the Plan would be significant and unavoidable. But it is difficult to reconcile this with the assertion quoted in the paragraph just above this one, implying that under "cumulative plus project conditions" help would be on the way in the form of "mitigation measures proposed in the CVMP Traffic study (sic) to improve these impacts to less than significant." Please help us to understand the cognitive dissonance this engenders by explaining and clarifying how all this fits together rationally, and include the impacts of current on-the-ground conditions and how they relate to the specific data used to perform this analysis. Please describe all investigatory efforts made by the EIR preparer and all sources relied upon to reach each conclusion.

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74. The only actual "mitigating" effect contained in the version of Policy CV-2.10 proposed as a mitigation (p. 4.6-69f) is the addition to item c) in the original policy (CVMP supplement policies for the 2007 General Plan, Policy CV-2.10) of the sentence, "An interim improvement of an all-way stop or stop signal is allowable during the period necessary to secure funding for the grade separation." Please explain why this simple addition by itself was not described as the mitigation. Restating the entire of Policy CV-2.10, buries the actual change in a rather long, many-part policy, thereby effectively hiding the effect of the "mitigation" – the actual change -- amidst a clutter of other language. The DEIR makes this confusing and misleading to the public.

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75. In the proposed "mitigation" Policy CV-2.12 (p. 4.6-70) the only change (aside from a mislabeling of the items a-c and erroneous punctuation) is a change of wording from "Widen Highway One to four lanes between Ocean Avenue and Rio Road" to "Add a northbound climbing lane between Rio Road and Carmel Valley Road." These two wordings lead to the same result. Was this "mitigation" added to give the appearance of providing a mechanism for further traffic relief when in fact there was none? Please confirm that this mitigation does not actually mitigate the situation or change its meaning. Please explain why this "mitigation" was proposed, and explain what substantive difference the change of wording would have effected. Please respond explicitly to the issues raised here.

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76. The discussion above demonstrates that the re-interpretation of the old Policy 39.3.2.1 offered by the proposed "mitigation" labeled Policy CV-2.18 (p.4.6-71f) is inadequate because (1) it lacks substantive definition of LOS values in terms of a specific parameter (e.g., V/C) and quantitative criteria, (2) it fails to specify segment capacities, and (3) it relies heavily on the CVTIP for which an FEIR has not been released and for which the DSEIR was substantively faulty, so that (a) no FEIR has been certified, (b) the CTIP has not been approved, and (c) the CVTIP has not been adopted. This last renders the "mitigation" inadequate by CEQA standards because of its conjectural dependence on future discretionary events, and therefore is unacceptable. Please explain in full detail and full candor why this highly flawed "mitigation" was proposed in the DEIR, what the process of formulating it was, and how the decision to include it was arrived at. Please identify all individuals, other than those employed by the preparer of the report text, with whom the decision to include this "mitigation" was discussed. Please specify fully the character and content of all communications involved in such discussions.

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77. The proposed mitigation policy CV-2.18 on p. 4.6-71f is not mitigative! It would in fact increase traffic impacts of development if implemented because it would lower the LOS standard for Carmel Valley Road (making it more development-permissive), as indicated in Table 2 above! A revision of the original CVMP policy 39.3.2.1 is desirable, but this mischievously formulated version is wholly inappropriate and unacceptable by any reasonable standards. A proper revision should be prepared for the Carmel Valley Road Committee by a subcommittee consisting primarily of Carmel Valley residents, and after approval the revision should be submitted to the Carmel Valley Land Use Advisory Committee for comment and advice. After that it should be incorporated in the Plan as part of the CVMP supplement to the

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Plan. Any revision should have the following features to avoid the pitfalls already discussed in these comments: (1) The LOS standard should continue to be based on V/C, using ADT for V and stated segment capacities for C. This would eliminate the difference between the basis for County LOS grade definitions and those for Carmel Valley. (2) Quantitative road segment capacities should be stated explicitly in the CVMP, subject to annual revision in accordance with actual increases in segment capacity resulting from roadway improvements. (3) The correspondence between V/C values and LOS letter grades should be stated explicitly in the CVMP, thus giving LOS a definitive quantitative meaning with which the biannual monitoring and annual reports can be compared. The V/C LOS standards to be applied to each segment should be stated explicitly. Alternatively, and preferably, LOS letter grades would be supplanted by stated numerical V/C standards for each segment. (4) The annual reports should show the year's V/C (and letter grades, if used) for each segment, insuring that the reports are clearly readable and understandable by the general public. (5) Intersection delays should be included in the report for intersections known to be problematic, as determined annually by the Carmel Valley Road Committee. (6) The basis for evaluation of intersection monitoring results should be LOS grades defined by a table in the policy that sets out the correspondence between quantitative intersection figures of merit (e.g., delay times) and the letter grades. (7) Determination of acceptable LOS values (and grades, if used) should be made, at the time of revision of the policy, by the subcommittee of the Roads Committee charged with formulating the revision. This, if properly executed, would provide genuine mitigation. Please explain why such an approach to revision of the policy was not proposed as a "mitigation," given that its elements address the actual problems that exist and need to be dealt with concerning Carmel Valley Road, and would obviate rather than exacerbate the defects inherent the current Plan's policy 39.3.2.1 and in the present DEIR.

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78. Proposed mitigation policy CV-2.19 (p. 4.6-72f), item a), is almost identical with the components of the CVTIP (the exceptions being the addition of sub-item a5, and the deletion of the 4th bullet point on p. 2-10 of the CVTIP). The CVTIP, as pointed out elsewhere in these comments, was evaluated in a DSEIR, which was commented upon by the public, but no FEIR has been certified or released and the CVTIP has not been approved or adopted. Therefore inclusion of its functional components in the mitigation amounts to a submission of the General Plan to further study that is yet to be accomplished. The mitigation is inadequate by CEQA standards. More to the point is that the provisions of the entire policy should receive the approval of the Carmel Valley Roads Committee before being adopted; once that has occurred, then item a) might be adequate as a mitigation under CEQA. However, items b) – d) are problematic and would need extensive revision before the policy would be adequate. Among other things, the financing of road improvements in the Plan is dependent on provisions that are indefinite and subject to further review and study. The "mitigation" is inadequate under CEQA. Please explain why this "mitigation" should be considered adequate under CEQA, being specific and providing CEQA provisions that substantially support the explanation. Please provide all research and analysis for this assertion and all contradictory evidence. For all contradictory evidence, please explain why the contradictory evidence was discounted or ignored.

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79. No evidence whatsoever is provided in the DEIR that supports the assertions of the second paragraph under Significance Conclusion on p. 4.6-73. (1) The claim of the first

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sentence presumes that the CVTIP is accurate, and reliable, and a matter of existing policy. The first two of these are strongly and cogently disputed in public comments on the DSEIR for the CVTIP, and the third is false. (2) The mitigation measures referred to in the paragraph lack evidence supporting their efficacy, and the formulation of the "mitigations" is based on a combination of (a) data that does not meet reasonable technical standards and (b) assertions that are unsupported and implausible. (See examples above.) (3) Utterly ignored in the claims made in the paragraph are existing conditions that already fail LOS criteria. This part of the DEIR is under the heading "2030 cumulative plus project conditions", and these conditions include the impact of "a higher amount of development in the CVMP area than the analysis of the rest of the County" (p. 4.6-22). (4) In view of the foregoing, the statement that the "mitigation measures result in impacts for Carmel Valley Road being less than significant" (emphasis added) requires almost complete suspension of one's rational faculties! Please, please explain why the content of the DEIR paragraph in question, given the actual evidence available, is in the least credible – or even plausible. Please confirm this is the DEIR's intended meaning. Please provide all analysis for these assumptions given the on-the-ground conditions

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80. The words "fee" or "fees" occur 50 times in the DEIR, and of these 12 refer directly to a "fee program" identified on p. 4.6-23 as "specified in 2007 General Plan Policy C-1.8." The fee program specified in that policy does not now exist, and would not be developed until as much as 18 months after the General Plan itself were adopted. Policy C-1.2 also should have been cited in this context, and the fact that the "Capital Improvement and Financing Plans" specified in that policy also do not now exist, are not funded, and also would not be developed and adopted until as much as 18 months after Plan adoption. Any and all mitigations dependent on such fees and relying on these Plan policies thus do not meet CEQA requirements for adequacy because the effect of the policy provisions is to submit them to further study and review. Please explain why this was not made clear in the DEIR and why the significant impacts were not discussed adequately. Please provide the full analysis and discussion, including research sources and methods.

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81. Please explain why the heavy dependence of the 2007 General Plan, and of the proposed "mitigations" in the DEIR, on traffic impact fees (generally fees levied on development) does not result in an inexorable growth-inducing impact. A principal source of revenue to meet roadway needs generated by development, in this scheme, becomes more development, which produces a well-known cycle of excessive development in which traffic capacity tends to fall increasingly behind. In the response, please include a discussion of the meaning and implications of the sentence (pp. 4.6-45, 69, 103) "The County and regional fee programs will continuously be updated, adding additional priority projects to the programs as initial projects are completed, but the rate of project completion will not be able to outpace the rate of development growth." Please specify how, when, and with what funding the County intends to update these programs and propose an adequate mitigation that includes all of these things.

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82. The Significance Conclusion on p. 4.6-73 appears to be carefully crafted to defy clear interpretation and understanding. It is confusing and misleading. First, it is under the rubric "2030 Cumulative plus Project" yet it refers to "buildout of the 2007 General Plan" (first

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sentence). Does the conclusion "significant and unavoidable" in the first paragraph refer to cumulative plus project development or to buildout? Please respond. Second, does the "less than significant" conclusion in the second paragraph -- aside from its obvious contradiction to any reasonable interpretation of standards for Carmel Valley Road in the context of the DEIR, as discussed above -- refer to all of Carmel Valley Road except segment 2 (which is assigned LOS C on p. 4.6.62, but D in Table 4.6-18 and thus matches the "drop from LOS C ... to LOS D")? Or is it segment 3 that is excluded (at LOS D in both places, but is the segment central to Carmel Valley Village)? Or is segment 4 excluded, (at LOS D in both places, adjacent to the central Village, but winding, with difficult sight lines and generally regarded as dangerous)? Please respond. Third, does "lack of feasible mitigation consistent with the rural character of Carmel Valley to maintain the higher standard" in the second paragraph refer only to whichever segment(s) above are intended to be excluded, in spite of the overwhelming evidence that "feasible mitigations" are lacking for most other segments as well? Please respond. Fourth, given the numerous (23) road segments that would move from lower higher LOS to LOS F listed in Table 4.6-19, why are only two segments (or three or four, depending on the interpretation of the second paragraph) -- neither (or none) of them included in the table -- given the entire attention devoted to specific roadway segments? Please respond. Fifth, is the statement "as this is mostly an existing problem, there are limitations on the use of new development fees to pay to correct an existing problem" a reliable and uniformly applied predictor of the use of development fees in implementing traffic mitigations? Is it used selectively? Has it been, and will it be, employed rigorously for development and improvements on Carmel Valley Road? Please respond to all and clarify. Sixth, is the intended interpretation of this (somewhat involved) Significance Conclusion as follows: under "2030 Cumulative plus Project" conditions all "County and Roadway Level of Service Impacts" are "considerable and unavoidable" except most segments of Carmel Valley Road (that is, all but one or two or three, depending on the interpretation of the second paragraph), for which the impacts are "less than significant"? Please respond. Please clarify fully the meaning of this Significance Conclusion, and provide clear, evidence-based quantitative justification for this meaning, using technically and logically supportable arguments.

83. The issues and questions raised above are broadly applicable also to buildout conditions, whether project-specific, existing plus project buildout, or buildout cumulative plus project. Details may differ, but the general issues remain, including obscurity, illogical argument, technical errors, omissions, failure to comply with CEQA provisions, etc. As an example, consider the text on page 4.6-97:

Impact of Development in the Carmel Valley Area Plan

The traffic analysis of the CVMP and the Carmel Valley Transportation Improvement Program used to present impacts of the General Plan on 2030 Cumulative Projects did not evaluate impacts of buildout of the General Plan to the year 2092. Therefore, roadway segments within the Carmel Valley Master Plan area are analyzed using the daily level of service methodology used to analyze other roadways in the County. These segments are included in Table 4.6-XX above and Table 4.6-YY below.

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Table 4.6-25 presents the Regional roadway segments operating at LOS E or LOS F under 2030 Cumulative plus Project conditions. Exhibit 4.6.10 presents the segment LOS graphically. A detailed table showing the volume, the volume to capacity ratio and the resulting LOS for each Regional roadway segment is included in the Appendix.

(This is followed by two more paragraphs under the same heading that contribute nothing useful to the points that will be made below.)

First, the initial sentence contains no significant information since one would not expect in any case that buildout would be included in a discussion about impacts on "2030 Cumulative plus Project", given that buildout here is defined to occur 62 years after 2030. Second, the second sentence is a non sequitur -- its substance has no logical connection with the previous sentence -- so that the word "therefore" is entirely misleading. Third, the measure used to evaluate LOS on Carmel Valley Road segments is suddenly and arbitrarily switched to V/C measurements using ADT data ("the daily level of service methodology used to analyze other roadways in the County"). It is also confusing and misleading. In previous parts of section 4.6 the LOS for Carmel Valley Road (and only there or for adjacent segments) were analyzed using "peak hour" measurements --PTSF (according to the CVTIP, from which the data presumably was obtained) -- rather than using the rest of the County's V/C measurements. Fourth, in the last sentence of the first paragraph the placeholders XX and YY in the table labels were not replaced with the actual table numbers: this is a sign of a hurriedly (sloppily?) prepared report that was not properly reviewed by the consultant or by County staff. (A similar error occurs on p. 4.6-52 for Mitigation Measure JRANI-E.) Fifth, the next paragraphs were entirely about the County as a whole, not specifically about Carmel Valley Road, even though they appear under the heading "Impact of Development in the Carmel Valley Area Plan", which actually is an incorrect heading ("Area Plan" should be "Master Plan"). This again confuses and misleads the public. This is but an illustration of the many flaws of the DEIR, often compounded in a single paragraph or under a single heading. Given these and additional errors, please explain why the DEIR should be regarded as a reliable assessment of environmental impacts throughout Monterey County. Also, address the selective, inconsistent, incoherent and misleading treatment of Carmel Valley in the report. It should be regarded as seriously impairing the integrity of the general process of preparing the DEIR and of the results.

Summary and Final Comments

As indicated at the outset, this list is not exhaustive, and does not cover all of the errors and inadequate characteristics of section 4.6 of the DEIR. However, it does demonstrate that this DEIR is not reliable as a full assessment of environmental impact to be expected (particularly on County roadways) from the implementation of the 2007 General Plan. The function of a Plan, among other things, is to prevent, to the extent possible, adverse effects from future development; and the purpose of an EIR guided by CEQA, is to assist in fulfilling that function by assuring that the probable effects of future development activities are carefully and systematically examined. This DEIR, however, has the effect of evading the clear intent of CEQA in a variety of ways, through a combination of distractions, misdirections, misleading

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statements, errors, obfuscations, and violations of simple logic.

Distractions include the very poor organization of the document, with headings that are not parallel in font size and are sometimes difficult to interpret, and failure to describe for the reader the scheme for labeling the impacts (TRAN-NX, N=1-4, X=A-F), as well as the strangely arranged interspersing of Carmel Valley material in the text (as where Carmel Valley material appears "unannounced," without separate heading, and without logical connection to other matters under discussion on pages 4.6-9 and 4.6-10; elsewhere in the report it is sometimes difficult to tell whether a paragraph is about Carmel Valley or the County as a whole. The insertions of Carmel Valley material also misdirects the reader, making it difficult to tell how to find relevant supporting narrative or data concerning either Monterey County or Carmel Valley or the wider region; the placement of Table 4.6-6 is a minor but indicative example. Another example of misdirection is the reference to Appendix C as a presumably reliable compendium of roadway segment data, when in fact critical data on Carmel Valley Road (surprise!) and SR-1 near Carmel Valley are absent from those tables. Still another is the inclusion on p. 4.6-69f of lengthy "mitigation policies" in which only one sentence is added to an existing policy, and another sentence is changed with no apparent change in meaning. An early example of a misleading statement, and an omen of things to come (there are many other examples provided above!), is the claim on p. 4.6-9 that "CVMP policies establish LOS standards based on peak hour" measurements, which simply is false. Errors include the foregoing, but also include the exchange of two columns in Table 4.6-11, and in Table 4.6-21 the final tree entries are at LOS F, not D as advertised. Obfuscations include the deletion of significant material from Appendix C, failure to specify clearly the types of standards and quantitative criteria for peak hour measurements used for Carmel Valley Road, failure to specify the relationship between letter LOS values and quantitative V/C criteria, the attempt to alter the meaning of Carmel Valley LOS grades in the proposed CV-2.18, and using (or creating?) the term "impact over-estimation" to describe standards less development-permissive than desired. They include also concluding a summarizing paragraph headed "Project-specific ..." with a sentence specifying "significant and unavoidable" cumulative impacts when the project-specific development is claimed to be "less than significant" (the first bulleted item on p. 4.6-1); the next bulleted item is headed "Cumulative Level ...", which enhances the sense of confusion that engages the reader at this point. Failed logic includes the claim that one definition of LOS measures and quantitative metrics is "more accurate" than another, and the associated use of one set of criteria to define standards and another set to evaluate whether they are being met. Add to this the many instances of carelessness such as using words with evidently opposite meaning "exceed" and "fall below" to imply the same thing (as in various IMPACT TRAN-... statements), and it is evident that the document can only be considered highly deficient. All of these errors in the DEIR cause confusion and are misleading to the public.

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These are only a few instances, which sketch the outlines of the complicated, distorted and obviously not pretty picture faced by a reader of the DEIR.

Given the array of deficiencies in the DEIR, and given the quite evident selective bias toward accomplishing certain development objectives in Carmel Valley, rather than providing in the DEIR the kind of fully objective, independent evaluation of environmental consequences,

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based on evidence and on scientifically and technically respectable assessment that CEQA requires, this DEIR serves only to identify some of the critically important significant environmental impacts that would be unavoidable of the 2007 General Plan were adopted, but does not fully analyze their extent and the degree of damage.

Inappropriate objectives, sloppiness, possible incompetence and apparent deviousness all seem to have infected the process of developing this report. It lacks the kind of integrity intended by CEQA and deserved by citizens of Monterey County and of California.

Nevertheless, the significance conclusions in the DEIR concerning traffic and emergency access make it abundantly clear that the Plan in its present form is not safe for the County, and is not adequate without major changes that would substantially reduce traffic and emergency access impacts.

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Figures and Captions
for
Comments On Section 4.6 (Transportation)
Of the DEIR for the
2007 General Plan Update (GPU5)

The three figures that follow show graphically the comparison between "Existing Conditions" and "2030 Cumulative Conditions" for Monterey County traffic as reported in Tables A and C of Appendix C to the DEIR. These conditions correspond to the two most realistic scenarios represented in the DEIR and provide the best basis for determining the significance of impacts of the 2008 General Plan.

Captions

Figure 1 compares existing (green) V/C values, distributed across the 281 road segments for which relevant data is included in Appendices A and C, with 2030 cumulative (red) V/C values distributed along the same segments. The data is organized by the sequence of LOS letter grades, from LOS F on the left and LOS A on the right. The decrease in V/C values from left to right is not monotonic because there are discontinuities in the data where letter grades shift from one to the next. The numbers of segments with each letter grade are shown in box above the data points, with cumulative totals given in parentheses. An overall characterization of the comparative data is given by the observation that sum of all ADT for existing traffic is 71.4% of the sum of existing roadway capacity, and the sum of ADT for 2030 cumulative traffic is 92.7% of 2030 cumulative roadway capacity.

Figure 2 compares the proportions (fractions) of existing (green) traffic with the portion of 2030 cumulative (red) traffic on roadways with LOS less than or equal to certain letter grades. From left to right, the three categories are LOS F, LOS E and F, and LOS D, E and F. Numerical proportions are shown at the top of each bar. The bars representing LOS E and F show relative impact from vehicles on substandard roads if the LOS D standard is adopted. The bars representing LOS D, E and F show the relative impact according to the current LOS C standard. The difference is the impact that actually will occur but will be ignored under the proposed standard.

Figure 3 shows the proportions (fractions) of existing (green) and 2030 cumulative (red) V/C values in each of the six LOS categories F, E, D, C, B, A. The numerical values of the proportions are given above the bars.

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Monterey County Traffic: GPU5 DEIR V/C Comparisons:
Existing, Plan, Cumulative

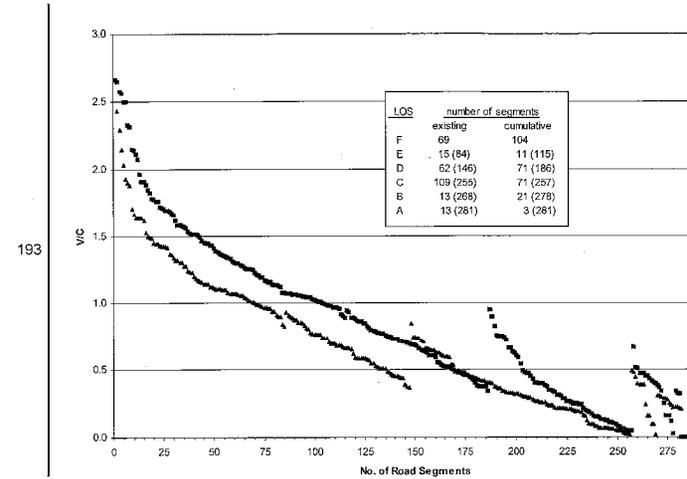
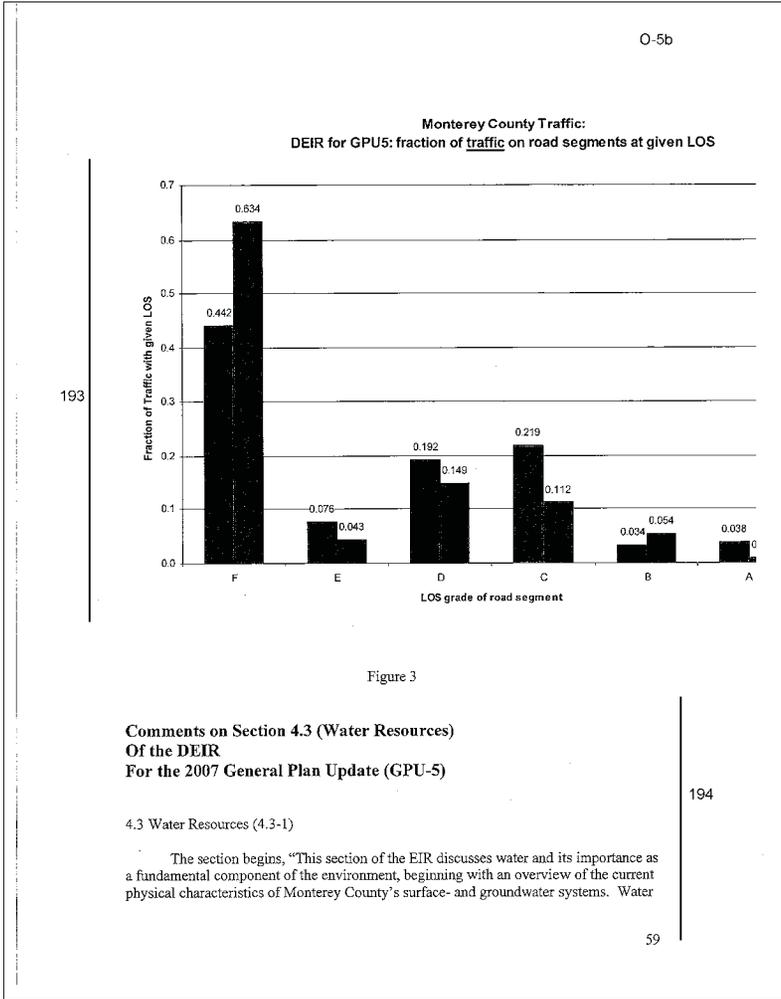
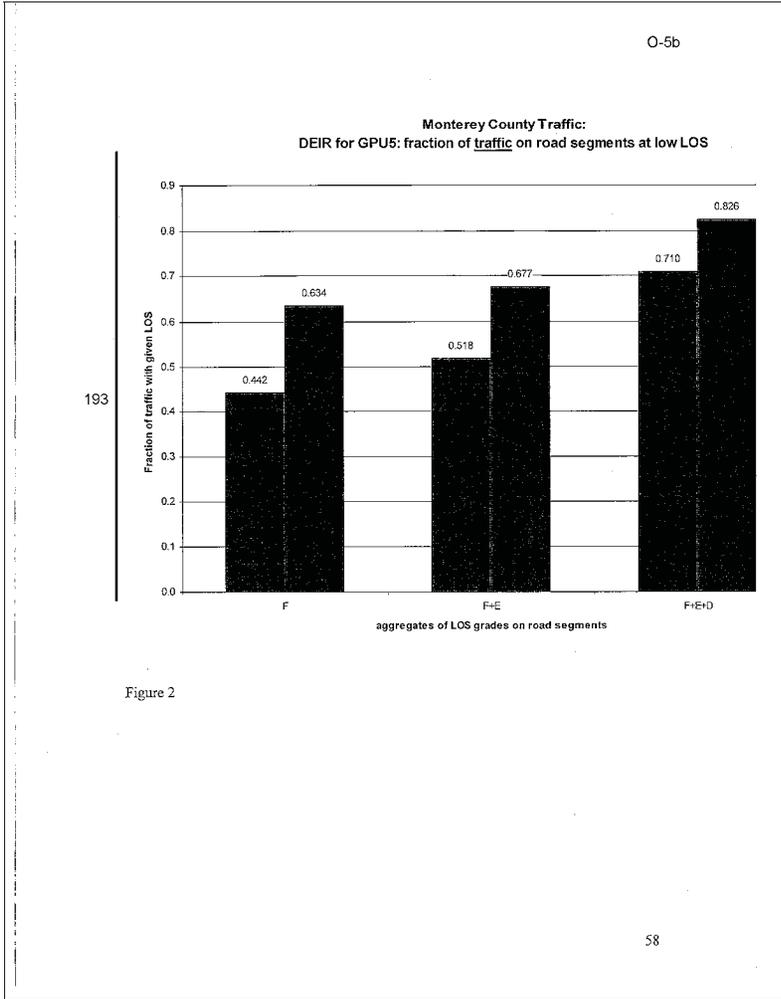


Figure 1

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supply and demand for human consumption and associated infrastructure is also discussed.”

1. (p.4.3-1). The section provides no more than a superficial discussion of water in Monterey County, and is totally inadequate in addressing the water impacts generated by GPU-5. It avoids addressing the most difficult questions regarding water in terms of current shortages, achieving sustainability for the current level of use, and options to provide for future growth. Water – effectively developed and managed -- is absolutely necessary for the future of Monterey County. Please address the hard questions the county faces in specific detail -- including current shortages, future impacts, mitigations, responsibilities, and alternate outcomes.

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The following comments are directed at those portions of the DEIR section 4.3 that particularly affect the Carmel Valley.

4.3.1 Abstract (p.4.3-1)

2. (p.4.3-1). Under Water Supply, DEIR states that, “Supply on the Monterey Peninsula will be adequate for current use ... assuming that the CalAm seawater desalination plant is permitted and operational by 2015.” This statement appears incredible, considering:

- a. The yet-to-be-determined feasibility of the proposed solution
- b. The proposed volume of water of 12,500 AFY to be desalinated
- c. The known water rights and claims exceeding this amount
- d. Legal measures restricting the transfer of water from one water basin to another
- e. The current practice of converting overlying rights to water for agricultural, industrial and recreational use to new residential and commercial development -- which is an expansion of use during seasonal and drought caused low water supply periods
- f. The continued reliance on the Carmel River Aquifer by CalAm in times of “water emergencies” when wells in other aquifers fail to deliver, and during frequent periods of area-wide drought

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How is this conclusion possible given the known facts?

- a. The SWRCB 95-10 Ruling that we are in overdraft of the Carmel River Basin, and decisions by the Seaside Water Master and the MPWMD regarding supplies from the Seaside Basin
- b. The proposed draft Cease and Desist Order
- c. The known current demand

Please provide the arithmetic behind current use, approved plans, overlying claims, and known supply for the Carmel Valley and Seaside aquifers during normal and drought years, along with all needed discussion to support your conclusion of “adequate for current use.”

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3. (p.4.3-1). “... assuming ... desalination plant ... operational by 2015...” This statement appears to be a giant leap of faith, considering:

- a. The EIR for the proposed CalAm plant is already 2 years behind previously published schedules
- b. The 2007 Federal Court Ruling, “Riverkeeper II,” which may rule out use of power plant cooling water altogether in the near future
- c. Experience with construction and operation of other California desal plants to date, such as Carlsbad, does not support this timetable or its optimism

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Given the extreme environmental sensitivity of Monterey Bay and the political environment, a 2015 completion date and reaching a production rate of 12,500 AFY by that date surely appears unachievable. Please provide facts and thorough discussion to support your assumption that a desal plant will be producing 12,500 AFY of potable water by 2015.

4.3.2.2 Monterey County Watersheds

Seaside Area Groundwater Subbasin

4. (p.4.3-10). DEIR does not address issue of increased demand from overlying claims – a real factor in the Seaside Basin just as is in the Carmel River Basin. Why are these claims not addressed? Please quantify and include this data in your calculations, discussion and conclusions of future demand and supply issues.

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Carmel River Watershed

5. (p.4.3-13). DEIR states, “As the allocated water has been exhausted ... claims of riparian rights have been observed ...” These rights have been acknowledged and enumerated in Table 13 of the SWRCB 95-10 ruling. Why aren’t these rights specifically identified and evaluated? Please quantify and include this data in your calculations, discussion and conclusions of future demand and supply issues.

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Groundwater Management and Monitoring Management Programs

6. (p.4.3-45). Why are the potential for subsidence and collapse of the aquifer not included among the dangers of over drafting? Both have occurred in California and much of the West. A discussion of the feasibility and limits to injection and groundwater recovery projects would also be appropriate here, given the potential problems and complexity of successfully injecting and mixing foreign water into groundwater basins. Please expand.

198

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4.3.3 Regulatory Framework

7. (p.4.3.48). The DEIR mentions the complex nature of water laws, regulations and agencies, over-lapping responsibilities, etc. Why are the outright contradictions in water laws and water policies not discussed? For example, the existence of water rights exceeding available supply? Or the conversion of water rights for agricultural, industrial or recreational use to rights for domestic use? Please also address the effects of routine non-compliance and non-enforcement of regulations – particularly regulations regarding grading, run-off, discharge of material into seasonal streambeds, hard-surfacing and channeling of surface water. Please also address the inadequacies of current development laws – for example the thresholds of 500 units in SB 610 and SB 221 leading developers to propose more developments just below these thresholds. Please expand on this discussion and the implications for future development and government planning for adequate water supplies.

199

Potable Water Supply

Impact WR-4

8. Table 4.3-9 (p.4.3-115). Why does this table not include the proposed Monterey Bay Shores Resort Development in Sand City, with claimed water rights of 149 AFY from the depleted Seaside Aquifer, and to be served by CalAm in the amount of 90 AFY?

200

9. (p.4.3-125). How does the Carmel Valley Master Plan integrate with GPU-5 with regard to water issues? Will it be fully enforceable as previously written without re-adoption? Please discuss.

201

10. Significance Determination, Monterey Peninsula (pp.4.3-127-128). “Coastal Water Project ... will solve the existing supply problem ...” Discussion does not include the current practice of converting overlying water rights for agricultural, industrial and recreational use to water for new commercial and residential use, which creates water “on paper” but no new water for actual development. How does GPU-5 “...constrain(s) discretionary development until long-term water supplies are secured.” As claimed here? How does GPU-5 constrain such developments as Monterey Bay Shores Eco-Resort and Rancho Canada Village?

202

There are major differences between water uses such as using brackish well water to wash sand and well water for irrigating a golf course (where much water is pumped seasonally, and much returns to the aquifer it was pumped from) -- and treated water for year-around residential use, followed by transfer of that valuable wastewater to other locales. Such conversions of non-residential water to water for residential development and the potential loss of wastewater from the groundwater basin which produced it are not addressed by GPU-5, or by the DEIR. Please address this potable and non-potable water supply relationship problem fully, and discuss possible mitigations.

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Impact WR-6 Deplete groundwater supplies ...

11. (p.4.3-147) (bottom of paragraph 4). “These include capital programs for better storage, ... development of new water supplies, including potential out-of-basin imports.” This appears to be a new idea, introduced into this document here for the first time. Please expand – what potential out-of-basin imports? Although such ideas have been discussed for a least a century, none have ever appeared feasible within normal planning time-frames. Given the increasingly tight water supplies statewide, does this refer to icebergs, Columbia River water? Or does this refer to desal? Please expand and explain.

203

12. (p.4.3-154) (paragraph 3). “With implementation of mitigation measure MM WR-1 the Monterey Peninsula would maintain this impact to a less-than-significant level.” And, (paragraph 6), “WR-1: Support a Regional Solution for the Monterey Peninsula in addition to the Coastal Water Project.”

There is a circular quality to the thinking here that is only reinforced by the word “solution.” As a result, the purported analysis is more boosterism than realism, and is far too hypothetical to be included here. The relative permanence of any “solution” to the groundwater problems in the Seaside and Carmel Valley aquifers should be questioned, given their current state of decline. See also comments 2, 3 and 6 above. The Monterey Peninsula should be included in those areas with “Significant and Unavoidable” problems with groundwater depletion. Please revise, or supply adequate evidence to support your opposite conclusion.

204

Impact WR-7 Land uses and development ... would increase demand on groundwater supplies ... result in increased saltwater intrusion

13. (p.4.3-163). Mitigation Measures/Significance Conclusion. See comments 2, 3, 6 and 12 above. Absent data and studies to the contrary, the Seaside Basin should be included in those areas with “Significant and Unavoidable” problems with salt water intrusion. Please provide a factual basis for your conclusions to the contrary, or revise.

205

COMMENTS ON CARMEL VALLEY MASTER PLAN

LAND USE

- Please clarify the level of future residential development in Carmel Valley as several different numbers are used. CV 1.6 says that 266 new lots will be created; Table 3.8 uses the figure 101 new units (in addition to 492 existing lots that could produce another 758 units); the traffic section “assumes development of 1,188 housing units” to 2030, while Table 3-8 uses the figure 1,148; in addition, Table 3-8 notes another 390 potential new units at mid-valley as part of the AHO, although elsewhere the

206

63

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<p>discussion for the mid-valley AHO is 149 units. In other recent documents, the County has provided figures of 212 and 1,044 remaining undeveloped legal lots of record in the CVMP area. CV 1.11 allows for greater densities in excess of build out quota. Is the Condon/Chugach STA subdivision (CV 1.23) counted against the buildout quota? All these contradictory figures cannot be correct. Please do all necessary and appropriate research to provide absolute clarity on the remaining undeveloped legal lots of record, how many units those lots can generate, how many new parcels are allowed under GPU-5, how many units those new parcels can generate, and how many units the AHO at mid-valley can generate. <u>What is the real build out number in Carmel Valley, and exactly what constitutes it?</u> Please be clear and specific.</p>	206
<ul style="list-style-type: none"> We find no adequate analysis of the impacts in Carmel Valley of all the cumulative development noted above, especially pertaining to traffic. <u>Please do all necessary and appropriate research on these cumulative impacts</u>, including the already approved, but not fully built projects in Carmel Valley (for example, Rancho San Carlos subdivision, September Ranch subdivision, the third 'anchor store' at Crossroads, the Gamboa assisted living facility (Carmel Cottages), etc.). 	207
<ul style="list-style-type: none"> Four STAs are identified in Carmel Valley (Rancho Canada, Rancho San Carlos, Carmel Valley Ranch, and Condon/Chugach), and one Study Area-cum-STA (Gardiner), yet there is no analysis of STA in the land use discussion, no adequate project description, and no analysis of the current, on-the-ground conditions for these STAs. There is not even a definition of what constitutes a STA. <u>Please provide a detailed analysis of exactly what constitutes an STA in terms of land use, and provide adequate descriptions of the projects accommodated by this designation, and the current conditions on the project sites.</u> 	208
<ul style="list-style-type: none"> <u>How is the Rancho Canada STA consistent with the goals of GPU-5, especially with regard to flooding?</u> Most of the STA is located in the 100-year flood plain, and all of it is located in the 200-year floodplain (now the widely recommended benchmark for planning in California)? Encouraging relatively intensive growth in and around the flood plain of the Carmel River appears to contradict many of the General Plan's goals. 	209
<ul style="list-style-type: none"> On Exhibits 3.2 and 3.2a (Land Use Designations) there is a prominent black "master plan" designation in the vicinity of Carmel Valley Ranch. Please explain what this means. CVR has a specific plan, not its own "master plan," so this is confusing. 	210
<ul style="list-style-type: none"> Corrected Exhibit 3.8 shows that all or part of the Special Treatment Area for Rancho Canada Village is in the 100 year flood plain, but GPU-5 language on this STA says only those areas outside the flood plain can be developed. Why this discrepancy? <u>Why does the corrected Exhibit 3.8 STA for Rancho Canada Village clearly include areas in the flood plain, all the way down to and across the Carmel River?</u> Why is it not limited to those parts (if any) of Rancho Canada Village that are above the flood plain? 	211
64	

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<ul style="list-style-type: none"> Please explain why Exhibits 3.7 and 3.8 show the already built commercial areas of the Crossroads, much of Carmel Rancho and the Barnyard, and the Brinton's complex as zoned "planned commercial" instead of "commercial". 	212
<ul style="list-style-type: none"> Please confirm that the designation of the airport as a STA in Exhibit 3.8 was a mistake and that the corrected Exhibit 3.8 that does not show the airport as a STA is correct. 	213
<ul style="list-style-type: none"> Please explain why the Safeway complex at mid-valley appears as zoned "planned commercial" not "commercial". 	214
<ul style="list-style-type: none"> Exhibit 3.26 shows the AHO at mid-valley bisecting at least 15 parcels. <u>How can an AHO apply to only part of a parcel?</u> 	214
<ul style="list-style-type: none"> Page 4.1-3 incorrectly says that the 1986 CVMP was established to "preserve the semi-rural character" of Carmel Valley. In fact, the first goal of the CVMP is to "preserve the rural character of Carmel Valley." <u>Did your confusion over the important distinction between "semi-rural" and "rural" when it comes to Carmel Valley at all impact your analysis?</u> If so, how? If the answer is "no" please provide satisfactory evidence. 	215
<ul style="list-style-type: none"> <u>Where is the analysis for impacts in Carmel Valley?</u> There is virtually no significant discussion of environmental impacts from GPU-5 in Carmel Valley, and thus very little for us to comment upon in the DEIR. The dearth of pertinent information about potential impacts in Carmel Valley means that this DEIR has failed as an informational document. 	216
<p>PUBLIC SERVICES AND UTILITIES</p>	
<ul style="list-style-type: none"> Virtually all of Carmel Valley is on septic with few residents served by wastewater treatment plants. At the same time, Carmel Valley has become home to numerous artisan wineries that produce 90,000 gallons per year of wastewater (Table 4.11-7). In addition, the increase in residential subdivision noted in GPU-5 will add more wastewater discharge to Carmel Valley. What are the expected environmental impacts in Carmel Valley from this increase in wastewater production? What will be the health impacts? 	217
<ul style="list-style-type: none"> Page 4.11-35 notes the potential for much greater impermeable surfaces due to development that would result in greater runoff. What are the flooding implications in the Carmel River watershed of the increased impermeable surfaces, given potential buildout? 	218
<ul style="list-style-type: none"> The CVMP requires that post-development runoff be no greater than pre-development runoff. Please explain how it is possible for there to be no net increase in runoff in 	219
65	

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Carmel Valley given the level of future growth (and impermeable surfaces) called for in GPU-5?

219

- In addition to the impermeable surfaces of current and future developments under GPU-5 that result in greater water runoff, related construction also impacts water runoff, including the channelization of runoff, increased water and sewer hook-ups, and changes to the floodway. While any one project may be found to have 'less than significant impacts' and other impacts may be found to be unavoidable, the real environmental issue is all their cumulative impacts. When it comes to water runoff and flooding in Carmel Valley, what are the expected cumulative impacts of current and expected development under GPU-5? And what are your recommended remedies to fix these cumulative runoff and flooding problems?

220

- The Rancho Canada STA is expected to lead to a significant introduction of new impermeable surfaces along the Carmel River in areas that have historically flooded. What will be the likely environmental impacts in the mouth of Carmel Valley of the Rancho Canada STA with regard to increased storm runoff as a result?

221

EXECUTIVE SUMMARY

- On what basis in LOS D now considered the acceptable standard for segments 3-7 of Carmel Valley Road? The stated and historical LOS for Carmel Valley Road is "C". When and how did this LOS standard change?

222

- Many of the "unavoidable" impacts are indeed avoidable, if a smaller project is done. We note the GPI has much reduced environmental impacts, especially regarding land use (development), traffic, and air pollution, by comparison to GPU-5. Why is the larger project considered preferable?

222

PROJECT DESCRIPTION

- 3.4.5.5 incorrectly says the proposed boundaries for an incorporated Town of Carmel Valley are the CVMP with the inclusion of Sleepy Hollow. Neither the proposal nor LAFCO staff recommendations include Sleepy Hollow. The Sleepy Hollow HOA has asked to be included within the Town's boundaries. Please correct.

223

- Page 3-33 notes that the Rancho Canada STA must include a minimum of 50% affordable/workforce housing. Is the 50% affordable/workforce housing to be in perpetuity?

224

- Page 3-33 notes the limitation of 266 new lots within Carmel Valley. Does this figure include the lots created under the four STAs and the one Study Area, or is it in addition to these lots?

225

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- Can the "density bonuses" for AHOs noted on page 3-46 increase the mid-valley AHO unit buildout above 390 units? If so, by how many units more? Have you examined the impacts of this increased number?

226

Sincerely,

The Carmel Valley Association
 Tim Sanders
 Todd Norgaard
 Glenn Robinson
 John Dalessio

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MEMORANDUM

December 8, 2008

To: Supervisor Dave Potter
From: Ad Hoc Group from Carmel Valley Road Committee (Margaret Robbins, Janet Brennan, Tim Sanders, Glenn Robinson)

SUBJ: DEIR for GPU5 pertaining to Carmel Valley Traffic Issues

1. **Background.** On October 29, 2008, the Carmel Valley Blue Ribbon Road Committee met under your chairmanship to discuss the DEIR/GPU5 implications for Carmel Valley, including the potential lifting of the subdivision moratorium (BOS Resolution 02-024). Because of the considerable public interest in these issues, you asked that the four of us constitute an ad hoc group to summarize the public's concerns and questions, and to meet with you regarding them. This memorandum summarizes those issues, asks for clarifications where the DEIR is unclear, and recommends policy direction for your consideration. | 1
2. **Bulldout numbers/266 cap.** Future development will have a direct impact on traffic levels in Carmel Valley, yet we find inconsistencies in the bulldout numbers for Carmel Valley analyzed in the DEIR. It is our understanding that the 266 cap was developed by subtracting approved and unbuilt subdivisions, built and unbuilt single family dwelling and adjunct units, and vacant lots of record from the CVMP cap of 1,310 units and lots (p. 9 CVMP). We would like to confirm that the 266 cap is consistent with the overall cap of 1,310 and includes both units and existing lots. To avoid confusion after GPU5 is adopted, the specific projects and dwelling units that constitute approved and unbuilt subdivisions, residential and adjunct units should be identified in a table similar such as that found in Appendix 1. We ask that you direct county staff to complete the table in Appendix 1. Regarding the 2092 bulldout number of 1,148 new units, we understand how the 390 new units for the Carmel Mid-Valley AHO were derived. However, we do not understand how 758 new units were calculated given the cap in the CVMP of 266 new units/lots. Please explain. | 2
3. **Missing Traffic Data.** The DEIR is missing important traffic data from Carmel Valley that are essential to drawing sound conclusions. These data are available for other parts of Monterey County. Please provide the following data: full data for all segments of County Road G16 (Carmel Valley Road) from SR-1 to Via Los Tulares, and for SR-1 from Carpenter Street to Riley Ranch Road, all of which are missing from Tables A, B and C of Appendix C (Traffic). | 3
4. **Unclear LOS Standard.** The CVMP sets the LOS standard at "C." Judge Richard Silver ruled clearly in 1987 that CVMP 39.3.2.1 sets the LOS at C: "COUNTY acknowledged and agreed to the clarification [that] LOS C is the traffic standard adopted by the | 4

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COUNTY in the Carmel Valley Master Plan. It is a goal to be achieved over the life of the plan." [emphasis in original]. GPU5 also establishes the LOS standard at "C" (CV-2.12). Yet, the DEIR establishes LOS lower than C as a standard. Why? The DEIR is also internally inconsistent in identifying LOS by segment, and is inconsistent with other county studies of LOS in Carmel Valley, including the CVTIP. Please see Appendix 2 as an example of this inconsistency. Lowering the LOS standard has the added disadvantage of allowing even greater levels of traffic in the future. For example, if an ADT standard is changed from LOS C to LOS D, the change creates an opening for a 50% increase in traffic; from D to E creates an opening for a 100% increase; from C to E creates a 300% opening. Please see Appendix 3 for an example on Segment 7 of increased traffic potential due to declining LOS standards. | 4

5. **Different Standard Used for Carmel Valley.** Circulation studies for the rest of Monterey County use the ADT standard for measuring actual LOS levels. Only in Carmel Valley is the peak hour PTSF (percent of time spent following) used. Why? The argument given on page 4.6-9 of the DEIR is both factually incorrect (i.e., ADT is explicitly the standard used in the CVMP) and misleading (e.g., conflation of different items in the annual CVR monitoring reports and the CVTIP). Use of the peak hour PTSF standard lessens traffic impacts by comparisons to the ADT standard (in the bureaucratic language of the DEIR, it "overcomes ... impact over-estimation"), thus making it appear that Carmel Valley's traffic is relatively less than it actually is, by comparison to the rest of the county. | 5
6. **BOSR 02-024 and Capacity Improvements on Highway One.** BOSR 02-024 is explicit that the subdivision moratorium may be lifted only after "the construction of capacity-increasing improvements to State Highway 1 between its intersections with Carmel Valley Road and Morse Drive. . ." No such capacity-increasing improvements have been built and none will be built under GPU5. Yet, GPU5 and its DEIR essentially ignore BOSR 02-024 and its conditions for removal in the development plans for Carmel Valley. Why? The conditions imposed by BOSR 02-024 should be centrally featured in both documents. | 6
7. **Policy Considerations.** It is the sense of our group that the following recommendations are widely shared in Carmel Valley, reflect the wishes of our community, and should be made clear by Board action.
 - That a single, permanent traffic standard of LOS C be established for Carmel Valley Road in clear, unequivocal terms. In reporting by the County, LOS C values should be reported quantitatively as well as by letter grade; the quantitative measure should be ADT/LOS C, where LOS C refers to the numerical upper bound of ADT in the LOS C category; this ratio will be ≤1 if the LOS C criterion is met, >1 if not.
 - That ADT be used as the appropriate choice of measurement of LOS.
 - That when a segment of Carmel Valley Road drops below LOS C, then development beyond existing legal lots of record in that segment area should cease until mitigations are put in place that result in an LOS of C. We believe that in some cases mitigations may be inconsistent with | 7

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preserving the rural nature of Carmel Valley and thus undesirable. Those decisions should be made on a case-by-case basis in consultation with the Carmel Valley Road Committee and the Carmel Valley Land Use Advisory Committee.

- That Board Resolution 02-024 be enshrined as permanent policy.
- That all policies in the CVMP, including those related to Carmel Valley Road, should reflect the principal planning function of *preventing* the overloading of infrastructure facilities. The difficulty and costs of recovery from overburdened facilities far exceed those of prevention, and should be avoided.

7. Thank you.

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APPENDIX 1: BUILD OUT NUMBERS FOR CARMEL VALLEY
(Please have staff complete)

Category	Units	Source
Approved Subdivisions Unbuilt - 1987 to 1998 • Project 1 • Project 2 • Etc.		
Approved Subdivisions Unbuilt - 1998 to 2006 • Project 1 • Project 2 • Etc.		
Approved SFDS/Adjunct built - 1987 to 1998 • Project 1 • Project 2 • Etc.		
Approved SFDS/Adjunct unbuilt - 1999 to 2005 • Project 1 • Project 2 • Etc.		
Approved SFDS/Adjunct built and unbuilt - 2006 to 2008		
Vacant lots of record		
Other, if any		
Total		
Cap	1310.0	
Remaining	266.0	

2

O-6a

APPENDIX 2: INCONSISTENT LOS FOR CARMEL VALLEY ROAD

The following table illustrates, through a few recent examples, the difficulties in making sense of the meaning of LOS as variously interpreted and reported. DEIR here refers to the GPU5 DEIR, and TIPDSEIR refers to the Traffic Improvement Program DSEIR.

Examples of Inconsistencies in LOS for Carmel Valley Road

CVR segment	CVMP standard	"acceptable" DEIR p. 4.6-62	DEIR Tbl 4.6-21, "Existing"	"current" DEIR Tbl 4.6-5	TIPDSEIR Tbl 6 Append F	CVMP monitor 3-yr avg
3 [2B]	C	D	D	C/B	C/B	
4 [3]	C	D	E	C	C	C--
5	C	D	E/F	D/C	D	C-
6	C	D	F	D	D	C-
7	C	D	F	D	D	D
8	C	C	F	A	A	B
9	C	C	D	B/A	B/A	B
10	C	C	D	B/A	B/A	B

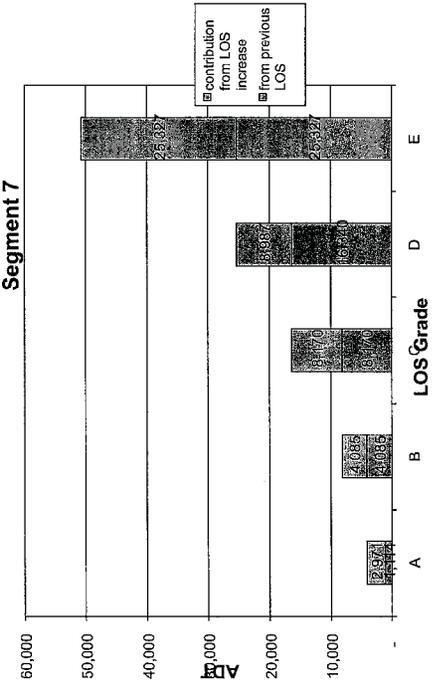
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APPENDIX 3: EXTENT OF EXPOSURE TO GREATER TRAFFIC BY LOWERING THE LOS STANDARD (SEGMENT 7).

Contributions to ADT from Increasing LOS Segment 7



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O-6b 5.2

AD HOC CARMEL VALLEY TRAFFIC COMMITTEE

January 30, 2009

Mike Novo
County of Monterey
Salinas, CA

Via electronic mail: novom@co.monterey.ca.us

Dear Mr. Novo,

Monterey County
Planning and Building
Inspection / Administration

FEB 9 2009

RECEIVED

Rec'd e-mail
2/2/09

1. **Background.** On October 29, 2008, the Carmel Valley Blue Ribbon Road Committee met under the chairmanship of Supervisor Dave Potter to discuss the DEIR/GPU5 implications for Carmel Valley, including the potential lifting of the subdivision moratorium (BOS Resolution 02-024). Because of the considerable public interest in these issues, Supervisor Potter asked that the four of us constitute an ad hoc group to summarize the public's concerns and questions, and to meet with Supervisor Potter regarding them. On December 8, 2008, we met with Supervisor Potter and County Staff to discuss these issues. Supervisor Potter and staff recommended that we memorialize our concerns as a response to the DEIR of GPU-5. The following is our response. We ask that you respond to each of these issues by doing all necessary and appropriate research to answer each concern fully and clearly. Thank you.
2. **Buildout numbers/266 cap.** Future development will have a direct impact on traffic levels in Carmel Valley, yet we find inconsistencies in the buildout numbers for Carmel Valley analyzed in the DEIR. It is our understanding that the 266 cap was developed by subtracting approved and unbuilt subdivisions, built and unbuilt single family dwelling and adjunct units, and vacant lots of record from the CVMP cap of 1,310 units and lots (p. 9 CVMP). We would like to confirm that the 266 cap is consistent with the overall cap of 1,310 and includes both units and existing lots. To avoid confusion after GPU5 is adopted, the specific projects and dwelling units that constitute approved and unbuilt subdivisions, residential and adjunct units should be identified in a table similar such as that found in Appendix I. Regarding the 2092 buildout number of 1,148 new units, we understand how the 390 new units for the Carmel Mid-Valley AHO were derived. However, we do not understand how 758 new units were calculated given the cap in the CVMP of 266 new units/lots. Please explain.
3. **Missing Traffic Data.** The DEIR is missing important traffic data from Carmel Valley that are essential to drawing sound conclusions. These data are available for other parts of Monterey County. Please explain why the following data are missing and please provide them: full data for all segments of County Road G16 (Carmel Valley Road) from SR-1 to Via Los Tulares, and for SR-1 from Carpenter Street to Riley Ranch Road, all of which are missing from Tables A, B and C of Appendix C (Traffic).

11:27 AM

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4. **Unclear LOS Standard.** The CVMP sets the LOS standard at "C." Judge Richard Silver ruled clearly in 1987 that CVMP 39.3.2.1 sets the LOS at C: "COUNTY acknowledged and agreed to the clarification [that] LOS C is the traffic standard adopted by the COUNTY in the Carmel Valley Master Plan. It is a goal to be achieved over the life of the plan." *emphasis in original*. GPU5 also establishes the LOS standard at "C" (CV-2.12). Yet, the DEIR establishes LOS lower than C as a standard. Why? The DEIR is also internally inconsistent in identifying LOS by segment, and is inconsistent with other county studies of LOS in Carmel Valley, including the CVTIP. Please see Appendix 2 as an example of this inconsistency. Please explain these inconsistencies. Lowering the LOS standard has the added disadvantage of allowing even greater levels of traffic in the future. For example, if an ADT standard is changed from LOS C to LOS D, the change creates an opening for a 50% increase in traffic; from D to E creates an opening for a 100% increase; from C to E creates a 300% opening. Please see Appendix 3 for an example on Segment 7 of increased traffic potential due to declining LOS standards. Please explain if this is correct and, if so, what the full impacts on Carmel Valley will be from this diminished LOS.
5. **Different Standard Used for Carmel Valley.** Circulation studies for the rest of Monterey County use the ADT standard for measuring actual LOS levels. Only in Carmel Valley is the peak hour PTSF (percent of time spent following) used. Why? The argument given on page 4.6-9 of the DEIR is both factually incorrect (i.e., ADT is explicitly the standard used in the CVMP) and misleading (e.g., conflation of different items in the annual CVR monitoring reports and the CVTIP). Is this correct, and, if so, what are the full impact on Carmel Valley? Use of the peak hour PTSF standard lessens traffic impacts by comparisons to the ADT standard (in the bureaucratic language of the DEIR, it "overcomes ... impact over-estimation"), thus making it appear that Carmel Valley's traffic is relatively less than it actually is, by comparison to the rest of the county. Is this correct? If the ADT standard is used instead, what will be the full impacts on Carmel Valley? Please provide these data.
6. **BOSR 02-024 and Capacity Improvements on Highway One.** BOSR 02-024 is explicit that the subdivision moratorium may be lifted only after: "the construction of capacity-increasing improvements to State Highway 1 between its intersections with Carmel Valley Road and Morse Drive..." No such capacity-increasing improvements have been built and none will be built under GPU5. Yet, GPU5 and its DEIR essentially ignore BOSR 02-024 and its conditions for removal in the development plans for Carmel Valley. Why? The conditions imposed by BOSR 02-024 should be centrally featured in both documents. Please recalculate the full traffic impacts on Carmel Valley if BOSR 02-024 remains in place for the duration of the General Plan. Please explain why BOSR 02-024 is noted only marginally in the DEIR as though it may not be around during the life of the General Plan.
7. **Policy Considerations.** It is the sense of our group that the following recommendations are widely shared in Carmel Valley, reflect the wishes of our community, and should be made clear by Board action. Please comment on each of these recommendations and explain their impacts if adopted in the General Plan.

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- That a single, permanent traffic standard of LOS C be established for Carmel Valley Road in clear, unequivocal terms. In reporting by the County, LOS C values should be reported quantitatively as well as by letter grade; the quantitative measure should be ADT/LOS C, where LOS C refers to the numerical upper bound of ADT in the LOS C category; this ratio will be ≤ 1 if the LOS C criterion is met, > 1 if not.
- That ADT be used as the appropriate choice of measurement of LOS.
- That when a segment of Carmel Valley Road drops below LOS C, then development beyond existing legal lots of record in that segment area should cease until mitigations are put in place that result in an LOS of C. We believe that in some cases mitigations may be inconsistent with preserving the rural nature of Carmel Valley and thus undesirable. Those decisions should be made on a case-by-case basis in consultation with the Carmel Valley Road Committee and the Carmel Valley Land Use Advisory Committee.
- That Board Resolution 02-024 be enshrined as permanent policy.
- That all policies in the CVMP, including those related to Carmel Valley Road, should reflect the principal planning function of *preventing* the overloading of infrastructure facilities. The difficulty and costs of recovery from overburdened facilities far exceed those of prevention, and should be avoided.

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Thank you.

Sincerely,

Janet Brennan
Margaret Robbins
Glenn Robinson
Tim Sanders

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APPENDIX 1: BUILD OUT NUMBERS FOR CARMEL VALLEY

CATEGORY	UNITS	SOURCE
Approved Subdivisions Unbuilt – 1987-1998	140	p. 231 Land Use Forecasting methodology, CV Traffic Study
Approved Subdivisions Unbuilt – 1998-2006	152	p. 231
Approved SFDS/Adjunct unbuilt – 1987-1998	379.5	Table 5, CV Traffic Study
Approved SFDS/Adjunct Unbuilt	75.5	p. 231, Table 4
Vacant lots of record/other	38.5	
Total	1044.0	
Cap	1310.0	
Remaining	266	

Please correct any errors in this chart and cite your source.

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APPENDIX 2: INCONSISTENT LOS FOR CARMEL VALLEY ROAD

The following table illustrates, through a few recent examples, the difficulties in making sense of the meaning of LOS as variously interpreted and reported. DEIR here refers to the GPU5 DEIR, and TIPDSEIR refers to the Traffic Improvement Program DSEIR. Please correct any errors in this chart.

Examples of Inconsistencies in LOS for Carmel Valley Road

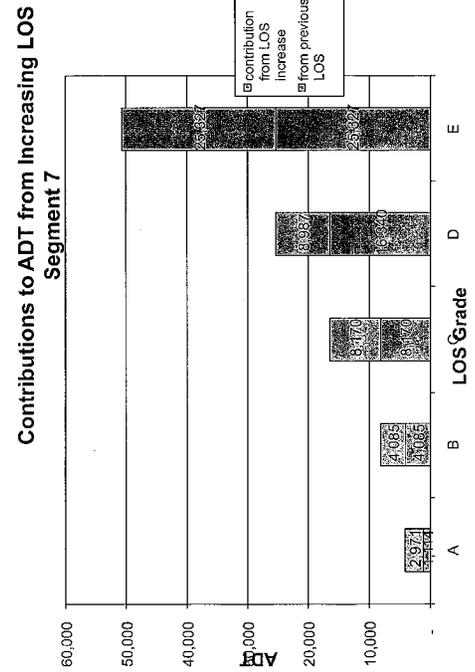
CVR segment	CVMP standard	"acceptable" DEIR p. 4.6-62	DEIR Tbl 4.6-21, "Existing"	"current" DEIR Tbl 4.6-5	TIPDSEIR Tbl 6 Append F	CVMP monitor 3-yr avg
3 [2B]	C	D	D	C/B	C/B	
4 [3]	C	D	E	C	C	C-
5	C	D	E/F	D/C	D	C-
6	C	D	F	D	D	C-
7	C	D	F	D	D	D
8	C	C	F	A	A	B
9	C	C	D	B/A	B/A	B
10	C	C	D	B/A	B/A	B

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APPENDIX 3: EXTENT OF EXPOSURE TO GREATER TRAFFIC BY LOWERING THE LOS STANDARD (SEGMENT 7).



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Ruth Smith
President
Citizens for a Sustainable Monterey County
PO Box 4060
Monterey, CA 93940

Monterey County
Planning and Building
Inspection Administration

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Comments 2/1/09
5:42 pm

February 1, 2009

Carl Holm and Monterey County Board of Supervisors
County of Monterey
Planning Salinas Permit Center
103 West Alisal Street
Salinas, CA 93901

Re: Draft Environmental Impact Report (DEIR) for General Plan Update 5 (GPU 5).

Dear Mr. Holm, and Supervisors Calcagno, Salinas, Armenta, Parker, and Potter,

Citizens for a Sustainable Monterey County (CSMC) has reviewed the Draft Environmental Impact Report (DEIR) for the proposed General Plan Update (GPU) 5 and submits this letter as our formal comment on this matter.

The DEIR identifies significant and unavoidable impacts on agriculture, aesthetics, traffic, and water supply and water quality with implementation of the proposed General Plan. For all areas in which significant and unavoidable impact has been identified, CSMC strongly disagrees with the determination. The impacts are not unavoidable. Please see the specifics of our concerns below.

Global Warming. The DEIR fails to consider impacts of accelerated global warming, and is thus inconsistent with State Law. The State of California has committed to the following emissions reduction targets pursuant to AB32:

- to 2006 levels by 2010 (11% below business as usual)
- to 1990 levels by 2020 (25% below business as usual)
- 80% below 1990 levels by 2050.

How has Monterey County acknowledged the intent of AB32 and SB375 in its proposed GPU 5?
What will be the increase in greenhouse gas emissions resulting from the proposed plan compared to 1990 levels?

Traffic. The DEIR identifies traffic at Level of Service (LOS) E and F as significant and unavoidable. Increasing traffic congestion without adequate mitigation is inconsistent with California emissions reductions targets. You will find that increased walkable transit oriented development (TOD) would reduce the impact to a less than significant level.

The alternatives proposed in the DEIR have not adequately considered infill development and land use consistent with SB375. TOD maximizes infrastructure efficiency, primarily through daily transportation support infrastructure, with a focus on pedestrians, bicycles, scooters, and public transit. TOD minimizes single occupant vehicle trips by making

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valuable design for pedestrians a priority, and emphasizing collector transport with quality high-density development with a mix of uses within walking distance of a centrally-located train and/or public transport station. It also maximizes the reduction of vehicle miles traveled. Unnecessary peak hour vehicle miles traveled as identified in the DEIR would result in negative air quality and climate change impacts that are in non-compliance with AB32 and SB375.

What is the residential unit capacity of infill development within County boundaries?
How many proposed residential units could be replaced by infill development?
Is the number of units enough to offset housing requirements?
What is the correlated effect on LOS for the roadways and intersections currently in exceedance of the threshold?

Agriculture. The Draft EIR identifies the loss of Important Farmland and Williamson Act land as a significant and unavoidable impact. However, the impact may be avoided by implementing land use consistent with SB375 and limiting additional housing units to the amount required to accommodate population increase minus the mean annual available housing units averaged over the past four years. (see also Transportation above)
How many acres of Important Farmland and Williamson Act land could infill development protect from conversion to non-agricultural uses?

By how many acres could the unavoidable impact to agricultural resources be lessened?

Water. Future growth anticipated by the 2006 General Plan would result in significant impacts to water quality and groundwater resources. Erosion associated with agricultural activities would result in sediment loading of streams and rivers, resulting in degraded water quality. Increased demands for potable water associated with future urban development may result in the exacerbation of existing groundwater overdraft and seawater intrusion problems. The use of ground- and surface-water for potable consumption could be reduced to a less than significant impact by considering some effective proven sanitary means for offsetting home water demand. Impacts would be substantially lessened by implementing rainwater catchment policy and limiting landscape watering to food-bearing plants only. Appropriate landscaping would maximize use of plants adapted for our region and climate zone, and should comprise greater than half of vegetation. In support, please review *Position Paper: Sustainable Water Management*, prepared by our affiliate Sustainable Pacific Grove in May 2008, downloadable at www.sustainablepg.org/sus_water.php.

By what percentage could water demand be reduced through implementation of simple water conservation devices, water catchment, and appropriate landscaping?

Thank you for your attention to the above matters.

We look forward to your response, and following this project through to consistency with State law.

Best regards,

Ruth Smith
President

Cc: CSMC Board of Directors
Sustainable Carmel Valley
Big Sur Power Down
Sustainable Pacific Grove
Monterey Green Action
Sustainable Seaside
Sustainable Salinas

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Calderon, Vanessa A. x5186

From: Megan Tolbert [m_tolbert2003@yahoo.com]
Sent: Sunday, February 01, 2009 5:42 PM
To: ceqacommments
Cc: Ruth Smith; Mark Folsom; Larry Telles; Robert Frischmuth; megan@montereygreenaction.com; Mark Folsom; George Wilson; Pierre & Virginia Chomat
Subject: Comment Letter on DEIR for GPU5 from CSMC

To Monterey County, Mr. Carl Holm, and the Monterey County Board of Supervisors,

Please find attached a comment letter on the Draft EIR for the proposed General Plan Update 5, submitted by Citizens for a Sustainable Monterey County.

Thank you,

Megan Tolbert
Vice President, CSMC
Director, Monterey Green Action

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4:36 pm

CPOA

Coast
Property
Owners
Association

2/2/09
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Via email to: holmcp@co.monterey.ca.us and ceqacommments@co.monterey.ca.us

Public comment by the Coast Property Owners Association on the Draft EIR for Monterey County's 2007 General Plan.

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Robert Carver
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Michael Gilson
Patte Kronlund
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Director
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Anita Alan

SUMMARY OF ISSUES

1. Mitigation policies in the Draft Environmental Impact Report (DEIR) for the 2007 General Plan (Plan) must be changed to say they do not apply in the coastal zone, with an explanation why. | 1
2. The DEIR finds environmental impacts and proposes new Plan policies to mitigate them, but the impacts and mitigations are not supported by substantial factual evidence as required by the California Environmental Quality Act (CEQA), so must be deleted or modified accordingly. | 2
3. The DEIR misstates the ability of County plans to affect federal land use and must be changed to avoid missing opportunities to do so. | 3

DETAILED DISCUSSION

1. Mitigation policies in the DEIR must be changed to say they do not apply in the coastal zone, with an explanation why. | 4

As adopted January 3, 2007, the Plan was designed to avoid conflicts with the County's four local coastal land use plans.¹ The Plan expressly states the intent to not change coastal plans.²

The Plan also states that coastal plans "may require different standards and policies" and must be free to vary from other portions of the Plan.³

¹ "The four adopted local coastal land use plans contained in the existing 1982 Monterey County General Plan will not be amended as part of the 2007 General Plan. The 2007 General Plan's goals and policies have been developed with the LCPs in mind and do not contain any provisions that would conflict with the four adopted local coastal plans." (DEIR pages 4.1-19 and 20.)

² 2007 General Plan, Introduction, section 1.5.d., pages vi and viii. For example, "The County is not amending the Local Coastal Program as part of this 2006 General Plan. The County will review the LCP after adoption of the 2007 General Plan Update." (Underline added.)

³ "In accordance with the state Coastal Act, this approach recognizes that the coastal zone is a distinct and valuable natural resource which requires unique planning considerations and may require different standards and policies than may apply in the non-coastal areas of the County." (2007 General Plan, Introduction, section 1.5.d., page viii; underline added.)

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The DEIR acknowledges the Plan's intent by stating that the DEIR will not change the County's coastal plans, that it did not analyze environmental impacts in coastal areas, and by describing the "project" analyzed by the DEIR as the County's general plan excluding coastal plans. For example:

The 2007 General Plan does not propose any changes to the LCP [Monterey County's Local Coastal Program]. Accordingly, these plans and land use patterns will not be analyzed in this EIR.... Any changes or updates made to these plans once the 2007 General Plan is adopted would require environmental review independent of this EIR. (DEIR, Project Description, at page 3-42; underline added.)

However, the DEIR then proposes new county-wide policies as mitigation measures.⁴ If included in the Plan as written, the DEIR's mitigation policies would expressly or impliedly apply in the coastal zone, which would not comply with CEQA, the Coastal Act, and Government Code general-plan statutes, for a number of reasons including:

- a. CEQA requires that determinations of significant impacts and related mitigation measures be based on substantial evidence in the record,⁵ and that the substantial evidence be based on facts.⁶ However, the DEIR did not analyze environmental impacts in the coastal zone.⁷ The DEIR does not provide fact-based substantial evidence showing that the Plan would result in significant impacts in the coastal zone, nor does it provide such evidence to show that DEIR mitigation policies are needed in the coastal zone to reduce impacts in the coastal zone.
- b. Monterey County's coastal land use plans are part of the Plan, and are therefore required by state general-plan law to be consistent with it.⁸ As adopted on January 3, 2007, the Plan was carefully crafted to avoid conflicts with coastal plans (see footnote

⁴ All DEIR mitigation policies would implicitly apply county-wide if adopted, and some expressly provide so. For example, Mitigation Measure BIO-2.1, reads in part, "The county shall develop and adopt a county-wide Stream Setback Ordinance ... [which] shall apply to all discretionary development within the County ..." (Underline added.) Coastal permits are discretionary permits.

Another express example, assuming DEIR mitigation BIO-1.5 contains a typographical error, it proposes a Comprehensive County Natural Communities Conservation Plan be prepared for all unincorporated areas.

⁵ "The lead agency shall determine whether a project may have a significant effect on the environment based on substantial evidence in light of the whole record." (PRC section 21082.2(a).)

⁶ CEQA/PRC section 21082.2(c) "Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts."

⁷ "The 2007 General Plan does not propose any changes to the LCP [Monterey County's Local Coastal Program]. Accordingly, these plans and land use patterns will not be analyzed in this EIR ... Any changes or updates made to these plans once the 2007 General Plan is adopted would require environmental review independent of this EIR." (DEIR, Project Description, page 3-42; underline added.)

⁸ Pursuant to Public Resources Code §30108.5 and §30108.55, a coastal land use plan is incorporated into the community's general plan, therefore it must be consistent with the rest of the plan." (*State of California General Plan Guidelines, 2003*, page 176; underline added.)

"In construing the provisions of this article, the Legislature intends that the general plan and elements and parts thereof comprise an integrated, internally consistent and compatible statement of policies for the adopting agency." (Government Code section 65300.5.)

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1). However, DEIR mitigation policies are new policies that would conflict with coastal plans if applied county-wide (including the coastal zone). Moreover, DEIR mitigation policies would literally threaten lives and property if applied in the Big Sur coastal area.⁹

- c. As discussed above, Monterey County's Local Coastal Program will be reviewed for updating and amending after the Plan is completed (see footnote 2). The Coastal Act provides procedures for amending coastal plans.¹⁰ The Coastal Act's amendment process is subject to the act's provisions to maximize public participation in decisions affecting coastal planning.¹¹ CEQA provides that where there is a conflict between the Coastal Act and CEQA, the Coastal Act shall control.¹²

As discussed above, if DEIR mitigation policies are included in the Plan, and applied county-wide (including the coastal zone), general plan law will require that coastal land use plans be changed to be consistent with the DEIR's mitigation policies.

This would negate the Coastal Act's process for amending coastal plans (see footnote 9), and preclude the opportunity for the public to have meaningful input into the coastal planning process as required by the Coastal Act (see footnote 10). Policies in coastal plans would effectively be decided by the DEIR consultant outside the coastal-plan amendment process, before public hearings on coastal plans, and without environmental review or consideration of impacts on special communities or other factors considered during the Coastal Act's coastal-plan amendment process.

- d. The DEIR fails to recognize that all coastal permits are discretionary permits, leading to conflicting statements in the DEIR and Plan policies should DEIR mitigation policies be adopted and apply in the coastal zone.¹³ State general plan law precludes

⁹ The DEIR proposes treating numerous unlisted species and plant communities as if they are listed as threatened or endangered under state and federal endangered species acts. Such treatment for species and plant communities for which the DEIR does not substantiate the need for protection, would preclude or discourage creation of defensible space and wildfire fuel reduction in wildland/urban interface areas in Big Sur, areas that are overgrown and in need of wildfire-fuel reduction (in part due to other imprudent policies). This overgrowth threatens lives and property in the event of wildfire.

¹⁰ See, Coastal Act/Public Resources Code, section 30514.

¹¹ "The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation." (Coastal Act/PRC, section 30006)

¹² "To the extent of any inconsistency or conflict between the provisions of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000)) and the provisions of this division [CEQA], the provisions of Division 20 (commencing with Section 30000) shall control." (CEQA/PRC section 21174.)

¹³ For example, following are two statements from the DEIR's significance analysis that conflict due to the DEIR's use of the term "discretionary development." DEIR pages 4.9-75 and 4.9-76 respectively (underline added): 1) "For discretionary development, implementation of the General Plan policies alone would have resulted in significant impacts to the San Joaquin kit fox and to CEQA-defined special status species," and, 2) "Legal lot development without subdivision would result in conversion of habitat, but would have highly dispersed effects on CEQA-defined special status species and their habitat that on a landscape level is also considered less than significant."

In the coastal zone – the first statement says that development on existing lots would cause significant impacts (this because all coastal development permits are discretionary permits, even for a single

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conflicting provisions in general plans (see footnote 8, paragraph 2).

Every policy change proposed by the DEIR that does not expressly limit its application to areas outside the coastal zone must include the following statement in the policy, clarifying that it does not apply in the coastal zone, with an explanation why (in order that the rationale is not lost to institutional memory over time):

This policy shall not apply within Monterey County's coastal zone. This policy was recommended as a mitigation measure to address environmental impacts caused by the 2007 General Plan (as adopted January 3, 2007). The 2007 General Plan does not change Monterey County's Local Coastal Program, and environmental impacts in Monterey County's coastal zone were not analyzed as part of the 2007 General Plan environmental review.

Further, maps in the DEIR must be changed to exclude coastal areas as these areas are not part of the project and are not properly included in the DEIR CEQA analysis. The Plan's maps were carefully composed to exclude coastal areas (for example, see 2007 General Plan Figure LU1, Land Use, Coast (Non-coastal)), but the DEIR improperly includes coastal areas in DEIR maps (for example, Exhibit 4.9-1).

Tables in the DEIR must also be changed to exclude references to coastal areas, as coastal areas are not included in the project the DEIR is supposed to analyze (for example, Tables 4.9-1 and 4.9-5 must be changed to remove references to the Big Sur coastal area or to species and plant communities that occur only in the Big Sur coastal area in Monterey County).

Without changing the DEIR to remove references to coastal areas, and changing its mitigation policies to clearly state they do not apply in the coastal zone, the Plan would violate CEQA requirements that environmental impacts and measures to mitigate them be based upon fact-based substantial evidence in the record; not conform with state general plan consistency requirements; negate Coastal Act provisions on amending coastal plans and its mandate to maximize public participation in that process; and, literally threaten lives and property in overgrown coastal areas like Big Sur.

In addition to the foregoing, Big Sur's unique topography, large-lot zoning, viewshed protections, limits on subdivisions, public land ownership, and other considerations were not included in the DEIR analysis. Applying the DEIR's rationale and mitigation policies in the Big Sur area simply does not make sense.

2. The DEIR finds environmental impacts and proposes new Plan policies to mitigate them, but the impacts and mitigations are not supported by substantial factual evidence as required by the California Environmental Quality Act (CEQA) so must be deleted or modified accordingly.

CPOA supports public comment on the DEIR submitted by the Monterey County Farm Bureau and the Plan for the People (attached). Those comments object to new Plan policies proposed by the DEIR as mitigation for impacts to species and plant communities without a

residence on an existing parcel); the second statement says that the same development on existing lots would not cause significant impacts. Similar misuse of "discretionary development," and "discretionary permit" causes conflicts throughout the DEIR, and would in the Plan if DEIR mitigation policies are made applicable in the coastal zone.

Testimony by the Coast Property Owners Association on the Draft Environmental Impact Report on the 2007 General Plan
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substantial factual showing of the impacts or need for the mitigations.

The DEIR proposes that the Plan's definition for "special status species" be greatly expanded to include numerous unlisted species and plant groupings. The DEIR proposes a new definition for this expanded class of vegetation that it proposes to treat like species that have been listed pursuant to the state or federal endangered species acts. The DEIR calls its new definition, "CEQA-defined special-status species." However, CEQA does not define "special status species," does not require the definition, and does not use the term "special status species."

The DEIR apparently assumes that plant groupings such as plant communities can readily be identified by experts, like a species can be identified; however, that assumption is mistaken.

For example, the DEIR lists "maritime chaparral" as a plant community that should be included in its definition of "CEQA-defined special-status species." However, even the Coastal Commission acknowledges that the maritime chaparral plant community is so ambiguously defined its identification is subject to the "vacillation of personal opinion," even by experts.¹⁴

Given that experts cannot agree on what or where the maritime chaparral plant community is, one wonders how the DEIR consultants decided there are 12,597 acres of the maritime chaparral plant community in Monterey County, or 9,805 acres in the Fort Ord community area,¹⁵ and how they decided precisely how many acres there are of other plant communities.

Neither CEQA nor the California or federal endangered species acts extend protection to plant communities or other plant groupings, apparently for good reason.

The DEIR references a database on the California Department of Fish and Game's website, as if it justifies extending protection to "sensitive communities" and "natural communities."¹⁶ However, although the database can be found on the CDFG website, the information in the database is not generated solely by the CDFG.

Rather, the database is overseen by a non-profit organization, Nature Serve, an offshoot of the non-profit Nature Conservancy.¹⁷ Listing in this database is not subject to the rigorous listing requirements set out in the California and federal endangered species acts. Similarly, the inventory in the California Natural Diversity Database includes information prepared by the California Native Plant Society, another nonprofit organization.¹⁸

¹⁴ "Dr. Taylor stated that in the United States, nomenclature of plant communities has by professional practice been an informal process He stated that the syntaxonomy of maritime chaparral has not been formally studied, hence arguments as to the identity of a particular stand of chaparral as either falling within or without such a category is subject to the vacillation of personal opinion." (Coastal Staff's restatement of a Commission expert's opinion in Foster Revised Findings, A-3-MCO-06-018, p. 21, last par. (<http://documents.coastal.ca.gov/reports/2008/1/Th16a-1-2008.pdf>); underline added.)

¹⁵ For example, see Tables 4.9-1 on DEIR page 4.9-4 and 4.9-2 on page 4.9-5.

¹⁶ For example, see the introduction to Table 4.9-3 on DEIR page 4.9-7.

¹⁷ See, http://www.dfg.ca.gov/biogeodata/cnddb/cnddb_info.asp

¹⁸ See, <http://cnps.org/cnps/rareplants/cnddb.php>

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Extending protection to plant groupings and species listed on these web sites, when they are not listed in Title 50 Code of Federal Regulations or Title 14 California Code of Regulations, avoids the due process provided by the statutory listing processes. Landowners could be subject to restrictions on land use without rational basis. Plant communities and species may have been included on these lists due to a request by a non-profit's donor, or for other reasons unconnected with the need for protection.

The DEIR must use the definition for "special status species" provided in the Plan's Glossary, and must reanalyze all related findings of significant impacts and need for mitigation consistent with the definition in the Plan.

3. The DEIR misstates the ability of County plans to affect federal land use and must be changed to avoid missing opportunities to do so.

The DEIR states that the County cannot exercise jurisdiction over federal lands.¹⁹ However, though technically correct, that statement is misleading. The County can exercise control over federal lands to the extent the federal government has ceded such control to the county.

One such opportunity is provided by the Healthy Forests Restoration Act of 2003. There, Congress provided that "communities at risk" surrounding federal land managed by the US Forest Service and the Bureau of Land Management can provide a measure of control over such federal lands with regard to the way firebreaks are maintained and wildfire fuels are managed, on the federal land. The vehicle for exerting this measure of control over federal land use is adoption of a "Community Wildfire Protection Plan." Monterey County is a required signatory to a CWPP for communities in unincorporated Monterey County.

Also, the federal Coastal Zone Management Act provides that federal agencies must act consistent with adopted coastal plans that are approved by the National Oceanic and Atmospheric Administration. Monterey County's current coastal Land Use Plans are such plans, and federal agencies like the US Forest Service must act consistent with them, with certain exceptions. One coastal staff person has described the process of obtaining a "consistency determination" by a federal agency as very much like the process for obtaining a coastal permit.

Other federal law may subject federal agencies and federal land to a level of control by the County. Rather than dismissing these opportunities, the DEIR should be changed to acknowledge that there are now means by which the county can exert a measure of control over federal lands, and that additional means may become available in the future. Mitigation policies (such as BIO-1.1) should be modified to remove language that dismisses the possibility of County control over federal lands (should it be included in the Plan).

Respectfully submitted,

Michael Caplin
Director

¹⁹ For example, "Lands within unincorporated areas that are owned by the federal government ... are not subject to County jurisdiction." (DEIR page 3-2.)

O-9a

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October 24, 2008

Monterey County Board of Supervisors
Fernando Armenta, Chair
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Re: *Unavailable Reference Documents for GPU5 DEIR*

Dear Chair Armenta and Supervisors:

I am writing on behalf of our client, Friends, Artists, and Neighbors of Elkhorn Slough ("FANS"). We are concerned that numerous documents referenced in the draft environmental impact report ("DEIR") for General Plan Update 5 ("GPU5") have been unavailable for public review. The attached letter from Molly Erickson lists dozens of documents referenced in the GPU5 DEIR that were either inaccessible or incomplete at the time the DEIR was released. Upon review, we have encountered many of the same problems documented by Ms. Erickson. CEQA requires the County to make all documents referenced in a DEIR available for public review. (CEQA Guidelines, § 15087, subd. (c)(5).) Without complete and accurate information, the public is unable to provide meaningful review and comment on the GPU5 DEIR. Confirming the adequacy of all documents referenced in the DEIR is a time-consuming task that should not be the burden of each individual reviewing the DEIR. Accordingly, we request that we be informed of all documents, and their contents, that have been made available to the public for the first time since the beginning of the public comment period for the GPU5 DEIR. In order to provide sufficient time to review and comment on the DEIR, including any newly released documents, we request that the public review and comment period for the DEIR begin anew once all referenced documents are made available to the public in adequate form.

Thank you for your attention to this matter,

/s/ Jason R. Flanders
On Behalf of FANS

cc: Charles McKee, County Counsel, cmckee@co.monterey.ca.us
Mike Novo, Planning Director, novom@co.monterey.ca.us

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February 2, 2009

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Re: *Comments to Monterey County 2007 General Plan and Draft Environmental Impact Report*, SCH# 2007121001

11:53 am

Dear Mr. Holm:

On behalf of Friends, Artists, and Neighbors of Elkhorn Slough ("FANS"), please accept the following comments and concerns regarding the Monterey County 2007 General Plan ("GPU5") and Draft Environmental Impact Report ("DEIR").

L CHANGES IN AGRICULTURAL USE SHOULD REQUIRE ENVIRONMENTAL REVIEW.

GPU 5 allows for changes in agricultural use operations without further environmental review. The DEIR states:

The County will, after consultation with the Agricultural Commissioner and with appropriate review by the Agricultural Advisory Committee, establish by ordinance a list of "Routine and Ongoing Agricultural Activities" that will be allowed without discretionary permits. These may include, but are not limited to: . . . Conversion of agricultural land to other agricultural uses . . . "Routine and Ongoing Agricultural Activities" are exempt from [specified] General Plan . . . , except for activities that would create significant soil erosion impacts or violate adopted water quality standards . . .

(DEIR 3-46 to 3-47.) The DEIR concludes that the environmental impact of this policy would be less-than-significant, but, the DEIR fails to actually evaluate the potentially significant environmental impacts that conversion of agricultural land from one agricultural use to another agricultural use could have. For example, such conversion could result in: a significantly increased water demand, by changing the type of crop grown; or increased runoff or erosion in areas within the Elkhorn Slough watershed of North Monterey County. These activities could have significant environmental impacts, including potential impacts to listed species, but the DEIR fails to discuss such impacts, and fails to include criteria for consideration of such impacts

1

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Carl Holm
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in the formulation of the "Routine and Ongoing Agricultural Activities" ordinance. The DEIR does state that such uses would not be permitted to "create significant soil erosion impacts or violate adopted water quality standards," but the DEIR fails to describe how the County would review or monitor these changes in agricultural operations in order to evaluate whether any significant soil erosion or water quality impacts could occur.

1

II. WATER RESOURCES

A. THE DEIR'S WATER QUALITY ANALYSIS IS CIRCULAR AND INCONSISTENT.

The DEIR says that project impacts to water quality would be significant if the project would result in the violation of any water quality standard or regulation. (DEIR 4.3-89 to 4.3-90.) The DEIR discusses the project's impacts as being potentially significant, but concludes that the existence of relevant local, state, and federal water quality standards and regulations would necessarily render the project's impacts to water quality to less-than-significant levels. (DEIR 4.3-97; see also DEIR 4.3-105.) This analysis is circular. The threshold of significance cannot act as the significance conclusion itself. This bare conclusion fails to explain how local, state, and federal regulations will reduce the project's admittedly significant impacts to less than significant levels.

2

The DEIR provides a similarly circular and contradictory analysis for water quality impacts from agricultural operations, stating that "land uses consistent with the 2007 General Plan would increase sediment and nutrients in downstream waterways and violate water quality standards." (DEIR 4.3-107.) Then, the DEIR concludes that "overall impacts will be less than significant with implementation of 2007 General Plan policies." (DEIR 4.3-112.) If land uses "consistent with the 2007 General Plan would . . . violate water quality standards," how do the General Plan policies themselves avoid a violation of water quality standards?

Similarly, the DEIR admits that "Land uses and development consistent with the 2007 General Plan would result in increased soil erosion and sedimentation during construction activities, substantially degrading water quality in downstream waterways." (DEIR 4.3-90.) Again, the DEIR concludes that applicable General Plan policies would result in the project having a less-than-significant impact to water quality. This analysis contradicts itself. The DEIR states that development consistent with the General Plan would "substantially degrade[re] water quality," and then claims that the General Plan policies would avoid substantial degradation of water quality. While the use might be consistent with these General Plan policies the DEIR must describe the impact of the consistent use on the existing environment, and then describe how policies within the General Plan conditioning the use will reduce or avoid the identified significant adverse impact.

B. THE DEIR FAILS TO ADEQUATELY DESCRIBE OR MITIGATE THE PROJECT'S SIGNIFICANT EROSION IMPACTS.

The DEIR relies in part on "existing County, state, and federal requirements; proposed policies of the 2007 General Plan; and existing central coast RWQCB regulatory initiatives, such as the

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WMI, NPDES Phase II stormwater, and TMDL programs, [to] substantially reduce the extent of erosion and sedimentation from most construction activities on gentle slopes and where an erosion control plan is required." (DEIR 4.3-105.) However, as discussed in section III.D of this comment, below, these regulations and policies do not reduce erosion from project construction to less-than-significant levels, because these regulations are as of yet undeveloped, would not apply to all potentially significant activities, and lack specific performance standards or mitigation measures that would bind development to reduce project specific impacts to less-than-significant levels.

The DEIR also cites several General Plan policies to avoid impacts from soil erosion but these policies, individually, and collectively, fail to minimize or avoid this significant adverse impact, because all purported mitigations defer the development of binding, specific performance standards, to some future date.

The General Plan's Open Space Element, Policies OS-3.1 through 3.8, all defer development of avoidance and mitigation standards for soil erosion to some unknown future time. For example, OS-3.3 states that "Criteria for studies to evaluate and address . . . soil instability, moderate and high erosion hazards . . . shall be established for new development and changes in land use designations. Routine and on-going agricultural uses shall be exempt from this policy except where there are highly erodible soils." This policy fails to offer any guidance as to what the criteria should include, and fails to impose any binding standards, merely requiring the County to "evaluate and address" erosion. Nothing in this policy requires the County to avoid or mitigate soil erosion impacts to less-than-significant levels.

Policy OS-3.5 requires, for activities on slopes from 15-25%, a ministerial permit that "addresses" erosion on "highly erodible soils." (DEIR 4.3-109.) This vague language contains no performance standards or binding requirements, and therefore does not commit the County to avoiding significant impacts to soil erosion. The General Plan also requires a permit for development on slopes greater than 25%, but this permit also imposes no binding standards. (DEIR 4.3-101.) Rather, the permit requires the applicant to "evaluate" alternatives, "identify" erosion control techniques, and "minimize" development that poses a "substantial risk to public health or safety." Nothing in this permit process *requires* the implementation of binding standards that would assuredly minimize impacts to soil erosion to a less-than-significant level, unless the project would otherwise present a "substantial risk to public health or safety." However, neither the General Plan nor the EIR explain the criteria for determining whether a project would present a "substantial risk to public health or safety," nor whether significant individual and/or cumulative soil erosion impacts could occur without presenting a "substantial risk to public health or safety."

Further, the General Plan would allow for development on slopes greater than 30%, and the General Plan again fails to establish standards to avoid or minimize the impacts of development on such steep slopes. Policy OS-3.7 requires the Monterey County Water Resources Agency to prepare a manual that will include, among other things, erosion control measures. However, neither the General Plan nor the DEIR identify what specific standards this manual will impose, nor when such standards will be implemented.

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The DEIR relies heavily on General Plan Policy OS 3.9, which states:

The County will develop a Program that will address the potential cumulative hydrologic impacts of the conversion of hillside rangeland areas to cultivated croplands. The Program will be designed to address off-site soil erosion, increased runoff-related stream stability impacts and/or potential violation of adopted water quality standards. The County should convene a committee comprised of county staff, technical experts, and stakeholders to develop the Program, including implementation recommendations.

(DEIR 4.3-105.) Again, however, this policy fails to mitigate project impacts to less-than-significant levels because the policy fails to establish any performance standards or other requirements that would necessarily *ensure* that cumulative erosion impacts are reduced to less-than-significant levels. The policy merely requires the County to "address" such impacts, but does not require the County to reduce them to less-than-significant levels. Under CEQA, "[w]hen the success of mitigation is uncertain, an agency cannot reasonably determine that significant effects will not occur."¹

The DEIR also states that "[a]n Agricultural Permit shall recognize unique grading criteria for agricultural purposes and the process shall include criteria when a discretionary permit is required" (DEIR 4.3-101.) This policy provides no guidance on the potentially significant erosion impacts of the General Plan, failing to provide any information about what criteria would be used to determine whether the permit should be ministerial or discretionary, and, if discretionary, what standards would be used to determine whether impacts are significant, and what types of mitigation measures would be required.

The DEIR references Timber Harvest Plans ("THP") as mitigating potentially significant erosion impacts. (DEIR 4.3-111.) However, a THP may permit significant and unavoidable impacts to soil erosion to occur through its certified functional equivalency program, and therefore cannot be said to necessarily reduce project impacts to less-than-significant levels. Similarly, the DEIR relies on the Surface Mining and Reclamation Act ("SMARA") to mitigate impacts to soil erosion caused by mining activities, yet the DEIR fails to show exactly how SMARA *requires* mitigation of impacts to less-than-significant levels.

C. THE DEIR FAILS TO EVALUATE WATER QUALITY IMPACTS TO MONTEREY BAY.

The DEIR acknowledges that most, if not all, Project impacts to stream water quality will eventually drain into Monterey Bay. For example, the DEIR states:

- "the Salinas River empties into Monterey Bay" (DEIR 4.3-6.)

¹ Remy, Thomas, Moose, Manley, Guide to the California Environmental Quality Act, at 426, citing *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 306-308.

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- “Much of the runoff from the Salinas River either evaporates or discharges into Monterey Bay during the wet season.” (DEIR 4.3-7.)
- “Urban runoff, often called “stormwater pollution,” is difficult to prevent because this nonpoint source pollution is spread throughout the watershed. Any deposits of natural (sediment) and human-made pollutants (e.g., oils, pesticides, and heavy metals) in these areas are flushed by rainwater, landscape irrigation, and other means down storm drains and directly into streams, rivers, or Monterey Bay. This problem becomes worse with population growth and urbanization because such activities alter natural hydrologic processes.” (DEIR 4.3-18 to 4.3-19.)
- “Urban runoff has the potential to directly affect Salinas River waters. Urban runoff transported by the river also affects water quality in Monterey Bay.” (DEIR 4.3-19.)
- “[Nitrate] remains in the soil or enters the groundwater with subsequent irrigation or is flushed into irrigation drainage ditches to join other nitrate-laden waters flowing toward creeks, rivers and estuaries, and eventually into Monterey Bay.” (DEIR 4.3-22.)

However, despite acknowledging that most if not all water pollution caused by the General Plan would eventually impact Monterey Bay, the DEIR fails to assess the significance of this direct, indirect, and cumulative impact. The DEIR does list a number of plans that pertain to Monterey Bay water quality. However, the DEIR fails to provide sufficient detail to understand the specific goals and requirements of these plans, and the DEIR fails to assess whether development under the General Plan would be consistent with these plans. For example:

The DEIR states that “[t]he *Salinas River Watershed Management Action Plan* . . . outlines the watershed characteristics and management actions recommended to control point source and nonpoint source pollution within the Salinas River watershed.” (DEIR 4.3-61.) What policies does this Plan include? Does this Plan impose enforceable restrictions on discharges? Would the General Plan development be consistent with the goals of this Plan? Would consistency with this Plan ensure that General Plan impacts to Monterey Bay will be less than significant?

The DEIR states that “[t]he [Monterey Bay National Marine Sanctuary] is a federally protected marine area offshore of the central coast, encompassing 5,322 square miles of ocean and 276 miles of shoreline, from Marin County to San Luis Obispo County. . . . In October 2006, the Monterey Bay National Marine Sanctuary (MBNMS) released a comprehensive watershed management and ecosystem plan, the *Big Sur Coastal Ecosystem Action Plan*, as part of the MBNMS draft management plan (Monterey Bay National Marine Sanctuary 2006).” Again, this statement provides no information about regulations that would protect the water quality of Monterey Bay, and fails to consider whether the planned General Plan development and infrastructure would complement, be consistent with, or implement recommendations within these plans.

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The DEIR states, “[i]n 1992, eight federal, state, and local agencies signed a memorandum of agreement with the MBNMS to develop collaboratively a Water Quality Protection Program (WQPP) for the MBNMS and its watersheds. The WQPP is now a partnership of 25 federal, state, and local agencies, as well as public and private groups. Four detailed plans have been completed as part of the WQPP: the *Urban Runoff Plan*, *Marinas and Boating Plan*, *Water Quality Monitoring Plan*, and *Agriculture and Rural Lands Plan*.” (DEIR 4.3-87.) The DEIR discusses these plans individually, but again fails to indicate (1) the precise mandatory restrictions (if any) that each plan will place on General Plan development, or (2) what specific impacts to Monterey Bay could occur from General Plan development that is consistent or inconsistent with these Plans. (DEIR 4.3-87 to 4.3-88.)

The DEIR must be revised and recirculated to inform the public and decision-makers of the potentially significant impacts that development under the General Plan could have upon Monterey Bay. The DEIR contains no information regarding the anticipated types or amounts of pollutants that will reach Monterey Bay as a result of development under the General Plan, nor does the DEIR evaluate the significance of this obvious impact. The DEIR asserts that coastal streams will suffer less pollution than inland streams (DEIR 4.3-92), yet the DEIR contains considerable evidence showing that upstream pollutants will accumulate and pollute downstream waters. Without evaluating this impact in the DEIR, the DEIR is “so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.” (CEQA Guidelines, § 15088.5; *Mountain Lion Coalition v. California Fish and Game Commission* (1989) 214 Cal.App.3d 1043.)

D. THE DEIR RELIES ON INCOMPLETE FEDERAL POLICIES.

The DEIR relies on National Pollutant Discharge Elimination System (NPDES) phase II to mitigate runoff impacts, yet the DEIR offers no standards for any minimization measures to achieve. Instead, the DEIR states:

Designated Phase II MS4 areas in the unincorporated county include Carmel Valley; Corral de Tierra/San Benancio; Toro Park; a large area bounded by the Salinas River, Davis Road, SR 68, and the city of Salinas; a second large area southeast of San Juan Grade Road and northeast of Salinas; Pajaro and its surroundings; Castroville; and Prunedale. Since 2001, the Monterey Regional Storm Water Permit Participants Group, composed of the Cities of Monterey, Carmel-by-the-Sea, Del Rey Oaks, Sand City, Seaside, Marina, and Pacific Grove; the County; and the Pebble Beach Co., have been developing a regional stormwater program for the Monterey Peninsula and surrounding areas to prepare an NPDES Phase II permit application. The MRWPCA acts as the group’s administrative agent.

When will this permit program be complete? What specific impacts will this permit mitigate? The DEIR does not say. (DEIR 4.3-50.) With these plans only in a developmental phase, it is completely uncertain whether the plans will necessarily mitigate significant impacts of the General Plan buildout to less-than-significant levels.

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The DEIR lists waterways in the County that are designated "impaired." DEIR table 4.3-8.) However, TMDLs have not been completed for many of these impaired waterways. (DEIR 4.3-54.) Development under the General Plan will continue to pollute these already impaired waterways, resulting in a significant impact. (DEIR 4.3-90.) The DEIR fails to demonstrate any binding requirement to prevent this impact. The DEIR does show that the completion date for establishing some TMDLs (i.e., Alisal Creek, Galiban Creek, Monterey Harbor, Moro Cojo Slough, Moss Landing Harbor, Old Salinas River Estuary, Salinas Reclamation Canal, Salinas River (lower), Salinas River Lagoon, and Tembladero Slough) was 2006-2007. (DEIR 4.3-54.) Have those TMDLs been completed, and, if so, what limits do they set for future authorized activities to comply with?

The DEIR's significance conclusions rely on the federal TMDL program to mitigate agricultural impacts to water quality, yet the DEIR acknowledges that few TMDLs have been established, despite the existence of many impaired watersheds. (DEIR 4.3-105, 108, 111.)

E. THE DEIR FAILS TO FULLY DESCRIBE OR MITIGATE THE PROJECT'S SIGNIFICANT IMPACTS TO GROUNDWATER.

i. SALINAS VALLEY

The DEIR fails to adequately evaluate the Project's potentially significant impacts to groundwater within the Salinas Valley. Specifically, the DEIR's discussion of the Salinas Valley Water Project ("SVWP") fails to follow the principles recently articulated by the California Supreme Court in *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* for evaluation of water supply impacts of a proposed land-use project:

First, CEQA's informational purposes are not satisfied by an EIR that simply ignores or assumes a solution to the problem of supplying water to a proposed land use project. Decision makers must, under the law, be presented with sufficient facts to "evaluate the pros and cons of supplying the amount of water that the [project] will need." [Citation.]

Second, an adequate environmental impact analysis for a large project, to be built and occupied over a number of years, cannot be limited to the water supply for the first stage or the first few years. While proper tiering of environmental review allows an agency to defer analysis of certain details of later phases of long-term linked or complex projects until those phases are up for approval, CEQA's demand for meaningful information "is not satisfied by simply stating information will be provided in the future." [Citation.] . . . An EIR evaluating a planned land use project must assume that all phases of the project will eventually be built and will need water, and must analyze, to the extent reasonably possible, the impacts of providing water to the entire proposed project. [Citation.]

Third, the future water supplies identified and analyzed must bear a likelihood of

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actually proving available; speculative sources and unrealistic allocations ("paper water") are insufficient bases for decisionmaking under CEQA. [Citation.] An EIR for a land use project must address the impacts of *likely* future water sources, and the EIR's discussion must include a reasoned analysis of the circumstances affecting the likelihood of the water's availability. [Citation.]

Finally, where, despite a full discussion, it is impossible to confidently determine that anticipated future water sources will be available, CEQA requires some discussion of possible replacement sources or alternatives to use of the anticipated water, and of the environmental consequences of those contingencies. [Citation.] The law's informational demands may not be met, in this context, simply by providing that future development will not proceed if the anticipated water supply fails to materialize. But when an EIR makes a sincere and reasoned attempt to analyze the water sources the project is likely to use, but acknowledges the remaining uncertainty, a measure for curtailing development if the intended sources fail to materialize may play a role in the impact analysis. [Citation.]

The ultimate question under CEQA, moreover, is not whether an EIR establishes a likely source of water, but whether it adequately addresses the reasonably foreseeable impacts of supplying water to the project. If the uncertainties inherent in long-term land use and water planning make it impossible to confidently identify the future water sources, an EIR may satisfy CEQA if it acknowledges the degree of uncertainty involved, discusses the reasonably foreseeable alternatives-including alternative water sources and the option of curtailing the development if sufficient water is not available for later phases-and discloses the significant foreseeable environmental effects of each alternative, as well as mitigation measures to minimize each adverse impact. [Citation.] In approving a project based on an EIR that takes this approach, however, the agency would also have to make, as appropriate to the circumstances, any findings CEQA requires regarding incorporated mitigation measures, infeasibility of mitigation, and overriding benefits of the project. [Citation.]

(*Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 430-432). The County's DEIR for the GPU fails to satisfy the principles articulated above by the California Supreme Court in *Vineyard Area Citizens*.

The DEIR admits that short- and long-term groundwater demands of the Project would exceed the existing available surface and groundwater supplies, leading to lost aquifer storage and further saline intrusion, but the DEIR asserts that these significant impacts will be avoided through implementation of the SVWP. However, the DEIR fails to provide sufficient information about the SVWP to meaningfully apprise the public and decision-makers of the pros and cons of relying on the SVWP as a water source for buildout of GPUs. The DEIR fails to acknowledge the uncertainties faced for multiple phases of the SVWP, fails to specifically identify all water sources relied on by the SVWP, fails to evaluate the water sources that would be necessary to meet Project demands if the full and complete implementation of the SVWP does

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not occur, and fails to assess the significant impacts to the groundwater basin that would occur without the full and complete implementation of the SVWP as it is described in the DEIR. Moreover, the DEIR fails to include binding mitigation measures capable of ensuring that the Project's impacts will necessarily be mitigated to less-than-significant levels. (See Pub. Resources Code, § 21081.6, subd. (b); *Federation of Hillside and Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1260-1262.)

The DEIR fails to articulate each planned source of water for the SVWP. First, the DEIR fails to inform the public exactly what water diversion rights Monterey County Water Resources Agency ("MCWRA") and Monterey Regional Water Pollution Control Agency ("MRWPCA") do have for the SVWP, and what water rights must still be acquired. The DEIR indicates that "Operation of the SVWP will divert an average of 9,700 AF and up to 12,800 AF of additional Salinas River water (available from reoperation of upstream reservoirs) to the CSIP [Castroville Seawater Intrusion Project] during the peak irrigation season," resulting in "up to 25,000 AF to the CJSP [sic] for injection into the groundwater aquifer." However, DEIR then goes on to state that only "if an additional 14,300 AF of SVWP water is delivered outside the CSIP" would future seawater intrusion be prevented. (DEIR 4.3-34 to 4.3-35.) The DEIR fails to explain the source of this 14,300 AF of water, and fails to discuss what uncertainties, if any, the SVWP faces in delivering up to 25,000 AF to the CSIP. Since the DEIR relies on yearly averages, what impacts will the Project have when SVWP water arrives in below average years, or multiple consecutive below average years? If seawater intrusion increases during dry years, can the aquifer recover simply through in-lieu recharge in wet years? The DEIR indicates that once groundwater quality is compromised, recovery becomes more difficult, but the DEIR fails to provide any discussion of such impacts.

The DEIR also relies on uncertain and incomplete components of the SVWP to avoid long-term groundwater impacts:

[C]omponents of the project are believed sufficient to halt seawater intrusion in the short term but may not be sufficient to meet water demand through the year 2030. Modeling conducted for the SVWP EIR/EIS determined that groundwater levels would be raised to varying degrees in all four sub-basins of the Salinas Valley groundwater basin (100-Foot/400-Foot, East Side, Forebay, and Upper Valley Subareas) due to decreased pumping and increased recharge along the Salinas River (Monterey County Water Resources Agency 2001). With the SVWP, benefits would be distributed more uniformly throughout the Salinas Valley. An expanded distribution system and expanded deliveries would be necessary to halt seawater intrusion in the long term. This subsequent phase would consist of an additional pipeline extending southeast of the existing CSIP service area, as well as other improvements. The pipeline and its impacts are discussed in concept in the SVWP EIR/EIS, but it has not yet been planned in detail.

(DEIR 4.3-38.) Thus, the DEIR states that the SVWP will not prevent seawater intrusion into the aquifer that would be caused by buildout water demand of the General Plan, unless future

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conceptual phases of the SVWP are built. The DEIR, however, provides almost no information about such future phases, except a general reference to a pipeline evaluated in the SVWP EIR.

To adequately inform the public and decision-makers about the pros and cons of relying on future phases of the SVWP to mitigate or avoid the significant adverse groundwater impacts of development authorized by GPU5, the DEIR must provide more information as to what actual phases of the SVWP must still be designed and approved, what uncertainties these future phases entail, and what alternative water sources GPU5 buildout would rely on if some or all future SVWP phases are not realized. (See *Vineyard Area Citizens*, *supra*, 40 Cal.4th at 430-432.) Where the success of mitigation measures is uncertain, the lead agency should consider this impact to be significant and unmitigated. (See *Gentry v. City of Marrieta* (1995) 36 Cal.App.4th 1359, 1394-1395; *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 306-307; *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1028-1029 [if mitigation measures are uncertain, the lead agency "should treat the impacts in question as being significant at the time of project approval."]) However, the DEIR fails to provide this information, and provides no possible assurances that any future SVWP phases will be built. Instead, the GPU5 DEIR concludes that the Project's impacts to groundwater would be less-than-significant in the Salinas Valley, relying on complete implementation of the SVWP, including these conceptual future phases.

The DEIR does propose mitigation measures in an attempt to reduce this uncertainty, but the mitigation measures themselves lack any substantive requirements to ensure that long-term impacts will in fact be mitigated to less-than-significant levels. The DEIR provides:

The following mitigation measures would reduce impacts in the Salinas Valley and Monterey Peninsula. . . .

WR-1: Support a Regional Solution for the Monterey Peninsula in addition to the Coastal Water Project

This measure is described above.

WR-2: Initiate Planning for Additional Supplies to the Salinas Valley

The County will revise the draft 2007 General Plan to include the following new policies:

PS-3.17. The County will pursue expansion of the SVWP by initiating investigations of the capacity for the Salinas River water storage and distribution system to be further expanded. This shall also include investigations of expanded conjunctive use, use of recycled water for groundwater recharge and seawater intrusion barrier, and changes in operations of the reservoirs. The County's overall objective is to have an expansion planned and in service by 2030.

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PS-3.18. The County will convene and coordinate a working group made up of the Salinas Valley cities, the MCWRA [Monterey County Water Resources Agency], and other affected entities for the purpose of identifying new water supply projects, water management programs, and multiple agency agreements that will provide additional domestic water supplies for the Salinas Valley. These may include, but not be limited to, expanded conjunctive use programs, further improvements to the upriver reservoirs, additional pipelines to provide more efficient distribution, and expanded use of recycled water to reinforce the hydraulic barrier against seawater intrusion. The County's objective will be to complete the cooperative planning of these water supply alternatives by 2020 and have projects online by 2030.

Significance Conclusion

A second phase of the Salinas Valley Water Project is feasible, according to MCWRA. From a water supply point of view, implementation of Mitigation Measures WR-2 would mitigate the water supply impact in the Salinas Valley of 2007 General Plan buildout to a less-than-significant level (see separate discussion of water supply infrastructure under Impact WR-5 below).

(DEIR 4.3-134.) These mitigation measures are wholly inadequate to ensure a new long-term SVWP supply to meet Project demands without adversely impacting groundwater. Whether or not a new water source is ultimately acquired is wholly speculative. Rather than imposing binding standards to ensure that water demands do not exceed sustainable supply, these mitigation measures merely require the County to engage in investigation, conceptual plans, objectives, and working groups. Reliance on future studies and reports is an impermissible deferral of mitigation measures under CEQA.

The DEIR fails to identify any specific potential water sources, or to evaluate what impacts new future diversions would cause to such sources. Thus, the DEIR fails to inform the public of the potentially significant groundwater impacts of the Project, and fails to impose binding mitigation measures to necessarily reduce such impacts to less-than-significant levels. (See *Vineyard Area Citizens, supra*, 40 Cal.4th at 430-432; *Genry, supra*, 36 Cal.App.4th 1359, 1394-1395.)

In addition, the DEIR's evaluation of infrastructure impacts reveals that the SVWP may not prevent seawater intrusion into the aquifer. Discussing the necessary future pipelines to deliver water for the SVWP, the DEIR states:

The diversion structure would be constructed near the current point where the CSIP pipeline crosses the Salinas River. The pipeline has sufficient capacity to deliver project water to the CSIP area also. Hydrologic modeling shows that the project may not halt seawater intrusion in the long-term future (year 2030). *If this were to occur*, additional distribution capacity will be created in a new pipeline and water would be delivered outside the CSIP area to ensure project objectives are met and seawater intrusion is halted.

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(DEIR 4.3-136 [emphasis added].) The DEIR implies that any expansion of the SVWP would *only* happen "if [seawater intrusion in the long-term future] were to occur." Thus, the planned mitigation of seawater intrusion would not occur until *after* the significant adverse and irreversible impact to groundwater has occurred. Moreover, the DEIR provides no concrete discussion of where any pipeline would be located, nor where any additional water diversions would come from. Therefore, the DEIR must consider the Project's impacts to long-term seawater intrusion to be significant and unavoidable, since conceptual SVWP expansions may only occur after additional seawater intrusion takes place, and no binding plans to construct all necessary future SVWP components exist.

The SVWP EIR is eight years old, and did not evaluate the County's long-term water demands against the presently-existing environmental conditions. The following public comments on the SVWP EIR need to be addressed, before the County relies on the out-dated SVWP EIR:

The Salinas Valley Water Project EIR/EIS significantly underestimated 2030 population growth in the Salinas Valley Cities and excluded growth considerations in all unincorporated communities except Castroville. (Attachment 5) Instead of an urban population in the Salinas Valley of 355,829, AMBAG forecasts an urban population of 416,427 (including the EIR/EIS assumption for Castroville). This is an underestimate of almost 61,000 urban water users. Furthermore, it does not include any of the unincorporated towns in the Salinas Valley, which according to the 2000 census, totaled more than 20,000 urban water users. (Attachment 6) Clearly, the Salinas Valley Water Project EIR/EIS underestimated urban demand and urban population by more than 80,000 residents.

Nor does the EIR/EIS contemplate the water impacts of a rapidly expanding wine industry or the 500 million square feet of industrial and commercial space allowed in the County's unincorporated areas under the 2006 General Plan. According to a June 2007 San Francisco Chronicle story, modern vineyards plant 2500 vines per acre and use 100 to 200 gallons of water per vine per season, or 250,000 gallons of water per acre. (Attachment 7) According to the "Survey of Water Use in the California Food Processing Industry," processing those grapes uses an average of 1000 - 1250 gallons of water per ton of grapes processed. (Attachment 8)

(See June 19, 2007 comments of Julie Engell, attached hereto (with highlights in attachments) and fully incorporated herein by reference.)

The SVWP has yet to be completed. Cost increases that have occurred since the SVWP EIR, and which continue to occur, make the actual implementation date of the SVWP questionable. The GPU5 EIR has failed to evaluate the environmental consequences if the SVWP is delayed or not completed. What additional hurdles does the SVWP face for full implementation, and when will each permitting and construction component be completed? In response to the cost overruns

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has the SVWP project design been changed since completion of the EIR for that project? If so, what components of the SVWP plan are different, and how do these changes modify the conclusions in the SVWP EIR?

Finally, the Highlands North and South sub-basins are connected to and up gradient from the Salinas Valley Aquifer. (North Monterey County Hydrogeologic Study – Critical Issues Report and Interim Management Plan, May 1996, Final, Fugro West, Inc., page 3.)

[Although] Groundwater is readily available within this subarea, [] the aggregate pumping is contributing to chronic storage depletion. Storage depletion is resulting in falling water levels and seawater intrusion.

(Fugro West, *supra*, page 3.) As long as the Salinas Basin is over-drafted, groundwater will continue to flow from the elevated Highlands South sub-basin down into the Salinas Aquifer, leading to significant and adverse impacts to the Highlands South subarea. The DEIR must analyze the environmental consequences of the continuing groundwater depletion in the Salinas sub-basin, which affects groundwater levels at Highlands North and South.

ii. NORTH COUNTY

The DEIR states that “[t]here are an estimated 577 vacant residential lots in the North County Plan area. The 2007 General Plan proposes to limit development in the North County to a single residence on each such lot. GPU5 also proposes to relieve new single family residential development from the requirement to demonstrate a sustainable water supply prior to development under Policy PS-3.1. Development of any portion of these existing lots of record by 2030 will exacerbate current problems. (DEIR 4.3-129.) Nevertheless, while recognizing this significant adverse impact on the existing groundwater supply, the DEIR fails to evaluate any mitigation measures or project alternatives to reduce or avoid this impact.

Further, the DEIR states that, “[a]lthough Monterey County has mandatory programs (water conservation ordinances) for urban water conservation—for instance, its low-flush toilet requirement for new development and retrofit program for certain types of remodeling projects—community education, outreach, and program enforcement have not been adequately funded. . . . More also can be done to achieve increased agricultural water conservation through increased outreach, education, and coordination efforts by the County and by increased enforcement of existing agricultural water conservation regulations. This would require fully funding a water conservation program and providing adequate staff resources.” (DEIR 4.3-148.) Therefore, the EIR should propose a feasible water conservation program to reduce or avoid the impact of new single family residential development on existing legal lots on the overdrafted ground water supply.

Public Services Element Policy PS-2.2 (groundwater quality and groundwater monitoring) requires the Water Resources Agency to assure adequate monitoring of wells in those areas experiencing rapid growth. (DEIR 4.3-149.) Historically, County agencies have lacked funds

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and personnel to complete adequate monitoring; what specific funds will be available to ensure that all necessary monitoring occurs?

The DEIR acknowledges that new development will create impervious surfaces that will reduce and alter groundwater recharge:

Public Services Element Policy PS-2.9 mandates that the County use discretionary permits to manage the construction of impervious surfaces in important groundwater recharge areas.

(DEIR 4.3-149.) However, this policy provides no instructions on how construction of impervious surfaces in important recharge areas will be managed.

Policy PS-3.2 of the Public Services Element allows credits for projects that significantly reduce the historical water use in order to allow for additional development. (DEIR 4.3-123.) The DEIR fails to explain the anticipated water savings with urban conversion of agricultural uses. First, the creation of urban demand creates a fixed, unavoidable demand, whereas agricultural demands can lie fallow during a drought. Second, where groundwater exists in a state of overdraft, such credits should not be issued until the overdraft is corrected. Any water demand reduction by a project should first be applied to eliminating overdraft. Only after the overdraft is corrected should a project be able to take credits for reduction in groundwater demand, since any demand contributing to overdraft is a significant adverse impact on the existing over-utilized groundwater supply.

The DEIR relies on future ordinances to mitigate the project's significant impacts to groundwater. But, the DEIR and General Plan fail to provide sufficient information for the interested public to understand how such future rules will mitigate the project's impacts to less-than-significant levels. The DEIR notes that “Public Services Element Policy PS-3.12 requires the County to establish an ordinance identifying conservation measures that reduce agricultural water demand,” and “Public Services Element Policy PS-3.13 mandates establishment of an ordinance identifying urban conservation measures that reduce potable water demand.” (DEIR 4.3-150.) These ordinances merely require the County to “identify” conservation measures, but such policies cannot be relied on to *require* that conservation measures be imposed. Similarly, “Public Services Element Policy PS-4.4 encourages the use of reclaimed wastewater for groundwater recharge.” (DEIR 4.3-150.) Given the County's difficulties in securing reliable water sources, the General Plan and DEIR must do more than merely “encourage” such recharge, to reduce impacts to groundwater to less-than-significant levels.

“The North County Area Plan Policy NC-5.1 requires new development to maximize groundwater recharge capabilities. North County Area Plan Policy NC-5.2 (surface and groundwater water supply) states that water development projects that can offer a viable water supply to water-deficient areas in North County shall be a high priority.” (DEIR 4.3-152.) The General Plan and DEIR should consider implementing such a policy/mitigation measure, in order to conserve long-term groundwater resources county-wide. Instead, GPU5 proposes “Public Services Element Policy PS-2.8], which] requires that all projects be designed to maintain or

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increase the site's predevelopment absorption of rainfall (minimize runoff) and to recharge groundwater where appropriate." (DEIR 4.3-158.) The benefits of this policy are unclear. Will PS-2.8 minimize or maintain recharge rates? And, what criteria will be used to determine whether maintaining absorption rates, or recharging groundwater, is "appropriate"?

The DEIR states:

Outside the PVWMA jurisdictional area, new agricultural wells also can be brought into production with few restrictions on groundwater pumpage (other than on well construction standards and usage reporting requirements). Larger development projects on individual or new small community system wells would be subject to issuance of discretionary permits and thus CEQA review, which would provide a means for addressing the potential for saltwater intrusion and the application of appropriate use restrictions. However, smaller projects in conformance with the land use plan and zoning code would likely not require discretionary review and approval.

(DEIR 4.3-158.) The DEIR is unclear what "smaller projects" it refers to. Moreover, CEQA review alone does not prohibit significant and unavoidable impacts for "larger" projects. Because the DEIR finds short term and long term impacts to groundwater basins to be significant, the DEIR should require discretionary approvals for new groundwater uses. Also, the General Plan should prohibit new large pumps that create significant and adverse impacts to groundwater quality, quantity, or adversely impact adjacent pumps.

The DEIR's discussion of well-interference states:

Generally, however, development of individual parcels on lots of record, including small businesses and residences, if consistent with the General Plan and Zoning Code, do not require discretionary approval and typically would not be required to conduct pump tests or hydrogeologic studies.

(DEIR 4.3-171.) Because single-lot development under the General Plan may potentially result in significant well-interference, the DEIR inappropriately concludes that impacts to well interference will be less-than-significant. The DEIR should have evaluated the feasibility of creating a discretionary permit process for all new wells that would evaluate a new well's potential to interfere with existing wells.

General Plan Policy PS-3.5 requires that,

Where pump tests or hydrogeologic studies show the potential for significant adverse well interference, the County shall require that the well be relocated or otherwise mitigated to avoid significant well interference.

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(DEIR 4.3-172.) Under this policy, when would well interference be considered to be significant? Will such wells be permitted if relocation or mitigation is not feasible to reduce the interference to a less-than-significant level?

Proposed Policy PS-3.6 of the Public Services Element "requires the County and all applicable water management agencies" to prohibit the drilling or operation of any new wells in known areas of saltwater intrusion "until such time as a program has been approved and funded that would minimize or avoid expansion of saltwater intrusion into useable groundwater supplies in that area." (DEIR 4.3-159) This program does not prevent seawater intrusion, because it permits uses that would merely "minimize" (but not stop) the increase of seawater intrusion, rather than only permitting projects that would "avoid" expansion of seawater intrusion. The cumulative impact of projects that could be authorized consistent with this policy creates a potentially significantly increase of seawater intrusion.

The DEIR concludes that development on existing lots of record will result in a significant and unavoidable impact to groundwater:

In the Pajaro Valley, this impact is considered significant and unavoidable due to the lack of an established feasible comprehensive solution to address existing sweater intrusion as well as future water demands.

(DEIR 4.3-163; DEIR 4.3-129) However, the DEIR fails to describe the actual physical changes that will occur as a result of this significant impact. For example, how much will seawater intrusion progress into the groundwater supply? What is the anticipated rate of overdraft? The DEIR indicates that once groundwater quality is compromised, recovery becomes more difficult. Will the seawater intrusion caused by the development on existing lots of record authorized by the General Plan make recovery of the groundwater sub-basin more difficult? The DEIR must make some attempt to describe the physical impacts to the environment, including the degree and location of the impacts. (See *Vineyard Area Citizens, supra*, 40 Cal.4th at p. 430-432.)

Finally, recent news articles indicate that a proposed \$28 million water pipeline for the Granite Ridge area has been postponed indefinitely. Does this change in water supply infrastructure change the DEIR's assumptions and evaluation of short- and long-term Project impacts to groundwater in this area?

F. THE DEIR FAILS TO ADEQUATELY EVALUATE WASTEWATER IMPACTS.

The DEIR acknowledges that wastewater disposal by privately owned treatment facilities, and by individual septic systems, may result in significant impacts to groundwater. (DEIR 4.3-165.) The DEIR concludes that the GPU5 policies would mitigate these impacts to less-than-significant levels. However, the General Plan policies on which the DEIR relies fail to impose concrete and tangible restrictions on future development that would ensure that no significant adverse impacts to the existing environment will occur. For example, the DEIR states:

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A number of these policies discourage the use of individual septic systems in favor of community systems that are subject to a higher level of regulatory supervision.

(DEIR 4.3-166.) However, merely discouraging the use of septic systems does not ensure the development of community systems. PS-2.6 requires the creation of maps of areas containing hazards and development constraints, but this policy includes no stated restrictions on development. Policies PS-4.1 through PS-4.4 do not provide any water quality restrictions relevant to privately owned treatment facilities, or septic disposal. Policies PS-4.5 and PS-4.6 discourage such development, but *do* permit individual, private septic disposal when connection to an existing regional facility is not feasible. The General Plan and the DEIR do not indicate when or where such connections would not be feasible, or what the impacts will be in those areas when individual, private septic systems are allowed to proliferate.

Policies PS-4.7 and PS-4.8 defer formulation of specific performance standards for new wastewater facilities until after project approval. These policies provide criteria that "may" apply to new development, including the financial capability of owners to operate, maintain, repair, or remediate discharge, of a facility. These policies need to be mandatory to ensure that significant impacts are avoided. In addition, these policies do not specify what water quality standards apply to new individual septic or wastewater treatment systems.

PS-4.9 does impose Regional Water Quality Control Board Standards, but this only applies to new subdivisions or zone changes. This policy does not cover new wastewater facilities, permitted under the General Plan, independent of new subdivisions or zone changes, nor does this policy address septic disposal.

PS-4.10 requires the County to develop a future management system "consistent with" AB885 and RWQCB requirements, but the DEIR does not explain whether "consistent with" means identical to, and does not describe what restrictions these policies entail. PS-4.11 merely encourages upgrades to tertiary treatment levels. PS-4.12 requires the future formulation and adoption of "On-site Wastewater Management Plans" ("OWMP") for areas with high concentrations of development that are served primarily by individual sewage systems such as North County and Carmel Valley," but neither the General Plan nor the DEIR offer any relevant performance standards or timeframe for this policy. (DEIR 4.3-167 to 4.3-169.)

III. THE DEIR FAILS TO DESCRIBE AND MITIGATE ALL SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES.

The DEIR cites to GPU5 land use policies 1.1 through 1.9 as mitigating a development project's significant adverse impacts to biological resources; yet, none of these policies actually impose any mandatory requirements to directly protect special-status plant and animal species. (DEIR 4.9-67.) The voluntary and indirect benefits to biological resources that these policies provide may not necessarily mitigate developmental impacts to less-than-significant levels, because there is no mandatory requirement that they be applied.

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The DEIR references GPU5 open space policy OS-3.5 applicable to development on steep slopes. (DEIR 4.9-67.) This policy, however, as described above in section II.B of this comment, fails to impose meaningful standards that ensure project impacts to soil erosion and stream sedimentation will be less-than-significant. Moreover, this policy makes no mention of impacts to special status species.

The DEIR references additional open space policies in GPU5, but the actual protection offered by these policies is unclear. Policy OS-4.1 "stipulates that Federal and state designated native marine fresh water plant and animal species be protected." The DEIR fails to explain how these freshwater species will be protected. Also, this policy only applies to fresh water species, and offers no protection for anadromous species or Monterey Bay.

Proposed Policies OS-5.1 through OS-5.5 merely encourage or promote protection of biological resources. These policies do not direct county agencies to protect these resources; and, these policies do not ensure mitigation or avoidance to less-than-significant levels. For example,

Policy OS-5.3 stipulates that development be carefully planned to provide for the conservation and maintenance of plant and animal communities or species listed by state or federal agencies for protection.

Does this policy require all development impacts to special status plant or animal species to be mitigated to less-than-significant levels? Interpreting this policy in the context of the other GPU5 policies, which permit significant and unavoidable impacts to biological resources, a project applicant may argue that OS-5.3 does not require all impacts to be mitigated to less-than-significant levels.

Policy OS 5.12 merely requires consultation with CDFG. The policy is silent about implementing any mitigation measures proposed by CDFG. (DEIR 4.9-69.) The DEIR states,

Policy OS-5.16 requires biological surveys and implementation of mitigation measures for development that would potentially disturb listed species or its critical habitat.

(DEIR 4.9-69.) This policy does not require that such mitigation measures reduce impacts to less-than-significant levels, and fails to address projects where mitigation measures necessary to reduce impacts to less-than-significant levels are infeasible. Therefore, the DEIR is wrong to conclude that projects under the GPU5 would necessarily have less-than-significant impacts to biological species. Similarly, policy OS 5.17 requires the County to develop a program to mitigate the loss of critical habitat. Deferring the development of this program to a future time, without prescribed goals and performance standards, does not show that impacts to critical habitat will be mitigated to less-than-significant levels.

The DEIR states that the General Plan requires avoidance of impacts to state or federally listed species. (DEIR 4.9-97.) In turn, General Plan policy OS-5.4 requires that:

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Development shall avoid impacts to State and federally listed plant and animal species and designated critical habitat for federally listed species. Measures may include but are not limited to:

- a. clustering lots for development to avoid designated critical habitat areas,
- b. dedications of permanent conservation easements; or
- c. other appropriate means.

Where new development cannot avoid critical habitat, consultation with United States Fish and Wildlife Services (USFWS) may be required and impacts may be mitigated by expanding the resource elsewhere on-site or within close proximity off-site. Final mitigation requirements would be determined by USFWS.

Thus, Policy OS-5.4 permits development that would impact state and federally listed plant and animal species and designated critical habitat. The Policy merely requires that, "[w]here new development cannot avoid critical habitat," consultation "may" be required and impacts "may" be mitigated. The DEIR may not simply rely on USFWS to mitigate all project impacts to less-than-significant levels. (See *Citizens for Quality Growth v. City of Mt. Shasta* (1988) 198 Cal.App.3d 433, 442 [holding that "[e]ach public agency is required to comply with CEQA and meet its responsibilities, including evaluating mitigation measures"].) The General Plan Policy itself expressly allows significant and unavoidable impacts to occur, and therefore cannot conclude that all project impacts permitted by GPU5 will be less-than-significant.

The DEIR relies on the "Region 3 Conditional Agriculture Waiver Program" to mitigate or avoid agricultural water quality impacts to sensitive species downstream. (DEIR 4.9-75.) However, the DEIR fails to describe exactly how this program will necessarily avoid such impacts. The DEIR says that the waiver program requires farmers to complete 15 hours of educational training within three years of obtaining this waiver, and to "develop farm water quality management plans that address, at a minimum, irrigation management, nutrient management, pesticide management, and erosion control, and implementing management practices identified in their plans." (DEIR 4.9-52.) This educational and management program makes no mention of special status species, and the DEIR fails to explain what performance standards will be imposed by this program, or how such benefits will ensure that significant impacts, and cumulative impacts, to aquatic species will be avoided.

In addition, mitigation measure BIO-2.3 should be strengthened to impose requirements that minimize impacts to instream flows to less-than-significant levels. Instead, the mitigation measure as proposed merely requires the County to consider, but not to minimize, such impacts. (DEIR 4.9-87.) Mere consideration of the issue does not mitigate the impact.

In sum, none of these General Plan policies, taken individually or collectively, require that all development impacts to special status plant or animal species be mitigated to less-than-significant levels prior to approval of any project consistent with the 2007 General Plan. Thus, the DEIR inaccurately concludes that "2007 General Plan Policies OS-5.1, -5.2, -5.3, -5.4, -5.12,

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-5.16, -5.17, and -5.18 require avoidance, minimization, and compensation of impacts to listed 'special status species'."

Because these policies address state and federal listed species, but do not necessarily cover all "special status" species as defined by CEQA, the DEIR proposes mitigation measure MMBio-1.3, which states:

The County shall require that any development project that could potentially impact a CEQA-defined special status species or sensitive natural community shall be required to conduct a biological survey of the site. If CEQA-defined special-status species or sensitive natural communities are found on the site, the project biologist shall recommend measures necessary to avoid, minimize, and/or compensate for identified impacts to CEQA-defined special-status species and sensitive natural communities. An ordinance establishing minimum standards for a biological report shall be enacted.

(DEIR 4.9-74.) This mitigation measure fails to mitigate impacts to less-than-significant levels, because it requires only the identification and recommendation of mitigation measures necessary to avoid or minimize impacts to less-than-significant levels, but *does not* require projects to actually *implement* the recommended measures. (DEIR 4.9-74.) Moreover, there is no reason to believe that every biological survey will be able to identify feasible mitigation measures that will necessarily mitigate project impacts to less-than-significant-levels. Therefore, the DEIR is wrong to conclude that biological impacts of development consistent with GPU5 would necessarily be less-than-significant. Further, the DEIR erroneously concludes that:

These mitigation measures would address impacts from discretionary large scale residential, commercial, public infrastructure and agricultural development. In combination with the application of Area Plan policies targeting specific CEQA-defined special-status species, impacts to special status species (both listed and CEQA-defined) from discretionary development would be considered less than significant.

(DEIR 4.9-75.) However, like the General Plan policies, and the DEIR's proposed mitigation measures, the Area Plan policies also fail to impose binding standards to avoid all significant impacts to special status species. Therefore, the DEIR is wrong to conclude that projects permitted under GPU5, including application of all relevant Area Plans, would necessarily have less-than-significant impacts to special status species. For example, the DEIR's discussion of the North County Area Plan states, in its entirety:

Policy NC-3.3 prioritizes conservation of North County's native vegetation in order to retain the viability of threatened or limited vegetative communities and animal habitats and preserve rare, endangered, and endemic plants for scientific study. Policy NC-3.4 discourages removal of healthy, native oak and madrone trees and requires a permit for the removal of any of these trees with a trunk diameter in excess of six inches at breast height. Trees removed must be replaced

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at a 1:1 ratio using nursery-grown trees of the same species that are a minimum of one gallon in size. Policy NC-3.5 promotes the preservation of critical habitat areas as open space.

(DEIR 4.9-72) Encouraging and promoting the avoidance of impacts to special status species and habitat does not ensure that significant impacts will be avoided. As to the required replacement of native oak and madrone trees, the DEIR fails to provide evidence that replacement at a 1:1 ratio with one gallon trees, necessarily mitigates the quality of removed trees to less-than-significant levels, in every case.

Future development authorized by 2007 General Plan could result in the removal of significant tree species, including oak, madrone, redwood, fir, elder, laurel, cottonwood, and sycamore trees. The DEIR notes that policy OS-5.10 requires the establishment of a permit process for tree removal, but this policy contains no standards to regulate tree removal, nor any standards for determining the feasibility of mitigation. (DEIR 4.9-100.)

Despite the DEIR's claim to the contrary, the policies in GPUS relating to tree removal and preservation are not consistent with the County's existing tree preservation ordinance. The County's existing ordinance contains specific requirements for removal of oak, madrone, and redwood trees within each Area Plan area (see Monterey County Code, § 16.60, et seq), while the General Plan leaves the formulation of specific guidelines to a future date. If future guidelines authorized by GPUS have less specific preservation requirements than the current ordinance, the guidelines authorized by the General Plan would supersede the existing ordinance. The GPUS DEIR has failed to evaluate the environmental consequences of providing fewer protections for existing tree species protected by the current tree preservation ordinance.

Mitigation measure BIO-3.2 requires vegetation removal to avoid the nesting season, but does not mitigate the loss of potential nesting habitat, when nests are not active. (DEIR 4.9-98.) Nevertheless, the removal of vegetation that could provide nesting for migratory birds or raptors would be a potentially significant impact to the range of such species. Therefore, the General Plan and the DEIR should propose mitigation measures to avoid or offset this significant impact.

The DEIR asserts,

Legal lot development without subdivision would result in conversion of habitat, but would have highly dispersed effects on CEQA-defined special status species and their habitat that on a landscape level is also considered less than significant.

(DEIR 4.9-76.) What evidence does the DEIR base this conclusion on? Has the DEIR undertaken an inventory of legal lots, considering their size and whether they comprise any portion of significant habitat for special status species? This evidence is not presented in the DEIR's analysis.

Similarly, the DEIR claims that development authorized by the 2007 General Plan will not result in significant impacts to special status species, because the DEIR assumes that development will

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be sporadic. However, this assumption overlooks two things. First, individual development consistent with the proposed General Plan may, alone, have a significant impact on special status species. As the DEIR admits, "development under the 2007 General Plan would result in reduced range, quality and extent of sensitive natural communities." (DEIR 4.9-85.) Second, the cumulative impact of development consistent with the General Plan may be cumulatively considerable. The DEIR may not simply conclude that all impacts to special status species, and their habitat, will be less-than-significant because development under the General Plan would be sporadic. Instead, the DEIR should map areas of biological concern, consider the likelihood of development in and around those areas, and consider whether General Plan policies and DEIR mitigation measures would or would not allow for a significant adverse impact to sensitive species.

IV. THE RESOURCE CONSERVATION DESIGNATION SHOULD NOT PERMIT TIMBER OPERATIONS.

The 2008 General Plan errata adds "timber operations" as a permitted use for the "resource conservation" designation in the General Plan. However, this use conflicts with the stated purposes of the resource conservation designation, which applies to "areas with sensitive resources and areas planned for resource enhancement," which are "envisioned to create important open space amenities for the entire community." Removal of live timber does not create an open space amenity, nor enhance a sensitive resource. The General Plan's designation of timber operations as resource conservation is internally inconsistent and creates potentially significant environmental impacts to open space and/or sensitive biological resources.

V. CONCLUSION

For each of the foregoing reasons, FANS respectfully requests that the County provide the significant additional information necessary to fully evaluate the proposed General Plan's significant and adverse environmental impacts on the existing environment, and recirculate the revised GPUS DEIR for public review and comment.

Sincerely,

/s/ Jason Flanders
On behalf of FANS

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ATTACHMENT

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June 19, 2007

Julie Engell, Chair
Rancho San Juan Opposition Coalition
15040 Charter Oak Blvd.
Prunedale, CA 93907

Dave Potter, Chair
And Monterey County Board of Supervisors Members
County of Monterey
Salinas, CA 93901

RE: Item S-11 – Salinas Valley Water Project Assessment Increases

Since 2003, North County residents have invested in a water project that has made our lives worse instead of better. Despite four years of being un-permitted, un-built and un-proven, the Salinas Valley Water Project has been used by the County to rationalize subdivision throughout the unincorporated Salinas Valley.

North County's water supply has been threatened for decades. Continued subdivision only makes things worse. Some residents are completely out of water, many are being warned by the Environmental Health Department to locate an "alternative water supply." But there is no affordable alternative supply.

Subdivision continues. Our crisis worsens while we pay for paper water. Today you're considering charging us more.

I'm here to ask you to reject the proposed rate increases for Zone 2C until you hold a public hearing to inform the public about the true status of the Salinas Valley Water Project.

Today's staff report did not include information we requested several weeks ago when this item was pulled off the consent agenda. Once again we need to know the following:

- What changes have been made to the project, by whom and for whose benefit
- Why is a project that differs significantly from the project approved by voters moving forward without any public review or environmental review
- Why has the project cost doubled from the project cost approved by voters
- Who will pay those doubled costs
- When will the project receive final permits
- When will the project be built and put into operation
- What mechanisms are in place to prevent growth from outstripping the project's capacity
- When, if ever, will North County residents receive benefit from a water project we pay the highest assessments to construct

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Until you and the public have a thorough understanding of all these issues, you should not consider increasing our assessments for the Salinas Valley Water Project. Furthermore, you should follow the advice of Curtis Weeks in a staff report dated December 9, 2003, recommending that until additional follow-on projects are developed growth in the Salinas Highlands "should not be intensified." (Attachment 1)

Among these "follow-on projects" is a distribution system the project's EIR/EIS identified as necessary by 2030 for the north end of the valley. At that time the cost to construct such a distribution system was estimated at \$42.8 million. However, the distribution system was not included in the Salinas Valley Water Project and has not been presented to or approved by voters. Since 2003, the cost of that system has almost doubled.

Additionally, in NOAA's Draft Biological Opinion, the agency makes it clear that expansion for direct distribution is not being permitted and may not be permitted in the future.

"As currently proposed, maximum rate of diversion will be 85 cubic feet per second (cfs). The diversion facility will be built to support future expansion to a diversion rate of 135 cfs. Future diversion rates above 85cfs were not considered by NMFS in this opinion, because the flow prescription to minimize project impacts and benefit steelhead was jointly developed by MCVRA and NMFS based on an assumed maximum diversion rate of 85 cfs." (Attachment 2)

The project has been significantly modified by agricultural interests concerned about the quality of the water diverted from the Salinas River for irrigation. (Attachment 3) This was not a concern agriculture expressed when they supported a project that would only directly benefit some coastal farmers. It was not a concern they expressed when they supported a weighted vote for a project designed to cost North County, including residential water users, the most. Now they want to change the project without including the public and without further environmental review. Finally, although North County residential water users are paying for uncertain and indirect benefits of the project, the Farm Bureau in a letter dated February 28, 2003, expressed concern that project "water could be diverted to urban uses." (Attachment 4)

Apparently urban water users in North Monterey County are expected to pay four to six times more for the project than agricultural water users do up valley, but we shouldn't expect the direct benefits of a distribution system that the project's own EIR/EIS identified as necessary.

While we wait for that distribution system that the Farm Bureau opposes and NOAA may not permit, there is no mechanism to prevent the project's capacity from being outstripped. The Salinas Valley Water Project EIR/EIS significantly

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underestimated 2030 population growth in the Salinas Valley Cities and excluded growth considerations in all unincorporated communities except Castroville. (Attachment 5) Instead of an urban population in the Salinas Valley of 355,829, AMBAG forecasts an urban population of 416,427 (including the EIR/EIS assumption for Castroville). This is an underestimate of almost 61,000 urban water users. Furthermore, it does not include any of the unincorporated towns in the Salinas Valley, which according to the 2000 census, totaled more than 20,000 urban water users. (Attachment 6) Clearly, the Salinas Valley Water Project EIR/EIS underestimated urban demand and urban population by more than 80,000 residents.

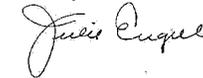
Nor does the EIR/EIS contemplate the water impacts of a rapidly expanding wine industry or the 500 million square feet of industrial and commercial space allowed in the County's unincorporated areas under the 2006 General Plan. According to a June 2007 San Francisco Chronicle story, modern vineyards plant 2500 vines per acre and use 100 to 200 gallons of water per vine per season, or 250,000 gallons of water per acre. (Attachment 7) According to the "Survey of Water Use in the California Food Processing Industry," processing those grapes uses an average of 1000 – 1250 gallons of water per ton of grapes processed. (Attachment 8)

The residents of North Monterey County are paying the highest rates for a project we have every reason to conclude will never benefit us. Worse, it is causing us actual harm. It is used consistently to approve subdivision, like Rancho San Juan, that further endangers our already-threatened water supplies. Please remember that you certified the EIR for the 2006 General Plan. Here's what it said about the Salinas Valley Water Project and Rancho San Juan. (Attachment 9)

"Because of these current constraints, in the absence of additional methods for bringing supplemental water supply to the site, above and beyond the indirect and uncertain benefits of the SVWP, development of the Rancho San Juan Community Area will...substantially deplete groundwater supplies, resulting in a net deficit in aquifer volume and lowering the local groundwater table, and create water demands that exceed water supply available for existing resources."

We are the "existing resources" and we're paying the most for the SVWP. It is only right that we know what we're paying for.

Sincerely,



Julie Engell, Chair
Rancho San Juan Opposition Coalition

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ATTACHMENT 1
BOARD OF SUPERVISORS OF THE
MONTEREY COUNTY WATER RESOURCES AGENCY

MEETING: December 9, 2003	AGENDA NO.:
SUBJECT: Receive report describing the formation of the Monterey County Water Resources Agency Zone 2C and its impacts on long-term water supply for the Salinas Highlands Area of North County.	
DEPARTMENT: Water Resources Agency	

RECOMMENDATION:

It is recommended that the Board of Supervisors of the Monterey County Water Resources Agency (Agency) take the following actions:
Receive report describing the formation of the Monterey County Water Resources Agency Zone 2C and its impacts on long-term water supply for the Salinas Highlands Area of North County.

SUMMARY:

The Salinas Highlands Area (also known as Highlands South and Granite Ridge subareas of the North County Hydrogeologic Area) was included in the formation of the Agency Zone 2C due to its hydrogeologic connection with the Salinas Valley Ground Water Basin (Basin). Runoff and percolating ground water from this area become part of the overall supply of ground water within the Basin and are positively impacted by the existing operation of the Nacimiento and San Antonio Reservoirs and the proposed Salinas Valley Water Project (SVWP).

The implications are that the Salinas Highlands area will have a long-term water supply for the future. Even though the hydrologic analysis that defines the formation of the Agency Zone 2C indicates the entire Basin will be balanced with the implementation of the SVWP, it is likely that additional focused projects will be necessary in the future to solve specific localized water supply issues.

DISCUSSION:

In today's California post-Proposition 218 legislative setting, if the County, or County Department wishes to build a project, it is first necessary to determine which parcels of land would benefit from the proposed project. If a parcel were to receive benefit from the proposed project, it would then be charged with a proportional amount of the project's cost that is commensurate to the amount of benefit received from the proposed project. The project may move forward only if the project is approved by a popular vote weighted by the same proportion of benefit.

During the development of the SVWP and Proposition 218 process, a review of the Basin geology and hydrology was necessary to evaluate the amount of special benefit received by parcels overlying the Basin. This review of the geology and hydrology of the Basin verified that the Highlands South and portions of the Granite Ridge subareas were in hydrologic connection with the Basin. As part of

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a previous analysis (Agency Historic Benefits Analysis – 1997), this area was shown to receive benefit from years of reservoir operation.

The benefit comes from the alluvial soils in the Salinas Highlands area that are in connection with the soils in the East Side and Pressure subareas of the Basin; in short, water that runs off or percolates into the soil moves from the Salinas Highlands area towards the Basin. As the operation of the SVWP increases the ground water table in the East Side and Pressure subareas, there will be less of a gradient for water to move from the Salinas Highlands area to the Basin, thus allowing more water to remain in storage in the Salinas Highlands area.

It will take time to build up storage in the Basin. Implementation of the SVWP will not immediately solve all water supply issues of the Salinas Highlands area. During this time, the Agency is committed to the planning of additional follow-on projects that will springboard from the foundation developed from the SVWP. Localized projects that will augment natural supplies will facilitate improved water supply option for the North County area. Until such a time, it is recommended that growth should not be intensified.

The Agency is currently searching for additional resources to plan follow-on projects for increased water supplies in Monterey County. The Agency is initiating work on a "Monterey County Integrated Water Management Plan" that will provide a regional planning tool for water management into the future. This plan will provide the forum necessary to propose, evaluate, and coordinate water supply project options for the future.

OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed this report as to form

FINANCING:


Curtis V. Weeks
General Manager

12/2/03
Date

Attachments:

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Enclosure

ATTACHMENT 2
BIOLOGICAL OPINION

ACTION AGENCY: U.S Army Corps of Engineers, San Francisco District
ACTION: Monterey County Water Resources Agency, Salinas Valley Water Project in Monterey County, California
CONSULTATION CONDUCTED BY: National Marine Fisheries Service, Southwest Region
FILE NUMBER: SWR/2003/2080 (Admin. No.: 15142; SWR/2003SR8711)
DATE ISSUED: JUL 28 2006

I. INTRODUCTION

Section 7 of the Endangered Species Act (ESA) of 1973, as amended, requires Federal agencies to insure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of threatened or endangered species or destroy or adversely modify critical habitat. The section 7 Regulations define "jeopardize the continued existence of" as "to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species." The regulatory definition of critical habitat has been invalidated by Federal courts. This biological opinion does not rely on the regulatory definition of "destruction or adverse modification" of critical habitat at 50 CFR §402.02. Instead, we have relied upon the statutory provisions of the ESA to complete the following analysis with respect to critical habitat (NMFS 2005a).

The National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) is conducting informal consultation with the U.S. Army Corps of Engineers (Corps) on the issuance of a permit to the Monterey County Water Resources Agency (MCWRA). MCWRA proposes to control seawater intrusion and to improve the efficiency of water delivery in the Salinas Valley, primarily for agriculture, through the construction of the Salinas River Diversion Facility (SRDF) and changes to the operation of Nacimiento and San Antonio dams. This diversion facility and operational changes, collectively, are known as the Salinas Valley Water Project (SVWP). The SVWP may adversely affect South-Central California Coast (SCCC) steelhead (*Oncorhynchus mykiss*) protected as threatened under the ESA and its designated critical habitat, and, therefore, requires a formal consultation pursuant to section 7(a)(2) of the ESA.

U.S. Fish & Wildlife Service Review

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and San Antonio reservoirs and modifying the Nacimiento Dam spillway. Also, the SVWP would offset current groundwater pumping in some areas of the coastal Basin by installing a seasonal river diversion facility with a small dam and diversion structure to impound and distribute increased spring, summer, and early fall reservoir releases (reoperated aquifer conservation releases) to provide surface water deliveries for irrigation. The SVWP does not provide a new source of water for the Basin, rather it will release less stored water in the fall and winter and release more stored water during the late spring and early fall -- a period with historically low precipitation.

All of the activities proposed by MCWRA, if undertaken, may affect ESA-listed species or designated critical habitat. Some of the activities proposed by MCWRA will require a discretionary CWA section 404 permit from a Federal agency--the Corps. Therefore, the Corps is consulting with NMFS to insure that issuance and implementation of the Corps permit is not likely to jeopardize the continued existence of ESA-listed species or result in the destruction or adverse modification of designated critical habitat. MCWRA has proposed some actions which, although they do not require Federal permits, are interrelated or interdependent to the Corps-permitted activities. Interrelated activities are activities that are part of a larger action and depend on the larger action for their justification. Interdependent activities are activities that have no independent utility apart from the action under consultation. Interdependent and interrelated activities are analyzed under section 7 of the ESA along with the Federal action. These Federal and nonfederal activities are described in the following subsections.

1. Corps Permitted Activities

MCWRA proposes to install a surface water diversion facility with a small dam and intake structure, fish bypass facilities, a pump station, and a pipeline connection to the Castroville Seawater Intrusion Project (CSIP) system, collectively called the SRDF. The SRDF will be located at river mile 4.8. When the Salinas River lagoon is closed to the ocean and the lagoon is above approximately 2.0 feet (ft) water surface elevation, standing water will be present at the downstream side of the diversion dam of the SRDF. The SRDF will operate seasonally from April 1 through October 31, if enough surface water is available. As currently proposed, maximum rate of diversion will be 85 cubic feet per second (cfs). The diversion facility will be built to support future expansion to a diversion rate of 135 cfs. Future diversion rates above 85 cfs were not considered by NMFS in this opinion, because the flow prescription to minimize project impacts and benefit steelhead was jointly developed by MCWRA and NMFS based on an assumed maximum diversion rate of 85 cfs. With this assumption, the average diversion of the SRDF will be about 9,700 AF per year (AFY).

The proposed dam will be built with pneumatically controlled interlocking steel gates that will span the width of the Salinas River. The height of the spillway gate will be controlled by inflatable bladders. The foundation of the dam will be set at an elevation slightly below the existing river bed and will be constructed of reinforced concrete with vinyl coated sheet piles driven at the upstream and downstream ends. When in operation, the dam will maintain the upstream water surface elevation of the impoundment within an operating range of approximately 5.0 to 9.0 ft elevation. The total operational storage volume of the impoundment within this range is approximately 108 AF.

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ATTACHMENT 3
MONTEREY COUNTY WATER RESOURCES AGENCY
BOARD OF DIRECTORS

MEETING DATE:	April 23, 2007	AGENDA ITEM:	
AGENDA TITLE:	APPROVE THE SALINAS VALLEY WATER PROJECT (SVWP) CONSTRUCTION IMPLEMENTATION PLAN AND DIRECT STAFF TO COMPLETE THE IDENTIFIED TASKS		
	Consent ()	Action (X)	Information (I)
SUBMITTED BY: PHONE:	Manuel L. Quezada 755-4860	PREPARED BY: PHONE:	Manuel L. Quezada 755-4860
DEADLINE FOR BOARD ACTION:	April 23, 2007		

RECOMMENDED BOARD ACTION:

Approve the Salinas Valley Water Project (SVWP) Construction Implementation Plan and direct staff to complete the identified tasks.

PRIOR RELEVANT BOARD ACTION:

The Board of Directors approved the original Professional Service Agreement(s) for design services for the Nacimiento Dam Spillway Modification Project and the Salinas River Diversion Facility Project, along with several contract amendments.

DISCUSSION:

Nacimiento Dam Spillway Modification Project

Recently, the Agency submitted the 100% design submittal to both the Federal Energy Regulatory Commission (FERC) and State Division of Safety of Dams (DSOD) for their review. Both represent the main regulatory agencies that must give final construction approvals and provide inspection during the actual construction. All other permits have been obtained or will be obtained (such as a traffic control plan and NPDES Permit compliance) by the contractor.

The following tasks have been identified as part of the SVWP Construction Implementation Plan and are to be completed prior to distribution of construction bid documents:

1. Implement FERC and DSOD's comments on the 100% design submittal, granting tentative construction approval, pending the final design from Obermeyer. This step will allow bid documents to be distributed to qualified construction contractors.
2. Enter into a Pre-Purchase Agreement with Obermeyer, Inc. to complete the performance specification, design, acquisition of raw materials, and establishment of a manufacturing and cost payment schedule for the Obermeyer Gate (rubber dam).
3. Distribute a Statement of Qualifications to be completed by prospective construction contractors. The Agency and its consultant will review and evaluate each submittal and determine those contractors which are qualified and not qualified. Those deemed qualified

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will receive the construction bid documents to complete and submit back to the Agency for consideration.

4. Hire a Construction Manager to assist in the review and evaluation of bid submittals, providing a recommendation to the Agency, and manage the selected construction contractor and overall construction activities.

Salinas River Diversion Facility Project

The following tasks have been identified as part of the SVWP Construction Implementation Plan for the Salinas River Diversion Facility project and are to be completed prior to distribution of construction bid documents:

1. Obtain permits: Federal Endangered Species Act Biological Opinions from the National Marine Fisheries Service and U.S. Fish and Wildlife Service; Clean Water Act Section 404 permit to construct and National Environmental Policy Act Record of Decision from the U.S. Army Corps of Engineers; Change in Point of Diversion permit from the State Water Resources Control Board; Clean Water Act Section 401 Water Quality Certification from the Regional Water Quality Control Board; California Department of Fish and Game Stream Alteration Agreement; Administrative Permit from Monterey County Planning Department
2. Complete 60% and 90% design plans and specifications.
3. Enter into a Pre-Purchase Agreement with Obermeyer, Inc. to complete the performance specification, design, acquisition of raw materials, and establishment of a manufacturing and cost payment schedule for the inflatable gate (dam).
4. Complete 100% design plans and specifications and implement DSOD final comments on the 100% design submittal, granting tentative construction approval. This step will allow bid documents to be distributed to qualified construction contractors.
5. Distribute a Statement of Qualifications to be completed by prospective construction contractors. The Agency and its consultant will review and evaluate each submittal and determine those contractors which are qualified and not qualified. Those deemed qualified will receive the construction bid documents to complete and submit back to the Agency for consideration.
6. Hire a Construction Manager to assist in the review and evaluation of bid submittals, providing a recommendation to the Agency, and manage the selected construction contractor and overall construction activities.
7. Issue construction bid documents, receive construction bids, determine low responsive, responsible bidder and award construction contract.
8. Issue Notice-to-Proceed to construction contractor.

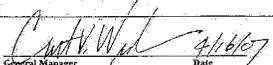
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Salinas Valley Water Project - Financing Plan
Funding sources for construction of the SVWP. (in million of dollars)

Short-term Loan (Bridge Financing)	\$10.0
A short-term loan from the County of Monterey is anticipated to be available by the summer of 2007 as bridge financing until the revenue for carrying a new debt issue is confirmed.	
Proposition 50 Grant:	\$5.5
Funding from Propositions 50 is projected to be available for use in the spring of 2008.	
Bonds	\$16.9
A bonding issue will be in place and the proceeds available for use by January-March of 2008 depending on cash flow requirements.	
Assessment revenue received during 24 months of construction	\$2.2
Total Construction Funding	<u>\$34.6</u>
<hr/>	
Estimated Costs During Construction	
Salinas River Diversion Facility	\$18.6
Spillway Modification	\$11.3
Total Estimated Construction Costs	\$29.9
Estimated First Half-Year of O&M Costs	\$0.6
Loan Origination Costs (2% Advisor, Underwriter, Counsel)	\$0.3
Capitalized Interest (27 Months)	\$2.6
Interest Earned During Construction	\$(1.3)
Net Interest	\$1.3
Principal Payments During Construction	\$0.4
Estimated Costs to be Financed	<u>\$32.5</u>

Diversion Facility Operations and Maintenance (O&M)
The annual estimated cost of O&M is \$1.5 million. This translates into potential Water Delivery charges of approximately \$71.00/Acre Foot of water delivered. A Proposition 218 process will be required to implement the Water Delivery Charges for O&M. The Proposition 218 process should be completed in 2008. Operations and maintenance costs on the CSIP could be reduced by as much as \$300,000 annually depending on the pumping requirements for groundwater.

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FINANCIAL IMPACT:	YES (X) Exact amount unknown NO ()
FUNDING SOURCE:	1. Zeec 2C, Funds 278 and 279 in FYs 06-07 and 07-08.
COMMITTEE REVIEW AND RECOMMENDATION:	1. B&P Committee received an update on the construction implementation table.
ATTACHMENTS:	1. Board Order
APPROVED:	 2/16/07 General Manager Date

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February 19, 2003

Board of Directors
Monterey County Water Resources Agency
P.O. Box 903
Salinas, Ca 93902

Subject: Salinas Valley Water Project

Dear MCWRA Directors:

Monterey County Farm Bureau requests that the Monterey County Water Resources Agency provide answers to two questions regarding the Salinas Valley Water Project, about the benefit relative to assessment for certain landowners and about the protection of water distribution for the Castroville Seawater Intrusion Project.

Benefit relative to assessment

We ask that the Agency work with our members, Eastside and upper Pressure Area landowners, to answer their questions about the amount of benefit they receive in relation to their assessments under the Salinas Valley Water Project.

We believe it is important to resolve these questions because

- It protects the interests of landowners.
- It promotes support for the Salinas Valley Water Project.
- It enhances the credibility of MCWRA.
- It reduces the likelihood of legal challenges to the Project.

The Agency should be prepared to demonstrate how assessments are supported by evidence of benefit. If benefit cannot clearly be demonstrated, the Agency should be prepared to reach an agreement or adjustment satisfactory to the affected landowners.

We ask this on behalf of our members, the farmers and ranchers throughout Monterey County, who include Eastside and upper Pressure Area landowners. All of us who have endorsed the Salinas Valley Water Project extended our support on the understanding that the property owners will share the cost in proportion to the benefit each receives. We could not, in good conscience, support a project that benefits some landowners at the expense of others. All of us need to be reassured that the distribution of assessments is equitable or that, if it is subsequently found not to be equitable, some satisfactory remedy is offered.

The Agency crafted a system of zones of benefit to allocate Project costs. It may be impractical to expect a perfect correlation between benefit and assessment for every property. However, we believe there is reason for some Eastside and upper Pressure Area landowners to question the proportionality of benefit to assessment.

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For many landowners, the receipt of the Project ballot with accompanying information and the availability of the associated engineering report is their first opportunity to analyze how the Project's benefits and assessment relate to their properties. The Agency should expect questions to arise. At the same time, the Agency should expect to resolve those questions, with answers or remedies.

Farm Bureau applauds MCWRA General Manager Curtis Weeks for his commitment to work with the landowners to find a resolution to their concerns.

We support the letter of comment on this same subject that was filed by the Salinas Valley Water Coalition on February 7.

Water distribution to CSIP

We ask the Agency to provide assurances that the water, distributed from the Salinas Valley Water Project to the Castroville Seawater Intrusion Project, is protected for its intended use, agricultural irrigation. We are worried that the intended use could change over time and that the water could be diverted to urban uses. This question was raised when The Californian reported on February 8, 2003, that "(Bob) Meyer and (Alex) Hulanicki said the project is only the first phase of a three-pronged plan to fix the region's water supply. Later projects would build distribution systems to bring new surface water to the cities of Salinas and Marina."

We ask that Monterey County Water Resources Agency take steps to resolve landowner questions and that the Agency inform Farm Bureau and other interested groups about the steps it is taking. We also ask that Agency to provide reassurances about the intended use of water from the Salinas Valley Water Project.

Sincerely,

Bob Martin
President

Cc: Supervisor Butch Lindley
Curtis Weeks, General Manager, MCWRA
Board of Directors, SVWC
Kevin Plearcy
Bill Hammond

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ATTACHMENT 7
Activist's Corner

Northern California River Watch Activist's Blog

Archive for the 'Groundwater' Category

« Previous Entries

News Conference of SCWA's Mandatory Conservation

Sunday, June 17th, 2007

KCBS-TV has posted the entire SCWA 6/14 news conference on Mandatory Conservation Orders at: http://kbs5.com/environment/local_story_164203446.html 33 minutes and 35 seconds of unedited pure delight, with all the details you've been waiting for...

The adjacent posted broadcast news clip also has an interview with Nick Frey, (Grapesgrower's Assoc.) No mention of dry farmed (non-irrigated) grapegrowing practices, tho.

No mention of restrictions on building, either.

Grab your popcorn and 6-pack and enjoy.

David Keller

Posted in Streams and Wetlands, Waste Discharge, Groundwater | No Comments »

Turning Water into Wine

Tuesday, June 12th, 2007

To water grapevines or not—the roots of the wine industry's next great controversy

Alice Feiring, Special to The Chronicle June 2007

For years, I took the New World's thirst for vineyard irrigation for granted. I believed what I was told: Napa Valley was a desert and needed its 100 to 200 gallons of water per vine per season.

I never realized how complex an issue water was until I visited northern Oregon's Willamette Valley, where I noticed black irrigation pipes snaking through the vineyards. The region gets 40 inches of rain annually, double the oft-quoted number necessary to grow wine grapes without delivering any extra water to the vineyard. I accepted the need for water in California and even more so in desert-like eastern Washington. But the Willamette Valley?

<http://www.ncriverwatch.org/wordpress/category/groundwater/>

6/18/2007

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In the best vineyards of Europe, the practice of dry farming — relying solely on natural precipitation to water grapevines — is almost universally accepted. Yet in the New World, irrigation is now viewed as essential to the wine industry's survival. And what began as a novel innovation — drip irrigation — has become standard practice, such that throwing dry farming into a viticulture conversation is like pitching a lit match into a brittle summer forest. Who knew that something as simple as watering plants could be so, well, hot?

Here's one reason why: California is anticipating drought conditions this year. Most vintners who dry-farm aren't worried; they've seen it before and have gotten through just fine. But some, like Kunde's Steve Thomas, acknowledge that the future of viticulture will have to be sensitive to water shortages. With global warming, drought-tolerant practices are likely to become a way of life.

"We're going to have to start to think of it. It's got to be coming down the road," Thomas says.

Whether adding water or withholding it, water management is a crucial aspect of wine-grape growing, and drip irrigation can be found in about 70 percent of the state's 471,000 acres of wine grapes.

Originally, the preferred watering method was flood irrigation, in which parcels of vineyard were deluged with water. According to Peter H. Gleick, president of the Pacific Institute in Oakland, which studies global water issues, flooding was quite wasteful, using 20 percent more water than the current technology. It was replaced by drip irrigation, a method that applies water in drops to each individual vine, which was devised more than a century ago but refined by Israeli researchers after World War II. Drip irrigation arrived in California in the 1970s.

And it was firmly in place when the devastating vine louse phylloxera hit the state in the late 1980s. Large swaths of California vineyards were replanted. One key decision during replanting was to ditch the drought-resistant rootstock most of the state was planted on — phylloxera-resistant St. George as well as the popular hybrid AxR1, which had been thought to fend off phylloxera but turned out to be vulnerable.

They were replaced with riparian rootstock — water-loving stuff. Roots that previously had to dig deep now hung out close to the ground — and that's where University of California Davis viticulture and enology professor Larry E. Williams likes them.

"If you're a grape grower, you want to have that vine dependent on what you do so you can manipulate them," says Williams, whose academic work focuses on irrigation management. Williams further explained: "Since the vine is getting most of its water from the drip system, then a grape grower has greater control on how much the vine gets water."

The other objective for replanting was to mirror the density in Bordeaux and Burgundy, up to 2,500 vines per acre instead of the previous status quo of 450. Vines competed for the soil's water and prompted the need for 100 to 200 gallons of water per vine per season — each vine typically produces two to four bottles of quality wine per year. Though water consumption in California rose as a result, replanting helped revive the state's fine wine industry, and the practices became standard.

But not all vintners are convinced. In Oregon, the Deep Roots Coalition views irrigation as an unnecessary, terror-occluding manipulation.

"When Oregon's wine pioneers ... planted the first vinifera wine grapes in the north Willamette Valley, they understood that with the abundant rainfall and careful attention to timely cultivation of the soil,

<http://www.ncriverwatch.org/wordpress/category/groundwater/>

6/18/2007

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1993 Food Industry Environmental Conference

ATTACHMENT B

SURVEY OF WATER USE IN THE CALIFORNIA FOOD PROCESSING INDUSTRY

Jatal D. Manappappans
Project Engineer
California Institute of Food and Agricultural Research
Department of Food Science and Technology
University of California
Davis, California, 95616

E. D. Yates
Senior Vice President
California League of Food Processors
660 J Street, Suite 290
Sacramento, California, 95814

R. Paul Singh
Professor of Food Engineering
Department of Agricultural Engineering
University of California, Davis
Davis, California, 95616

ABSTRACT

Recent droughts in California and increased awareness of pollution from processing plants has renewed the interest in water management in the food industry. To assess the opportunities for improved water management, a survey of water use within the food processing industry in California was conducted. The survey included mailing a questionnaire to 453 food processing plants.

The requested information included quantity and cost of fresh water supply and wastewater disposal, seasonal water use pattern, commodity specific statistics for quantity and quality of water use, and treatment plant rates. A total of 71 plants responded to the survey. Responses from product groups were, fruit and vegetable (52), wine and beverages (9), seafood (4), meat (3), dairy (2), and oils (1).

The total water use by the responding industries was 12 billion gallons per year. The total cost was \$ 38 million of which 23% was for fresh water supply and 77% was for wastewater disposal. There were 5 plants spending over one million dollars for water annually. More than half of the plants spent over \$1000 per million gallons of water while 15 plants exceeded \$2000 per million gallons of water. At these costs, membrane treatment of wastewater for reuse becomes an attractive alternative. Cost of freshwater supply and wastewater disposal varied widely among plants.

Specific water consumption rates of tomato, peach, olive and wine industries were found to be 896, 2830, 7250, and 1320 gallons per ton of raw materials processed. The variation within each sector was high. These water consumption rates were significantly lower than the rates reported in earlier surveys.

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1993 Food Industry Environmental Conference

Six responses were received from the wine industry. The specific water use in wine production ranged from 625 to 2800 gallons per ton of grapes and the median was 1000-1250. None of the wine makers provided data on BOD or TSS in wastewater.

The peach industry also provided six responses. The specific water use ranged from 1800 to 3900 gallons per ton of peaches and the median was 2700-2900. The BOD was reported by only four plants and the values were 9, 18, 41 and 67 lb per ton of peaches. The TSS was reported by the same four plants and the values were 6, 10, 17, and 18 lb per ton of peaches.

The olive industry provided four responses with data on specific water use and effluent strength. The reported values of flow were 3000, 7100, 8400 and 10400 gallons per ton of olives. Only two plants provided data on BOD and suspended solids. The values were 63 and 99 lb of BOD and 3 and 28 lb of TSS per ton of olives.

Another 24 plants provided specific water use and effluent strength data on 22 different products ranging from apple sauce to zucchini. Table 2 is a complete listing of these data.

Water Agency Rates

There were 38 food plants that obtained fresh water from 29 water agencies. The rate structure of these water agencies differed widely. Most water agencies had a service charge that varied with the size of the meter from about \$5.00 per month for a half inch meter to about \$200 per month for 12-inch meter. The rate for quantity of water use was usually in multiple steps. The unit of water use and the steps were in million gallons, hundred cubic feet and acre-feet. Exact comparison of charges was made difficult by these disparities.

However, an approximate comparison done using the rate at the highest quantity step, is presented in Table 4 for 19 water agencies. These rates do not include service charges. This table indicates the wide differences in rates that exist among the water agencies. The rate structure of some agencies penalized the high users with higher rates while some others rewarded the high users with lower rates.

Table 5. Fresh Water Rates in Some California Communities

Community	Price of Water \$ per million gallons
Turlock	160.00
Orland	250.00
Modesto	433.30
Hollister	784.00
King City	823.00
Orvillia	1038.00
Los Angeles	1132.00
Santa Rosa	1570.00
Santa Cruz	1865.00
San Jose	1925.00

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Calderon, Vanessa A. x5186

From: Calderon, Vanessa A. x5186
Sent: Monday, February 02, 2009 5:34 PM
To: 'KSmith@kenyonyeates.com'
Subject: RE: CEQA Comment Email

Good Evening Kimberly,

The attachments for this CEQA Comment could not be opened...please resend.

Thank you,

**Vanessa A. Calderon O.A. III -
Administrative Permits Clerk**

*County of Monterey
Resource Management Agency
Planning Department
831-755-5186 (w)
831-757-9516(fax)
CalderonVA@co.monterey.ca.us*

-----Original Message-----
From: Kimberly Smith [mailto:KSmith@kenyonyeates.com]
Sent: Monday, February 02, 2009 11:53 AM
To: ceqacomments
Subject: Monterey County General Plan Update 5 DEIR Comments

Attached please find comments submitted on behalf of Friends, Artists, and Neighbors of Elkhorn Slough regarding the Monterey County 2007 General Plan and Draft Environmental Impact Report.

Sincerely,

Kimberly Smith
Legal Assistant

2001 N Street, Suite 100
Sacramento, CA 95811
Telephone: (916) 609-5000
Facsimile: (916) 609-5001

02/03/2009

Message Page 2 of 2
O-9b

ksmith@kenyonyeates.com

02/03/2009

Calderon, Vanessa A. x5186

From: Kimberly Smith [KSmith@kenyonyeates.com]
Sent: Tuesday, February 03, 2009 8:58 AM
To: Calderon, Vanessa A. x5186
Subject: Monterey County 2007 General Plan Update DEIR Comments

Hi Vanessa,

Thanks for letting me know that you couldn't open the attachment. Hopefully you have more luck with this one. We also sent our comment letter Federal Express, addressed to Mr. Holm, with priority delivery. It should be there by 10:30 a.m. this morning.

Sincerely,

Kimberly Smith
Legal Assistant



2001 N Street, Suite 100
Sacramento, CA 95811
Telephone: (916) 609-5000
Facsimile: (916) 609-5001
ksmith@kenyonyeates.com

02/03/2009

HOPE - Helping Our Peninsula's Environment
Box 1495, Carmel, CA 93921 Info7@lhope.org
831/624-6500 www.lhope.org

Monterey County
Planning and Building
Inspector's Administration

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- Acoustics
Dr. Susan Kegley,
PhD
- Hazardous
Materials &
Pesticides
Dr. Arthur Partridge,
PhD.
Forest Ecology

Monterey County Supervisors
Monterey County Planning Commission
Monterey County General Plan Staff

Comments on --

The Proposed Monterey County General Plan Update and Draft Environmental Impact Report are Extremely and Legally Incomplete

HOPE opposes the current General Plan and its EIR's --

1. Use of wildly inflated population numbers as growth goals.
2. Requiring 3 new 4-lane freeways to our Monterey Peninsula AND encouraging Gridlock
3. Failure to Include "Habitat Restoration and Species Recovery" as Goals.
4. Entirely Avoiding Monterey Pine Forest, and Wildlife and Habitat Protection beyond what is already required by federal and state law.
5. Avoiding Meaningful Avoidance, Alternatives and Mitigations to the Massive and Preventable Pollution our County Suffers from Chemicals including 10 Million Pounds of Pesticides Each Year; and Light and Noise Pollution.

A specific General Plan policy HOPE objects to is:

The fundamental assumption that the General Plan should accommodate the inflated population growth numbers handed down by the State Department of Health Services, Department of Finance, and AMBAG and support tens of thousands of new houses and the indirect loss of tens of thousands of acres of land.

We cannot find a specific policy that mentions this fundamental assumption that all other policy choices are built upon, although it is clearly described on page 1-4 of the Executive Summary.

A. The population of all cities on the Monterey Peninsula and the nearby unincorporated areas are going down. Yet the General Plan accepts accommodating population numbers that increase in all of those areas.

Founded in 1998, H.O.P.E. is a non-profit, tax deductible, public interest group protecting our Monterey Peninsula's natural land, air, and water ecosystems and public participation in government, using science, law, education, news alerts and advocacy.

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B. The County has the choice to reject these numbers and lose the trivial amount (a few million dollars) of development funding as a result of that choice – just as Santa Cruz has chosen to do for at least 10 years.

HOPE's primary mission is to protect our natural environment. Population growth leads to a cumulative increase and synergetic increases in every form of environmental impact by allowing an increase in human activity. Without population growth – merely stable population numbers, we can begin restoring the harmed and lost habitats for our neighbors who have lived here for millennia before we showed up.

Population growth forces new roads or freeways which increase potential for –

- logging, mining and development;
- directly change the hydrology of slopes and stream channels,
- increase natural resource exporting,
- increase air pollution (including plant harming dust) and
- water pollution (heavy metals from gasoline additives),
- decrease stream health,
- create noise,
- increase impermeable surface area,
- increase soil compaction,
- increase erosion and landslides,
- fragment wildlands,
- increase poaching and legal hunting and fishing,
- cut animal migration paths,
- cause massive numbers of deaths of wildlife called "roadkill" (especially for amphibians),
- modify animal behaviour (home range movement, altered movement patterns, decreased reproductive success, and decreased escape response),
- increase invasion of destructive non-native plants, insects and microorganisms;
- and divide human communities.

What we need instead is Down-zoning.

Downzoning by half or three-quarters is not a Constitutional Taking¹

The reduction in density so that the County will not accommodate any more growth and will cut back on population until it reaches an amount sustainable with the natural resources (such as water, forests and wildlife habitat) available.

¹ Downzoning By Half - Diminishing The Value Of Property By 50% Is Insufficient To Demonstrate A Taking - Thus Constitutional - Concrete Pipe, Inc. vs. Construction Laborers Pension Trust (1993)

In a post-Lucas case, the US Supreme Court returns to traditional Penn Central three-part formula and reaffirms that mere diminution in property value (in this instance, nearly 50%) does not amount to a taking. The Court expressly distinguished the generally applicable three-part test from the limited Lucas test, which applies only in cases involving the complete "destruction" of the economically viable use of real property. The Court held that Concrete Pipe's required 46% pay-out to withdraw from a multi-employer pension plan was not a taking. The nearly 50% property diminution fell far short of the complete destruction of economically viable use of the property.

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Please also refer to our article on how to create affordable housing without new buildings.

Roads & Freeways and "Circulation" - Creation of new and increasing capacity of existing roadways.

HOPE opposes Policies increasing roadway capacity.

Essentially all traffic experts agree there is overwhelming evidence that –

You Can't Pave Your Way Out Of Congestion.

Specifically HOPE opposes --

1. Widening of State Route 156 to four-lane
2. Construction of State Route 68 4-lane bypass
3. Widening of State Route One to four lanes (Castroville the Santa Cruz County)

Increasing roads to alleviate congestion is like loosening your belt to cure obesity.

HOPE's primary mission is to protect our natural environment. Roads can lead to every form of environmental impact by allowing any kind of human activity into formerly inaccessible natural areas.

New roads or freeways can allow population growth, increase potential for logging, mining and development; directly change the hydrology of slopes and stream channels, increase natural resource exporting, increase air pollution (including plant harming dust) and water pollution (heavy metals from gasoline additives), decrease stream health, and create noise, increase impermeable surface area, increase soil compaction, increase erosion and landslides, fragment wildlands, increase poaching and legal hunting and fishing, cut animal migration paths, cause massive numbers of deaths of wildlife called "roadkill" (especially for amphibians), increase wildlife hunting and poaching, modify animal behaviour (home range movement, altered movement patterns, decreased reproductive success, and decreased escape response), increase invasion of destructive non native plants, insects and microorganisms; and divide human communities.

Habitat Restoration

The specific Goal is:

Missing!

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The Conservation element should include as a Goal to "Restore the natural phenomena to a safely sustainable state." Nothing in the proposed Goals suggests an intent to improve the native habitat that we have harmed.

We need to at least have the goal to help our County environmental crisis recover from the massive damage we have caused.

Why was "Restoring the natural phenomena to a safely sustainable state" not included in the Goals?

The Conservation Element gives only an appearance of imperiled species protection because it provides serious loopholes that any halfway competent developer could drive an army of bulldozers through and chainsaw away the rest.

Wholly Inadequate Monterey Pine Forest, Wildlife and Habitat Protection

1. The specific policy is:

Missing!

Just like in 2004 and earlier drafts.

We must begin with the facts that here in Monterey County --

- We have seriously endangered some 82 local animal species (e.g. Condors, Sea Otters), plus 19 trees and plants which lived here for millenia before we arrived,
- There is something seriously wrong with the magnificent dark green cloak that protects and beautifies our Peninsula, warms us in the winter and cools us in the summer - our Monterey Pine Forest,
- Our Carmel River and its biggest animals are dying; and we are enduring an official water supply emergency began in 1998,
- Our Peninsula is infested with Gridlocked Highways,
- Our County agricultural system spreads 10 million pounds of deadly pesticides every year,
- Yet County officials keep approving more water guzzling golf courses, more habitat destroying subdivisions, roads and mansions and encouraging pesticide dependent agriculture as though nothing is wrong !

They do this in large part because Monterey County staff has been unable to find a single Significant Environmental Impact since 1985, and that same staff has not done any actual or meaningful Mitigation of genuine serious impacts.

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Since 1985 no matter how much harm a project has done to imperiled species, overpumped watershed and aquifers, added to gridlock or air and water pollution,
- No Monterey County Development EIR has found a Significant Environmental Impact !

* Is there any evidence that this has changed or will change?

B. Monterey County Mitigation is non-existent, so worthless that a Superior Court had to order new procedures to force the County to Monitor its own mitigation measures on a dozen projects. All the other projects remain un-monitored and un-mitigated.

* Is there any evidence that this has changed or will change?

Forty nine (49) animal species living in Monterey County are facing extinction to the point of needing official protection by Federal and State laws because Monterey County has utterly failed to protect them in any meaningful way.

HOPe's primary mission is to protect our natural environment. We are intensely interested in protecting wild animals, their habitats and the food chain they need in order to survive for the next few hundreds of years.

The Conservation Element begins with --

"The County's intent is not to alter existing regional, State or Federal laws and regulations..."

It should read "**The County's intent is to not provide a drop more protection than required by existing State or Federal laws and regulations**, which in Monterey County are essentially not enforced."

GP Allows destruction of critical habitat by paying fees. OS-5.17

"OS-5.17 The County shall prepare, adopt, and implement a program that allows projects to mitigate the loss of critical habitat. The program may include ratios, payment of fees..."

* What will force the County to meaningfully and actually protect those critical habitats with the fees?

* What will prevent (not minimize) the County from hiring only those environmental impact "experts" who have not been able to find any Significant Environmental Impacts? (e.g. Biostitutes etc.)

OS 5.17 "any mitigation measures recommended in the report, shall be used as a basis for CEQA documentation"

* What level of protection will the Mitigation measures be required to use? Avoidance of harm to the species?

The GP provides only the absolute minimum treatment (not protection) for imperiled species.

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Only for those species that have had "critical habitat" forced by courts and then only "promotes" protection – it does not require them.

Monterey Pine Forest – Left Unprotected

For background – The native Monterey pine forest covered by this DGP and DEIR has absolutely no legal protection in Monterey County – none, nada, zero, zip, *! Even though the EIR recognizes they are highly imperiled* (G1 and S1 – page 4.9-7)²

- Huge areas of Monterey pine in this area (millions of pounds of trees) have been cut down without permits or penalty by PG&E.³

This General Plan does not provide any protection for the tree or its habitat - in fact the documents seem to take pains to avoid any protection for the tree and its habitat.

Exhibit 4.9.1 For the past 5 versions of this General Plan update HOPE has given the County at least 5 copies of up to date Monterey pine forest range maps - always acknowledged by staff - but the map remains not updated to include the almost untouched native Jeffers forest in Pescadero Canyon.

EIR: In the Open Space intro there is no mention of Monterey pine Radiata or Point Lobos even though it is widely referred to as the "Jewel of State Park System"

Exhibit 4.9.5 "Critical habitat" is missing the FESA protected Yadon's Rein Orchid -- which is almost fully native Monterey pine forest.

It would be very useful to the public, elected officials, developers and future planners so why can't you include a map of the range of the species covered by CEQA in the DEIR - particularly the native Monterey pine forest? The GIS maps used to exist in the original General Plan files in early 2001.

4.9-15 states "Several rare plants occur in the Monterey pine forest, including Monterey manzanita, Yadon's rein orchid, Gowen cypress (*Cupressus goveniana* ssp. *goveniana*), Monterey cypress (*Cupressus macrocarpa*) and Monterey Pine itself."

² Pinus Radiata (Monterey pine) was listed by the United Nations FAO in 1986 as an Endangered tree, *BEFORE* the species and its habitat became threatened by Pine Pitch Canker (*Fusarium subglutianus*).

³ April 1999 PG&E has probably destroyed over a million tons of Monterey pines in at least 3 different recent events in three different places on the Peninsula. There was Monterey pine destruction opposite Del Monte Center in 1997, next there was front page Herald coverage of the Monterey pine destruction at the Agujito stables, and now this recent outrage near Carpenter street – just across the Highway from the Coastal Zone.

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Please add "Several rare and ESA protected animals inhabit the native Monterey pine forest including the California red-legged frog."

4.9-93 states "Piperia yadonii "Coastal bluff scrub, closed-cone coniferous forest, maritime chaparral, on sandy soils

Since "Piperia yadonii is almost dependent upon Monterey pine forest for habitat (more than 95% of known occurrences are in Monterey pine forest), please change this to read "Closed-cone coniferous forest (overwhelmingly Monterey pine), Coastal bluff scrub, maritime chaparral, on sandy soils."

- Mitigation Measure HOPE-1: Downzoning areas with critical habitat by half or three-quarters to reduce the amount of development allowable. Downzoning by half or three-quarters is **not a Constitutional Taking**⁴ and can cost as little as the price of creating a zoning ordinance.

HOPE proposes the following mitigation measures to meaningfully potentially reduce direct development impacts of BIO-1 to less than significant.

- Mitigation Measure HOPE-2: Downzoning areas with sensitive species (as used by the DEIR) by half or three-quarters to reduce the amount of development allowable. As noted above - downzoning by half or three-quarters is **not a Constitutional Taking**.
- Mitigation Measure HOPE-3: Avoid development in areas with critical habitat.
- Mitigation Measure HOPE-4: Avoid development in areas with habitat for sensitive species (as used by the DEIR).

"The 2007 General Plan policies do not sufficiently guide the implementation of future development so as to ensure avoidance, minimization, and/or compensation for impacts to sensitive natural communities. Thus *impacts to sensitive natural communities are considered significant*." (pg 4.9-85)

⁴ **DOWNZONING BY HALF - DIMINISHING THE VALUE OF PROPERTY BY 50% IS INSUFFICIENT TO DEMONSTRATE A TAKING - THUS CONSTITUTIONAL**
Concrete Pipe, Inc. vs. Construction Laborers Pension Trust (1993)

In a post-Lucas case, Supreme Court returns to traditional Penn Central three-part formula and reaffirms that mere diminution in property value (in this instance, nearly 50%) does not amount to a taking. The Court expressly distinguished the generally applicable three-part test from the limited Lucas test, which applies only in cases involving the complete "destruction" of the economically viable use of real property. The Court held that Concrete Pipe's required 46% pay-out to withdraw from a multi-employer pension plan was not a taking. The nearly 50% property diminution fell far short of the complete destruction of economically viable use of the property.

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This says it all. This admits there are significant impacts to native habitats.

But then, even though there are no mitigation measures provided to protect the imperiled Monterey pine forest until at least 2030 – it then makes the wholly baseless conclusion –

“Implementation of General Plan policies, Mitigation Measures BIO-1.1 through BIO-1.5, and Mitigation Measures BIO-2.1 through 2.3 would reduce impacts of buildout on sensitive natural communities, riparian habitat, and wetlands to a less than significant level!”

This is beyond non-professional. It defies logic.

Since the EIR admits there will be significant impacts to sensitive natural communities including the Monterey pine forest (pg 4.9-85) and no mitigation measures provided to protect the imperiled Monterey pine forest until at least 2030 – please explain how this is possible?

Why is BIO-1-3 limited to Development in Focused Growth Areas (Community Areas, Rural Centers and Housing Overlays, Development requiring a discretionary permit, Large scale wineries in the AWCP – rather than applied to the entire county? The impacts described are not limited to those types of projects.

- Remember - Huge areas of Monterey pine in this area (millions of pounds of trees) were cut down without permits or penalty by PG&E in the 1990s. PG&E did not need a Discretionary permit.

This would leave Monterey pine forest un-protected by this Measure directly contrary to the claim - “Implementation of General Plan policies and Mitigation Measures BIO-1.1 through BIO-1.5 would reduce impacts of buildout on CEQA-defined special-status species and their habitat to a less than significant level.”

Since Measure B/O-1-3 leaves Monterey pine forest wholly un-protected how can the potentially huge impacts to the legally unprotect native Monterey pine forest be “less than significant?” (BIO-1 and 4 are only inventories, Bio-2 is only about kit-foxes and BIO-5 won't be complete until at least 2030.)

QUANTIFICATION OF BASELINES AND IMPACTS:

- 1a. Please clearly identify by NAME and describe each of the objective (non-subjective) CRITERIA used to determine the impact significance of the loss of **BIOMASS** of Monterey pines in kilograms or pounds. This impact appears to be potentially significant.

This is a very different environmental impacts than the loss of numbers of trees or acres of trees. **There can be more than 200,000 seedlings per acre of native Monterey pine forest that in total weigh less than a single mature Monterey pine. A single Monterey pine can weigh 10,000 pounds of 5 tons. An acre of native Monterey pine forest can support 200-500 mature Monterey pines.**

- 1b. If no objective criteria are used please state that clearly.

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- 2. If no objective criteria are used please clearly describe how the threshold of significance chosen is scientifically testable, repeatable, falsifiable, credible and defensible.

- 3a. Please state the NAME of the MEASUREMENT UNITS (numbers) used to determine the significance for EACH criteria.

- 3b. Please quote the definition used.

- 4. If no measurement units are used please state that clearly.

- 5a. Please state the METHOD of measurement used to determine the significance for each criteria.

- 5b. If no method of measurement was used please state that clearly for each criteria and explain thoroughly how the data was obtained.

- 6. Please quantify the existing or current BASELINE measurement (level) for each criteria.

- 7. Please state its MARGIN of ERROR or a confidence level and whether the MARGIN of ERROR is measured or assumed.

- 8. Please state the VARIANCE or fluctuation, assumed or expected for each of the criteria listed above.

- 9. Please state the variance's MARGINS of ERROR or confidence level.

- 10. Please state whether this MARGIN of ERROR is measured or assumed.

- 11. If an average is used, please state which kind of average.

- 12. Please state the most extreme values which could be encountered.

- 13. Please describe and quantify which criteria and ASSUMPTIONS the Impact Significance predictions are most SENSITIVE.

- 14. Please analyze and quantify how sensitive those predictions are to reasonably foreseeable varying criteria and assumptions.

- 15. Please provide a graph of HISTORICAL measurements.

- 16. Please quantify the length of time this impact would last.

- 17. Please quantify how this impact would vary over that time period. Please use a graph for clarity.

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- 18. Please state the THRESHOLD number at which the impact changes from significant to less-than-significant and the clear rationale for that number.
- 19. Please provide the MARGIN of ERROR used (in percent and absolute amount) for measuring the Significance THRESHOLD Level.
- 20a. Please state whether this MARGIN of ERROR is measured or assumed.
- 20b. If no margin of error is used please state that clearly.
- 21. Please disclose all threshold numbers at which the impact changes from LEGAL to ILLEGAL for ALL related and potentially relevant local, state and federal laws.
- 22. Some Impacts increase in a LINEAR RELATIONSHIP with increasing input, other impacts have complex non-linear relationships. Please provide a graph that shows whether the relationship is linear or otherwise - when at and near the significance threshold values.
- 23. Please quantify the total PERCENT MAXIMUM CHANGE, to which the IMPACT could raise or lower the baseline number and its MARGIN of ERROR or confidence levels.
- 24. Please state whether the MARGIN of ERROR is measured or assumed.
- 25. Please state whether this total PERCENT maximum change is an AVERAGE amount, a worst case expected or a best case expected.
- 26. Please quantify the ABSOLUTE MAXIMUM AMOUNT, to which the impact would raise or lower the baseline number and its MARGIN of ERROR or confidence levels.
- 27. Please state whether the MARGIN of ERROR is measured or assumed.
- 28. Please state whether this total maximum change amount is an AVERAGE amount, a worst case expected or a best case expected.
- 29. Please list all potential CUMULATIVE impacts related to this one.
- 30. Please describe all potential CUMULATIVE impacts related to this one.
- 31. Please quantify all potential CUMULATIVE impacts related to this one.
- 32. Please list, describe and quantify all potential compound and synergetic impacts.
- 33. Please list, describe and quantify all Construction impacts related to this one.

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- 34. Please list, describe and quantify all Growth impacts related to this one.
- 35. Please list, describe and quantify all Indirect impacts related to this one.
- 36. Please list and quantify every OTHER IMPACT - this impact or mitigation could increase.
- 37. Please describe the EXISTING USABLE limit of the RESOURCE this impact affects.
- 38. Please state the METHOD of measurement used to determine the limit of the RESOURCE this impact affects.
- 39. Please describe the MARGIN of ERROR or confidence level used to measure how much of this resource is left.
- 40. Please state whether the margin of error is measured or assumed.
- 41. Please quantify what is the maximum amount (in AMOUNT of existing) of this resource that can be lost and still be restored.
- 42. Please quantify what is the MAXIMUM amount (in PERCENTAGE of existing) of this resource that can be LOST and still be restored.
- 43. Please name each EXPERT who prepared and reviewed this impact.
- 44. Please cite each expert's training, and peer reviewed, validly published articles specific to this impact.
- 45. Please provide AVOIDANCE MITIGATION for this impact.
- 46. Please provide the reverse of this impact as Mitigation.
- 47. Please provide an ALTERNATIVE which avoids this impact.
- 48. Please list all other studies initiated by the applicant related to this impact, including subject matter breadth, author's names and dates and where they can be examined.

Process -

- 1. We request that - the evidence and materials in the administrative record for the 2004 General Plan be made a part of all hearings and considered.

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2. Two Criteria for Determining Significance Missing (4.9.5.2)

You are missing two critical thresholds – the loss of a single individual of a protected species, and the loss of a quarter acre of their habitat. While these are mentioned in passing on page 4.9-79 it should be included in the bulleted list of thresholds.

Death of a Single Individual of a Listed Species is a Significant CEQA Impact

- The loss or death of a single individual of a protected species must have a Finding of Significant Impact as required by CEQA Section 15065(a).

"15065. Mandatory Findings of Significance"⁶

"A lead agency shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project where any of the following conditions occur:"

"(a) The project has the potential to ... reduce the number (or restrict the range) of an endangered, rare or threatened species, ..."

"Reduce the number" means the loss of a single individual (e.g. from 500 to 499).

- The loss of as little as a quarter of an acre of habitat a single individual of a listed species must have a Finding of Significant Impact under CEQA Section 15065.

"Since a finding of significance under the Environmental Quality Act is required if [the] range of a single rare or endangered plant is restricted by a proposed development, information regarding existence of additional, previously unidentified, rare plant species merely affected magnitude of the impact of the proposed development, and a subsequent or supplemental environmental impact report would have to examine affected plant populations as part of its evaluation of the environmental impact. West's Ann.Cal.Pub.Res.Code § 21152, §21166"

- Mira Monte Homeowners v. San Buenaventura Cty. Etc. 165 Cal.App.3d 357; 212 Cal.Rptr. 127 (Cal.App.2 Dist. 1985)

EIR: Golf Courses are open space !?!

⁵ CEQA Guidelines 15065. Mandatory Findings of Significance (as of Apr 3, 2003)

A lead agency shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project where any of the following conditions occur:

(a) The project has the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish and wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of an endangered, rare or threatened species, or eliminate important examples of the major periods of California history or prehistory.

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"Under the State Guidelines, outdoor recreational land use is also considered open space, thus based on the definition golf courses are considered open space."
-pg 9 of OS EIR

Stop that.

Golf Courses are wildly different from the common understanding of Open Space.

They are made with almost completely non-native materials and vegetation and drowned in thousands of pounds of pesticides, fertilizers and emergency drinking water that should be used for humans.

Please create a new category for Golf Courses (e.g. "Intensely Modified Outdoor Recreation Areas") so no one can confuse them with genuine wildlands or habitat.

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Calderon, Vanessa A. x5186

From: David Dilworth [David8@thope.org]
Sent: Monday, February 02, 2009 4:05 PM
To: caqcomments
Subject: GP 09 CEQA Questions



C:\LAN09\PDF (69 KB)

Attached is a letter from HOPE on the Proposed 2009 General Plan and DEIR We object to the DEIR and have suggestions for improving the GP. -David

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- Hazardous Materials &
Pesticides
Dr. Arthur Partridge, PhD.
Forest Ecology

Planning Commission February 2, 2009
Monterey County

D-GP Noise Element Needs Impulse Policies

Good day Commissioners and Staff,

The General Plan Still does not Recognize Momentary Noises.

- Gunshots at shooting ranges, Car Alarms, Dog barking,
- Boom Box Cars, Leaf Blowers, and Non-emergency Car Honking

These transient, or recurring momentary noises generate the vast majority of complaints. Not merely complaints about noise, complaints to police departments about anything.

Yet the General Plan COMPLETELY avoids mentioning, regulating or prohibiting them.

Car Alarms, Dog barking, Gunshots at shooting ranges, Boom Box Cars, Leaf Blowers, and Non-emergency Car Honking and others are all very **intrusive transient noises that must be avoided or mitigated.**

It would be hard to imagine what more we could do to bring this to your atten O-10a

- We have given you probably the world's most up-to date research on the real harm of noise - the World Health Organization's Review of Noise.
- We have made available to you, for free, one of the world's top acoustics experts, Dr. Herman Medwin, Ph.D.

All of this has been ignored.

So, to provide you with a small legal push - the attached Noise Element has Findings that reflect the best available Noise Science. Because of those findings, most of the remainder of the Element is required as mitigation for noise existing in Monterey County - and which could arise from development provided for by the D-GP.

We respectfully request you explain why, if any, you disagree with any of the Findings and provide references for such disputes; and we want you to use the element as feasible mitigation.

Thank you,
-David Dilworth, Executive Director

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Noise (Free) Element for Monterey County's General Plan

By David J. Dilworth (with assistance from Herman Medwin, Ph.D.)

Informed Consent Noise Policy

This Noise Prevention Policy or General Plan Element is intended to be painless for Monterey county to merely plug into the General Plan with virtually no editing.

You may notice that this Element has three improvements over typical Noise control laws:

1. It is aimed at what appears in the "ear of the beholder" in addition to what is caused by the noisy activity,
2. It includes limits on inaudible noise, and
3. It allows noise pollution, but only when consent is given by all affected parties.

Noise Goal

The purpose of this noise element is to restore and maintain (your jurisdiction's¹) overall and specific quiet healthful environment and natural aesthetics; to eliminate harmful and disturbing man-made unwanted sound, known as noise, in and adjacent to (our jurisdiction).

Noise Findings

1. This Plan agrees with the World Health Organization in recognizing that noise is not merely a nuisance, it is a "serious health hazard." Noise levels and types can cause harm as well as annoyance, and even death to humans and wildlife, and can interfere with individual and community activities and harm property and reduce its value.
 - a. **Damage:** Continuous or transient noise at and above 75 dBA at the ear of the listener can cause hearing damage;
 - b. **Annoying and Significant:** Noise above 55 dBA can be annoying and the U.S. EPA considers it a significant impact;
 - c. **Conversation Blocking:** Noise levels of 50 dBA barely permits intelligible conversation; and
 - d. **Inaudible Harm:** Inaudible low frequency infrasound and high frequency ultrasonic noise can cause biological and property damage.
2. This Plan recognizes that relative levels of noise intrusion compared to the existing noise levels, are sometimes more important than absolute noise levels.

For example 50 dBA can be annoying or harmful in a quiet natural area - a park, a

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trail, rural areas, or at a beach, but unnoticed in town. Thus it is important to measure existing sound level baselines rather than time averaged man-made noise levels, which may be too high already.

3. This Plan recognizes that harm and complaints are more often caused by actual short duration maximum noise levels rather than calculated average noise levels.
4. This Plan recognizes each Californian's inalienable Right to Safety.
5. This Plan recognizes the California legislature's determination to take all action necessary to provide the people of this state with enjoyment of aesthetic, and natural environmental qualities, and freedom from excessive noise.
6. This Plan recognizes that there is no right to pollute, harm or annoy others.
7. This Plan recognizes the fundamental rights of each individual --
 - a. To be fully informed of a harmful action before it occurs, and
 - b. To deny consent.

Quiet Restoration and Protection Actions

1. Within one year of adoption of this Plan and updated at least yearly -
 - a. A complete inventory shall be prepared of -
 - I. All areas of natural sound, and
 - II. Noise sources of all existing man-made activities experiencing transient and continuous noise of at least 45 dBA; and Physical measurements shall be taken, as opposed to estimates or computer models, and maps shall be prepared of natural sound levels in all public areas and legally accessible private lands, and of continuous and repeating transient maximum noise levels for all noise sources in the updated inventory of noise levels of all man-made activities including, but not limited to --

Air Conditioners, Amplified Music, Barking Dogs, Chainsaws & Wood Chippers, Construction Vehicles, Construction Power Tools & Equipment, Generators, Industrial Fans, Industrial Engines, Leaf Blowers, Lawn Mowers, Portable Radios, Power Transformers, Public Address Systems, Public Fields or Stadiums (e.g. Football, Baseball, Soccer), Racing Tracks, Rock Quarries, Theaters, Vehicles, Weapon use (including Firing Ranges and Hunting), Aircraft, Busses, Cars, Neighborhood traffic, Traffic near Parks, Car Music, Event Traffic, Idling Busses, & Trucks, Motorcycles, Street Sweepers, Trucks, Garbage Trucks, Rockets, Spacecraft and Trains.
 - b. The measurements shall separately measure and map all noise locations in our jurisdiction, and sound levels, for --

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I. The Maximum Instantaneous Noise levels,

II. Noise Durations,

III. CNEL (if required by law), and

IV. The dBA difference of an area's average natural sound level to that of the man-made intruding noise level at the time of the intrusion.

2. To prevent harm, annoyance and activity interference by noise, no activity, existing or proposed, is permitted, except to alleviate an emergency, which can cause any transient or continuous noise exceeding --

- a. Noise levels of 55 dBA on any party unwilling or unable to give their consent.
- b. Natural sound levels by 5 dBA, where any alternative exists.

For example: Truck routes can be specified and truck speed limits can be lower than for other vehicles. An alternative to idling a bus or a truck is to require the motor to be turned off. An alternative to a 117 dBA chainsaw - is the use of an axe which only causes 55 dBA maximum.

- 3. To adequately warn people consenting to sound levels exceeding 55 dBA about the potential harm to their health, prior to the noise activity, each person whose consent is required must be given a readable copy of a true declaration clearly describing maximum noise levels and durations, and all potential harms to their health from the activity. Consent is only valid when a copy of the declaration is signed by the party affected by the noise. Proxy signatures are not valid.
- 4. To eliminate outside noises which adversely affect our area, (our jurisdiction e.g. Carmel or Monterey County) shall encourage avoidance and alternatives to all agencies and jurisdictions which have control over those noisy activities.
- 5. This Plan is intended to reflect the best available science. Whenever significantly improved information, alternatives, methods and equipment become available all policy related to this subject shall be updated within one year.
- 6. At all times (the jurisdiction e.g. Carmel or Monterey County) shall provide adequate resources to fully enforce this element and employ at least one full-time safety officer trained in noise detection and enforcement and noise free alternatives.
- 7. Compliance shall be encouraged with meaningful substantial fines collected, equal to the yearly cost of the noise making equipment by each responsible party for violations of each provision of this policy. Such fines shall be wholly applied to providing non-noisy alternatives and noise monitoring.
- 8. When successful enforcement of this ordinance is brought and accomplished by any person or entity other than the District Attorney the successful plaintiff shall be awarded \$5,000 civil penalty from defendant and any other fees and costs deemed appropriate by the court including those awarded pursuant to (California Code of Civil Procedure Section 1021.5)²

O-10b

831 / 624-6500 P.O. Box 1495, Carmel, CA 93921

Calderon, Vanessa A. x5186

From: David Dilworth [David8@lhope.org]
Sent: Monday, February 02, 2009 4:31 PM
To: cedcomments
Subject: HOPE: GP Noise Element Replacement



impulse309.pdf (26 KB)
NOISLMNT09.pdf (18 KB)

Because the GP does not have a required Noise Inventory we are providing you with a Replacement Noise Element.

HOPE - Helping Our Peninsula's Environment
Box 1495, Carmel, CA 93921
831/ 624-6500

Info7@lhope.org
www.lhope.org

Monterey County
Planning and Building
Inspection Administration

FEB 02 2009

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Handwritten: *Handwritten: CEGA Comments February 2, 2009 4:58 pm*

Trustees 2009

Dena Ibrahim
Holly Kiefer
Vienna Merritt-Moore
Terrence Zito

Founding Trustees

Terrence Zito
Darby Worth
Ed Leeper
Robert W. Campbell
David Dilworth

Science Advisors

Dr. Hank Medwin, PhD
- Acoustics
Dr. Susan Kegley, PhD
- Hazardous Materials & Pesticides
Dr. Arthur Partridge, PhD
- Forest Ecology

Monterey County Supervisors
Monterey County Planning Commission
Monterey County General Plan Staff

February 2, 2009

The Proposed Monterey County General Plan Update and Draft Environmental Impact Report

HOPE provides the following information related to the General Plan and its EIR -

1. Based on the best available science - Findings on the actual impacts of pesticide use.
* We respectfully request a response for each Finding if the County agrees or disagrees with each individual Finding and why.
2. A Chemical Pollution Element to be evaluated and used as feasible mitigation for the unfettered use of pesticides in Monterey County.
3. A map of the Present and historic range of native Monterey pine forest - to be incorporated into the GP GIS Vegetation maps.
4. A map of California red-legged-frog occurrences in Pebble Beach's native Monterey pine forest.
5. Based on the best available science - Findings on the actual impacts of light pollution.
* We respectfully request a response for each Finding if the County agrees or disagrees with each individual Finding and why.
6. A Light Pollution Element to be evaluated and used as feasible mitigation to minimize the light pollution in Monterey County.

Thank you.

O-10c

Pesticide Safety Element for Monterey County General Plan

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Informed Consent Pesticide Safety Policy

This Plan is intended to be Goal and Policy level work that guides preparation of a Pesticide Control Ordinance or a Code by defining the scope and limits of what they must address. It is not intended as a Pesticide Ordinance or a Code, though parts of it could be used for that.

This model Pesticide Safety Element has four improvements over typical Pesticide control laws:

1. It uses the best available science provided by the World Health Organization, the US Center for Disease Control, and the US-Environmental Protection Agency.
2. It controls what appears in the "nose of the beholder" in addition to what is emitted by the pesticide user,
3. It recognizes "invisible" and long-term pesticide impacts, and
4. It allows pesticide use, but only when fully informed consent is given by all potentially affected parties.

Pesticide Safety Goal

The purpose of this Pesticide Safety Element is to restore and maintain (our jurisdiction's') overall natural and healthful environment; to eliminate harmful and annoying unwanted pesticides in and adjacent to (our jurisdiction).

Pesticide Safety Findings

1. This Plan recognizes that pesticides are designed, created and used with the explicit intent to kill living creatures and other life. Pesticides are considered potential "weapons of mass destruction" by the U.S. government because they can cause harm, nuisance, annoyance, death and could even cause population extinction of humans and wildlife. They can interfere with individual and community activities, cause adverse health effects and harm property and reduce its value.
 - a. Significant Ecological Impacts: Pesticides are known to have unintentionally killed humans and millions of animals including livestock and many individuals of imperiled species officially recognized by endangered species laws including the Piping Plover;
 - b. Significant Pesticide Damage: Pesticides can cause cancer, chronic toxicity, teratogen effects, mutagenic effects, central nervous system effects, cardiovascular effects, kidney damage, liver damage, peripheral nervous system effects, immunological effects, gastrointestinal effects, reproductive effects, embryotoxicity, lung and respiratory effects, endocrine effects, blood cell disorders, damage to skin and eyes, skeletal damage, allergic sensitization and death;

2

O-10c

- c. Significant Harmful Nuisance: Pesticides can interfere with health and cause work absence due to effects including -- breathing difficulty, nausea, vomiting, diarrhea, convulsions, coughing, abdominal pain, blurred vision, dizziness, disequilibrium, disorientation, skin rashes, fever, chills, weakness, exhaustion, fatigue, headaches, memory loss, loss of sequential thinking, anxiety, voice loss, hearing loss, irregular heartbeat, and loss of consciousness;
 - d. Harm at Undetectable Exposures: Pesticides exposures below the level of detection can cause biological and property damage which may not be discovered for years or generations;
 - e. Harm at Distance: Pesticides are known to have caused damage up to 50 miles from where they were applied, and regularly cause damage at two to three miles from where they were applied.
 - f. Backlash: Pesticides have caused pesticide resistance in pests including insects, mites, weeds and fungi.
 - g. Pesticides harm and kill beneficial species including pollinators and pest predators insects such as the Syrphid fly, a predator of the Lettuce aphid.
 - h. Expensive Benefits Overstated: Pesticides cost farmers about \$4 per pound and up to \$800 per acre; some nine million pounds of pesticide active ingredients are applied in Monterey County each year, yet more U.S. crops are lost to pests, before and after harvest (~37%) than before widespread pesticide use arose in the 1940's (~31%).
 - i. The International Food Policy Institute estimates the environmental, health and social costs of pesticide use in the U.S. at \$100-\$200 billion per year, or \$5-10 in damages for every dollar spent on pesticides.
 - j. Alternative Pest control practices could halve the use of chemical pesticides on 40 major U.S. crops without reducing crop yields. Indonesia cut pesticide use on rice by 65% and yields increased by 15%. Sweden cut pesticide use in half with virtually no decrease in harvest.
 - k. A 50% cut in U.S. pesticide use would raise average income for farmers about 9% and only raise retail food prices by about 0.2%.
2. This Plan recognizes that synergistic and cumulative pesticide exposures can be more harmful than a single pesticide exposure.

For example a one-time application of pesticide in a non-agricultural area may have few obvious health effects, but synergistic and cumulative pesticide intrusion exposures can exceed thresholds of harm and significance.

3. This Plan recognizes that harm and complaints are often caused by short duration maximum pesticide concentrations rather than lower-level but more common-place pesticide exposures.
4. This Plan recognizes that pesticide harm and complaints are caused by actual exposures rather than a calculated, modeled, or estimated average pesticide concentration level.

2

O-10c

- 5. This Plan recognizes each Californian's Inalienable Constitutional Right to Safety.
- 6. This Plan recognizes that there is no right to pollute or cause harm.
- 7. This Plan recognizes the fundamental rights of each individual --
 - a. To be fully informed of a personally harmful action before it occurs, and
 - b. To refuse consent.

Pesticide-Free Restoration and Protection Actions

- 1. Within one year of adoption of this Plan and updated at least yearly -

- a. **Use Inventory:** A complete inventory and map shall be prepared of all specific pesticides used, all locations of use, and maximum amounts used in the County; and

- b. **Environmental Concentration Inventory:** Physical measurements shall be taken, as opposed to estimates or computer models, of maximum transient pesticide concentrations in air and water for each gas or liquid sprayed pesticide application in the inventory.

Except for disinfectants, for each application of gaseous or liquid sprayed pesticide the measurements shall separately electronically record, measure and map for all pesticide use locations in our (jurisdiction) for each specific pesticide --

- I. The maximum instantaneous pesticide concentrations at all downwind property lines before, during and after each application,
- II. The duration until pesticide concentrations are no longer detectable at any downwind property lines.
- III. Monitoring and measurements shall be designed and operated to capture actual peak pesticide concentrations.
- IV. If this inventory and mapping remains incomplete after one year, no pesticide application for any property may exceed half of the least number and smallest applications at that property in the previous five years.

- c. All inventory and maps and all information they are based upon shall be permanently retained.

- 2. **Use Requires Informed Consent:** To prevent pesticide trespass, harm, nuisance, annoyance and activity interference to humans, wildlife and property, no activity, existing or proposed, is permitted which can cause any pesticide contact with any party unwilling or unable to give their consent.

- 3. **Fully Informed Consent:** To adequately warn people about the potential harms to their health, prior to any pesticide use, each person whose consent is required, must

2

O-10c

be given a readable copy of a true declaration clearly describing all intended maximum pesticide use, times and durations and all potential harms to their health from the activity. Consent is only valid when a copy of the declaration is signed by the party affected by the potential for pesticide trespass. Proxy signatures are not valid.

- 4. **Alternatives Prohibit Exemptions:** When no alternatives exist which are significantly less-toxic, pesticide use may be allowed, but only --

- a. to alleviate an emergency, and
- b. for indoor disinfectant use.

For example: Steam wands can be used to kill weeds and leaves only water. Hydrogen peroxide disinfectants degrade into water and oxygen after a few minutes. Feasible alternatives to agricultural pesticides which have been used for centuries include crop rotation, cover crops, timed planting, crop residue tillage, land fallowing, field flooding, and use of native biota control such as ladybugs and spiders.

- 5. When pesticide application received the required consent the use shall be monitored as described in Section 1(b) above.

- 6. (The jurisdiction) will provide free pesticide monitoring for anyone who asks, and provide public education about this service. The cost of monitoring shall be fully paid to the (jurisdiction) by the pesticide applicator in advance of the application. To avoid any financial conflict of interest the (jurisdiction) shall provide or hire the pesticide monitoring party who is prohibited from having any financial connection to the pesticide applicator.

- 7. **Jurisdiction Trespass:** To eliminate pesticide drift adversely affecting our area, (our jurisdiction e.g. Carmel or Monterey County) shall encourage avoidance and alternatives to all agencies and jurisdictions which have control over those pesticide use activities.

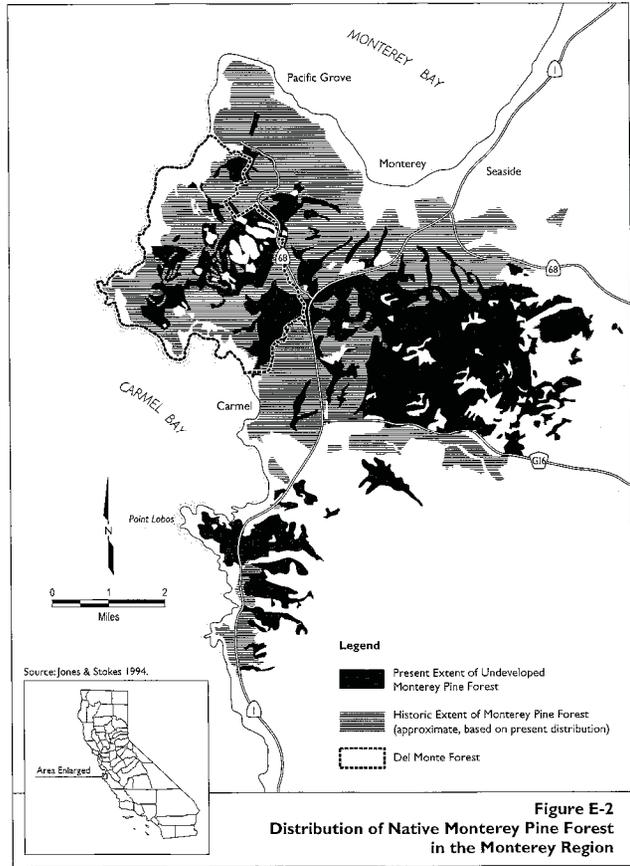
- 8. This Plan is intended to reflect the best available science. Whenever significantly improved information, alternatives, methods and equipment become available all policy related to this subject shall be updated within one year.

- 9. At all times (the jurisdiction e.g. Carmel or Monterey County) shall provide adequate resources to fully enforce this element and employ at least one full-time safety officer trained in pesticide detection and enforcement and pesticide free alternatives.

- 10. Compliance shall be encouraged with meaningful substantial fines collected, equal to the yearly cost of the pesticide application by each responsible party for violations of each provision of this policy. Such fines shall be wholly applied to providing non-toxic alternatives to pesticides and pesticide monitoring.

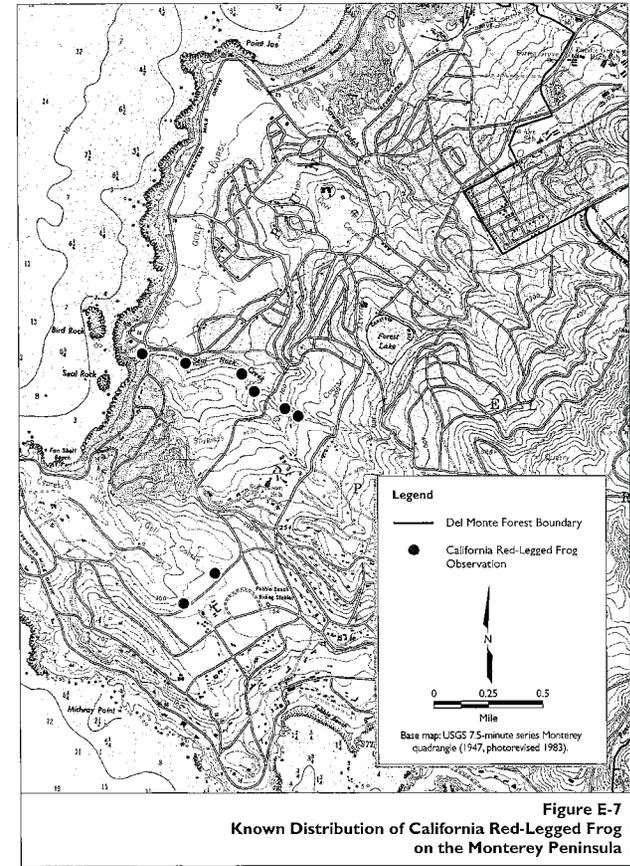
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3

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3

O-10c

Model Light Pollution and Radiation Safety Element for Monterey County's General Plan

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Informed Consent Light and Radiation Pollution Safety Policy

Light & Radiation Pollution Prevention is not yet an Element separately required from Safety, but if it is easy enough for cities and counties to merely plug on in they might do so.

If you review our companion Model Noise Element you may see that it is almost identical in concept to this element. Noise Elements however, are required by California law.

You may notice that this Element has four improvements over typical light pollution laws:

1. It employs the best available science,
2. it includes limits on invisible radiation,
3. it is aimed at what appears in the "eye of the beholder" rather than what is emitted by the source of light or radiation, and
4. it allows light and radiation pollution if approval is given by all affected parties.

Light Pollution and Radiation Free Goal

The purpose of this light pollution and radiation prevention element is to restore and maintain healthful environment free of unwanted radiation, light pollution and sky glare; to eliminate harmful and annoying man-made unwanted light pollution and radiation caused in, and coming into Monterey County.

Light Pollution and Radiation Free Findings

1. This Plan recognizes that light and radiation pollution is not merely a nuisance, it can be a serious health hazard. Light pollution and radiation levels and types can easily cause vision and skin damage, annoyance, sleep interference, deep tissue biological damage and even death to humans and wildlife. It can interfere with individual and community activities including astronomical research, and harm property and reduce its value.
 - a. **Damage:** Continuous or transient light or radiation at and above a light intensity of 20 candelas per square centimeter (cd/cm²) can cause optical and other biological damage;
 - b. **Annoying and Significant:** Direct Nighttime Light Pollution greater than 0.01 lux can be a significant impact and interfere with sleep; Direct Daytime Light Pollution above 10 candelas per sq. cm can be a significant impact and cause annoyance;
 - c. **Starlight Blocking:** Sky Glare levels of 0.001 lux barely permits star gazing; and

4

O-10c

d. **Invisible Harm:** Invisible low frequency infrared, microwaves and radio waves; and high frequency ultraviolet, x-rays and gamma rays can cause serious biological and property damage including death. Cell phone radiation can interfere with radio astronomy.

2. This Plan recognizes that relative levels of light or radiation intrusion compared to the existing light or radiation levels, are sometimes more important than absolute light and radiation levels.

For example 0.01 lux can be annoying or harmful in a dark natural area - a park, a trail, rural areas, or at a beach, but unnoticed downtown. Thus it is important to measure existing light and radiation level baselines rather than time averaged man-made light and radiation levels, which may be too high already.

3. This Plan recognizes that harm and complaints are more often caused by actual short duration maximum light and radiation levels rather than calculated average light and radiation levels.
4. This Plan recognizes that there can be significant long term energy cost savings by reducing or eliminating wholly unnecessary glare and light pollution.
5. This Plan recognizes each Californian's inalienable Right to Safety.
6. This Plan recognizes the fundamental rights of each individual --
 1. To be fully informed of a harmful action before it occurs, and
 2. To deny consent.

Light Pollution and Radiation Prevention Actions

1. Within one year of adoption of this Plan and updated at least yearly -
 - a. A complete inventory shall be prepared of -
 - I. All areas of natural nighttime light and radiation, and
 - II. Light pollution and radiation sources of all existing man-made activities experiencing transient and continuous nighttime light and radiation of at least 0.01 lux; and
 - b. Physical measurements shall be taken, as opposed to estimates or computer models, and maps shall be prepared of natural light and radiation levels in all public areas and legally accessible private lands, and of continuous and repeating transient maximum light and radiation levels for all light and radiation sources in the updated inventory of light and radiation levels of all man-made activities.

The measurements shall separately measure and map all light and radiation locations in our jurisdiction, and light and radiation levels, for --

 - I. The Maximum Instantaneous man-made light and radiation levels and their durations, and

4

O-10c

II. The difference of an area's average natural light and radiation level to that of the man-made intruding light and radiation level at the time of the intrusion in lux.

- 2. To prevent interference with star gazing and astronomy- no activity, existing or proposed, is permitted which can cause any transient or continuous light or radiation directed skyward.

For example: Light and radiation shielding can completely prevent all direct light from causing skyward glare and radio astronomy interference by cell phones. Use of low reflectance materials can greatly reduce and minimize the amount of indirect lighting and radiation causing skyward glare.

- 3. The only exceptions to section 2 are --

- a. Aircraft landing lighting,
- b. Temporary lighting for alleviation of an Emergency, and
- c. Telescope adjustments.

- 4. To prevent light trespass, radiation trespass, biological harm, property harm, annoyance and activity interference, no activity, existing or proposed, is permitted which can cause, on any party unwilling or unable to give their consent, any transient or continuous light or radiation of --

- a. Visible Light levels exceeding 0.01 lux per square cm.
- b. Natural light levels exceeding 0.01 lux, where any alternative exists.

For example: Light shielding can completely prevent all direct light from leaving a property boundary. Use of materials allowing no more than 10% reflectance can greatly reduce and minimize the amount of reflected lighting leaving a property boundary.

- c. Any amount of Gamma Ray Radiation,
- d. Any amount of X-ray Radiation,
- e. Any amount of Ultraviolet Radiation
- f. (Infrared Radiation > 1 watt / cm²)
- g. Any amount of Microwave Radiation
- h. (Radiowave Radiation > 1 watt / cm²)

- 5. The only exceptions to section 4a and 4b are --

- a. Temporary lighting for alleviation of an Emergency, and
- b. Temporary Holiday lighting.

- 6. To adequately warn people consenting to lighting levels exceeding 0.01 lux and and radiation levels exceeding 5 watts / cm² about the potential harm to their health,

4

O-10c

each person giving consent must sign, and be given a copy of, a declaration clearly describing all potential maximum energy and durations of the lighting and harms to their health from the light or radiation causing activity.

- 7. To eliminate light and radiation coming in from outside which adversely affect our area, (our jurisdiction e.g. Carmel or Monterey County) shall encourage avoidance and alternatives to all those agencies and jurisdictions which have control over those light pollution and radiation activities.
- 8. This Plan is intended to reflect the best available science and current conditions. As new information becomes available all policy related to this subject shall be updated immediately.
- 9. At all times (the jurisdiction e.g. Carmel or Monterey County) shall provide adequate resources to fully enforce this element and employ at least one full-time safety officer trained in light pollution and radiation detection and enforcement and light pollution free and radiationless alternatives.
- 10. Compliance shall be encouraged with meaningful substantial fines collected, equal to the yearly cost of the light or radiation making equipment by each responsible party for violations of each provision of this policy. Such fines shall be wholly applied to providing light pollution and radiationless alternatives and light pollution and radiation monitoring.

4

831 / 624 6500 P.O. Box 1495, Carmel, CA 93921

Calderon, Vanessa A. x5186

From: David Dilworth [David8@1hope.org]
Sent: Monday, February 02, 2009 4:58 PM
To: ceqacommments
Subject: HOPE: GP Pesticide Safety and Light Pollution Elements

1

PHONE NO. : NOV 25 2008 10:13:58 PM -1

LandWatch
monterey county

Post Office Box 1876
Salinas, CA 95002-1876
Salinas Phone: 831-422-9390
Monterey Phone: 831-375-3752
Website: www.landwatch.org
Email: landwatch@mcwa.org
Fax: 831-422-0391

O-11a



September 16, 2008

Attention: Monterey County Planning Department

Regarding: documents referenced in Draft EIR for GPU-5

To Whom It May Concern:

LandWatch Monterey County is reviewing the Draft Environmental Impact Report for GPU-5. As part of that review, we need access to the documents referenced in the DEIR. A list of these documents can be found in Section 11 of the DEIR.

I was at the County planning department counter on the mornings of Friday, September 12th and Monday, September 15th. I asked to see the documents listed in Section 11 of the DEIR for GPU-5. The counter staff did not know what documents I was referring to and kept trying to give me the DEIR or a copy of GPU-5. After much explaining on my part, the documents listed in Section 11 of the DEIR were not available and none were given to me. I was not told when they would be available. I gave my contact information to Carl Holm's assistant with a promise that I would be notified when I could view these documents. As of today, I have not been notified. I am very interested in viewing the records and I hope they are made available to me soon.

Sincerely,

Abby L. White

Associate Director, LandWatch Monterey County

Monterey County
Planning and Building
Inspection Administration

SEP 18 2008

RECEIVED

O-11b

m|r|wolfe
a associates, p.c.
attorneys-at-law

September 18, 2008

By Fax & U.S. Mail

Mike Novo
Monterey County Planning Department
168 W. Alisal Street, 2nd Floor
Salinas, CA 93901
Fax: (831) 757-9516

**Re: Draft EIR, 2007 Monterey County General Plan
(SCH# 2007121001)**

Dear Mr. Novo:

On behalf of our client, LandWatch Monterey County, I write to reiterate LandWatch's request that the County of Monterey provide it with access to the documents listed in Section 11 of the Draft EIR for the 2007 Monterey County General Plan, "Documents, Plans, and Reports Cited." All of these documents are referenced in the Draft EIR. Accordingly, this request is made pursuant to the County's obligation under CEQA to make all supporting studies and materials referenced in the EIR available to the public. Public Resources Code, § 21092(b)(1). The request is also made pursuant to the Public Records Act. Gov. Code, § 6250.

Please be aware that LandWatch has been diligently trying to obtain copies of these documents for the past week. On September 11, 2008, LandWatch Associate Director Amy White e-mailed Carl Holm of the Planning Department to request access to these documents, and to advise him that she intended to review them on Friday, September 12, 2008. When Ms. White appeared at the County offices the next day, the Planning Department did not produce them. When Ms. White returned on Monday, September 15, 2008, Planning Staff presented here with 4 binders that contained none of the requested documents.

Ms. White then wrote the Planning Department on September 16, 2008 to request access to the documents. When she returned to County offices on Thursday, September 18, 2008, she was presented with only 21 of the over 200 documents referenced in Section 11. Mr. Holm advised her that many of the documents might be available on-line, but acknowledged that no information was included in the EIR to assist the public in obtaining access to these documents.

O-11b

LandWatch's inability to review the referenced documents, many of which are voluminous technical reports that are critical to the EIR's conclusions, makes it impossible to participate meaningfully in the public comment process. In view of the County's delay in providing access to these documents, LandWatch requests that the County extend the public comment deadline by the number of days that elapse between Ms. White's September 11, 2008 request for access to copies of the documents, and the date on which copies of all documents referenced in Section 11 are made available for public review at a prescribed location.

In addition to the documents referenced in Section 11, LandWatch also requests access to the traffic studies and source documents referenced in Section 4.6. We note that the draft EIR does not reference an Appendix containing the traffic study. However, the tables in the traffic section reference sources including Kimberly-Horn & Associates, Inc. and DKS Associates. We ask that the County make available each traffic study or source document referenced in Section 4.6, including the sources referenced in Tables 4.6.1, 4, 5, 6, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29.

Please contact me to advise me when LandWatch may have access to copies of these documents.

Yours sincerely,

M. B. WOLFE & ASSOCIATES, P.C.



John H. Farrow

JHF:ms

O-11c

m|r|wolfe
& associates, p.c.
attorneys-at-law

September 18, 2008

Carl Holm
Monterey County Planning Department
168 W. Alisal Street, 2nd Floor
Salinas, CA 93901
Fax: (831) 757-9516

Monterey County
Planning and Building
Inspector Administration
SEP 23 2008
RECEIVED
3:22 pm

**Re: Draft EIR, 2007 Monterey County General Plan
(SCH# 2007121001)**

Dear Mr. Holm:

On behalf of our client, LandWatch Monterey County, I write to request access to the documents listed below. All of these documents are referenced in the Draft EIR. Accordingly, this request is made pursuant to the City's obligation under CEQA to make all supporting studies and materials referenced in the EIR available to the public. Public Resources Code, § 21092(b)(1). The request is also made pursuant to the Public Records Act. Gov. Code, § 6250.

Please provide us with access to the following documents:

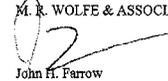
1. The source document identified at Table 4.7-3, Projected population and VMT Growth in Monterey County (Kimberly-Horn (2008)).
2. "Appendix A" referenced at page 4.7-22, which "describes the methodology and model inputs" for the criteria pollutant emissions calculations. In this regard, please note that the DEIR table of Contents identifies Appendix A as the Notice of Preparation. Thus, there must be either an error in designation or two Appendices A.
3. The source document used to prepare Table 4.7-5, Criteria Pollutant Emissions from Mobile Sources. Note that the "Appendix A" requested above, describing "the methodology and model inputs" for the criteria pollutant emissions calculations, may or may not contain the EMFAC or URBEMIS model runs themselves. Please produce the output from the model runs used to calculate criteria pollutants.

1

49 Geary Street | Suite 200 | San Francisco, CA 94108 | Tel 415.369.9400 | Fax 415.369.9406 | www.mrwolfsassociates.com

O-11c

Please contact me to advise me when LandWatch may have access to copies of these documents.

Yours sincerely,
M. R. WOLFE & ASSOCIATES, P.C.

John H. Farrow

JHF:ms

O-11d

m|r|wolfe
& ASSOCIATES, P.C.
attorneys-at-law

September 23, 2008

Monterey County
Planning and Building
Inspection Administration

SEP 25 2008

RECEIVED

Rec'd for on 9/23/08

Mike Novo
Monterey County Planning Department
168 W. Alisal Street, 2nd Floor
Salinas, CA 93901
Fax: (831) 757-9516

Re: **Draft EIR, 2007 Monterey County General Plan**
(SCH# 2007121001)

Dear Mr. Novo:

On behalf of our client, LandWatch Monterey County, I write to request that the County of Monterey fully comply with its obligation under CEQA to make available to the public all of the supporting studies and materials referenced in the draft EIR for the 2007 Monterey County General Plan ("DEIR"). See Public Resources Code, § 21092(b)(1).

Since September 12, 2008 when the DEIR was first released, LandWatch has repeatedly sought access to copies of the documents identified in Section 11 of the DEIR, as we detailed in letters dated September 16, 2008 and September 18, 2008. On September 18, LandWatch requested access to copies of the traffic source documents referenced in Section 4.6 of the DEIR, which were not referenced in Section 11 or provided in an appendix as is customary. On September 22, LandWatch requested copies of the air quality source documents referenced in Section and 4.7 of the DEIR, which, contrary to the text of the DEIR, are not in fact included in an appendix to the DEIR.

On September 23, the County's planning staff provided access to 22 of the 248 documents cited in Section 11. Staff provided partial copies of 9 other documents. Staff then provided a revised version of Section 11 to Amy White of LandWatch, numbering the referenced documents and providing URLs for a number of the documents for which the Section 11 had not previously provided URLs.

However, the County has still not yet provided hard copy or internet access to at least 48 documents referenced in Section 11. We are willing to accept URLs that actually permit us to access the document relied upon in the DEIR, but a number of the URLs do not do so. For example, the URL for document number 4, AMBAG's 2006 Travel Demand Forecasting Model, leads to Google search results for "Travel Demand Forecasting Model," not to AMBAG's model. URL's provided by the County for other

O-11d

documents lead to sites that require the public to order and pay for documents, e.g., documents 38-40, California Department of Conservation reports. Other URLs lead to subsequent versions of documents cited in the DEIR, e.g., document 47, California Department of Finance reports. In effect, the County has still failed to make more than 50 of the documents referenced in Section 11 available as is required under CEQA.

Finally, the County has simply not responded to LandWatch's request for access to the documents that are referenced in the traffic and air quality sections.

Accordingly, we reiterate our request that the County provide LandWatch with access to copies of all of the requested documents.

Until the County has met its obligation to make all of the documents available, LandWatch will be deprived of the opportunity to participate meaningfully in the public comment period. Thus, LandWatch reiterates its request that the County extend the public comment period so that there are at least 45 days for public review after the County makes all of the documents available.

Please contact me to make arrangements for access to the documents and to confirm that the County will extend the public comment deadline.

Yours sincerely,

M. R. WOLFE & ASSOCIATES, P.C.

John H. Farrow

JHP:ms

cc: Amy L. White

O-11e

m|r|wolfe
& associates, p.c.
attorneys-at-law

September 30, 2008

Via facsimile and U.S. Mail

Mike Novo
Monterey County Planning Department
168 W. Alisal Street, 2nd Floor
Salinas, CA 95901
Fax: (831) 757-9516

Monterey County
Planning and Building
Inspection Administration

SEP 30 2008

RECEIVED

11:30 am

Re: **Draft EIR, 2007 Monterey County General Plan
(SCH# 2007121001)**

Dear Mr. Novo:

LandWatch Monterey County would like to obtain copies of the following documents referenced in the Draft EIR, access to each of which we have previously requested on their behalf:

1. The traffic documents referenced in the text of the EIR and requested in a letter from John Farrow to Mike Novo on September 18, 2008. These include each traffic study or source document referenced in Section 4.6, including the sources referenced in Tables 4.6.1, 4, 5, 6, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29.
2. The air quality documents referenced in the text of the EIR and requested in a letter from John Farrow to Carl Holm on September 22, 2008. These include:
 - a. The source document identified at Table 4.7-3, Projected population and VMT Growth in Monterey County (Kimberly-Horn (2008)).
 - b. "Appendix A" referenced at page 4.7-22, which "describes the methodology and model inputs" for the criteria pollutant emissions calculations. In this regard, please note that the DEIR table of Contents identifies Appendix A as the Notice of Preparation. Thus, there must be either an error in designation or two Appendices A. If the reference was intended to be to Appendix B, please note that Appendix B addresses emissions of GHG, not criteria pollutants.
 - c. The source document used to prepare Table 4.7-5, Criteria Pollutant Emissions from Mobile Sources. Note that the "Appendix A" requested above, describing "the methodology and model inputs" for the criteria pollutant emissions calculations, may or may not contain the EMFAC or URBEMIS model run outputs. Please produce the output from the model runs used to calculate criteria pollutants.
3. The AMBAG travel demand forecasting model, which is identified as document #4 on the revised Section 11 that Carl Holm provided to Amy White. In this

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regard, we ask that the County ensure that we are provided the population, employment, and household assumptions by Traffic Analysis Zone used in preparing the Transportation analyses in Section 3.6. In this regard, please also produce the source document containing population, employment, and household assumptions by planning area used in preparing the Table 3-8 if it is not the same as the assumptions by Traffic Analysis Zone used to prepare the Transportation analyses.

4. Documents 11, 14, 145, 226, and 227 on the revised Section 11 that Carl Holm provided to Amy White, all of which relate to traffic issues.
 - a. AMBAG, 2002, Monterey Bay Metropolitan Transportation Plan (document 11)
 - b. AMBAG, 2004, Metropolitan transportation Improvement Plan (MTIP) FY2002/03 to FY 2004/05 (document 14)
 - c. Hexagon Transportation Consultants, Inc., River Road Winery Corridor Roadway Analysis, May 9, 2003 (document 145)
 - d. TAMC, 1999, Monterey County Year 2000 Regional Transportation Improvement Program, adopted Dec. 1, 1999 (document 226)
 - e. TAMC, 2002, 2002 Monterey County Regional Transportation Plan, February 27, 2002 (document 227).

We are willing to pay reasonable copying charges for these documents. Please advise us if the County will provide copies and what the County would charge. Alternatively, we will arrange to have a copy service photocopy them at your office.

Amy White will contact you later today to make arrangements for these materials.

We reiterate our request for access to the 50+ documents listed in section 11 that have not yet been made available in hard copy or via valid URLs as set out most recently in a letter from John Farrow to Mike Novo on September 23, 2008.

We reiterate our request for an extension of the deadline for public comments in view of the County's failure to make documents referenced in the DEIR available to the public, as is required by Public Resources Code Section 21092(b)(1).

Yours sincerely,

M. R. WOLFE & ASSOCIATES, P.C.

John H. Farrow

JHF:ms

cc: Carl Holm
Amy L. White

m|r|wolfe
& associates, p.c.
attorneys-at-law

FACSIMILE TRANSMITTAL SHEET

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Carl Holm	Megan Semple
COMPANY:	DATE:
Monterey County Planning Department	September 30, 2008
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PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
	254
RE:	YOUR REFERENCE NUMBER:
Draft EIR, 2007 Monterey County General Plan (SCH#2007121001)	
<input type="checkbox"/> URGENT <input checked="" type="checkbox"/> FOR REVIEW <input type="checkbox"/> PLEASE COMMENT <input type="checkbox"/> PLEASE REPLY <input type="checkbox"/> PLEASE RECYCLE	
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November 11, 2008

Angie Salazar
Juan Sanchez, Chair
Monterey County Planning Commission
168 West Alisal Street
Salinas, CA 93902

SUBJECT: GPU5 and the DEIR

Dear Chairman *Salazar* and Members of the Commission:

LandWatch Monterey County is still in the process of reviewing the draft environmental impact report (DEIR) for the 2007 General Plan (GPU5). While our full comments on the DEIR will be provided to the Planning Commission at a later date, we wanted to take this opportunity to provide some initial comments early in the process to help facilitate your review.

LandWatch is concerned about a number of features of GPU5 and is concerned that the County has not adequately disclosed its environmental consequences in the DEIR.

One of the issues of greatest concern to LandWatch is that GPU5 proposes to abandon the County's policy that bars new cultivation on slopes over 25%. Although the policy promises some form of discretionary permit for new cultivation on slopes over 25% or slopes that contain constraints, it postpones the identification of constrained slopes and provides no standards for allowable slope cultivation or conditions to control erosion. Similarly, the policy proposes a system of discretionary and ministerial permits for agricultural development of uncultivated soils, but it does not identify criteria for the discretionary permit or conditions to constrain development for either permit.

This new slope cultivation policy, together with the proposed exemption of routine and ongoing agricultural activities from discretionary permitting, would permit new cultivation on hundreds of thousands of acres of existing open space and habitat. Agricultural development on slopes will be spurred by these relaxed rules and by the proposed Winery Corridor, which will create incentives to substantially expand the County's viticulture industry.

The DEIR has not provided any meaningful analysis of the environmental effects of altering the existing rules to permit this kind of development. For example, in its evaluation of potential erosion and sedimentation effects, **the DEIR provides no description of the baseline conditions for erosion and sedimentation, no description of the likely location and intensity levels of slope development, and no meaningful analysis of the actual erosion and sedimentation that would result.** Instead of analysis, the DEIR simply

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concludes that impacts will be less than significant based on a mechanical recitation of a list of policies that have little or no substantive content and that evince a determination to postpone any actual regulation of activities that may cause erosion and sedimentation. The policies and proposed mitigation measures postpone the formulation of specific regulations without providing performance standards or examples of measures that might be required to address impacts. **These policies and mitigation measures do not provide the substantial evidence that impacts will be less than significant that CEQA requires.**

2

Similarly, the DEIR fails to evaluate the impacts to biological resources from agricultural and residential development permitted under the 2007 General Plan. Once again, the DEIR's analysis consists of the recital of policies and mitigation measures that have no substantive content and simply postpone meaningful regulation. These policies call for activities, programs, or ordinances to be identified or developed later, but the policies do not contain performance standards or provide examples of these activities, programs, or ordinances. Policies calling for action by the County fail to identify responsible agencies, ensure that adequate resources will be available, specify schedules for implementation, or provide for alternative measures pending full implementation. **And many policies are not enforceable because they call for voluntary action or merely call for encouraging and supporting beneficial activities. Again, these policies cannot provide assurance that CEQA requires that impacts will be avoided, minimized, or mitigated.**

3

The DEIR's conclusion that there will be an adequate water supply in the Salinas Basin ignores the expansion of the viticulture industry that the DEIR encourages through its slope development policy and Winery Corridor program; and it is not based on an analysis of all competing demands for water resources. The DEIR postpones the development of criteria for determining the availability of a long term sustainable water supply for individual development projects, but mysteriously concludes that there will be a long term sustainable water supply in the Salinas Basin for all future projects taken together.

4

The DEIR's traffic section provides a quantitative analysis of some major roadways and admits that there is no solution to the County's traffic problems on these facilities. Despite this admitted lack of resources, the DEIR concludes on the basis of yet another recitation of vague and unenforceable policies that impacts from future individual development projects will not be significant. There is simply no way to reconcile the DEIR's conclusion that cumulative impacts from future individual development projects will be mitigated with the DEIR's admission that most of the major facilities will suffer unavoidably significant impacts.

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And the DEIR ducks the most serious environmental crisis facing the planet by simply postponing the County's response to global warming for another two years.

6

To reiterate, one of the issues of greatest concern to LandWatch is that GPUS proposes to abandon the County's policy that bars new cultivation on slopes over 25%. Our initial review of the DEIR makes clear that abandoning the County's current policy, in place for more than 20 years, has not been adequately reviewed. We believe that adequate review of this issue will be very expensive, will greatly delay the approval process, and will clearly call for the prohibition of new cultivation on slopes of 25% or more.

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Indeed, LandWatch Monterey County believes that the failure to prohibit new cultivation on slopes of 25% or more, along with the accompanying water availability, water quality, and erosion problems compounded by the cultivation of steep slopes will threaten the viability of the Wine Corridor. Certainly, the Wine Corridor already faces serious environmental problems from the allowable residential development and accompanying traffic and air quality problems without compounding the problem by allowing new cultivation on steep slopes.

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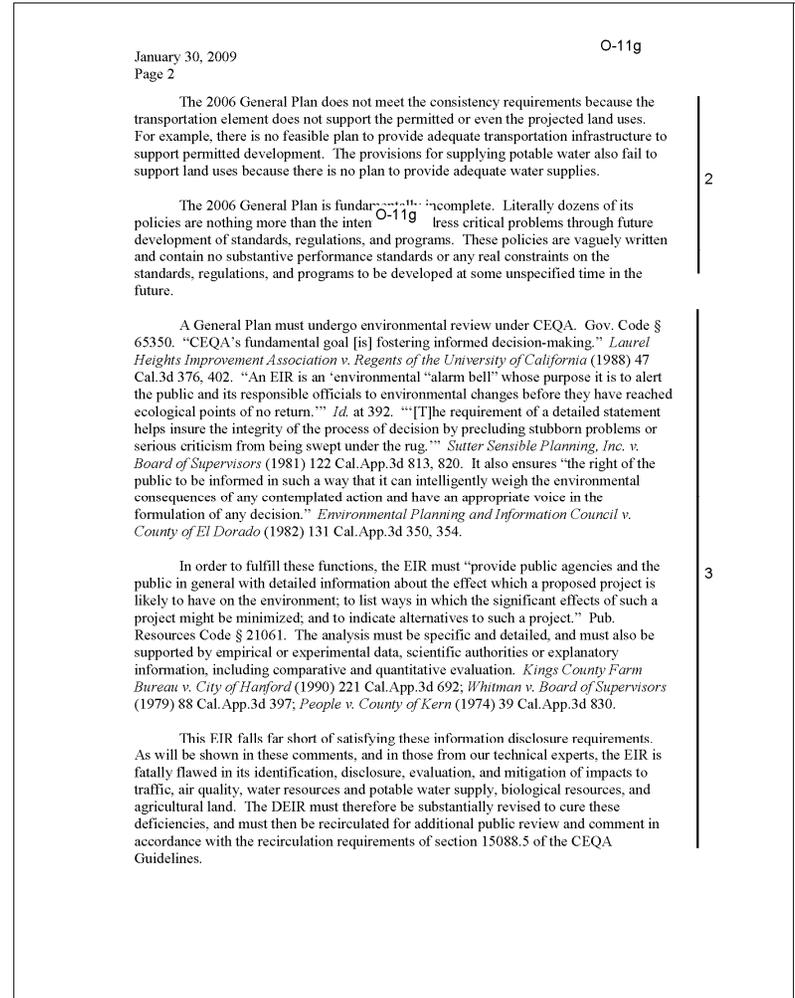
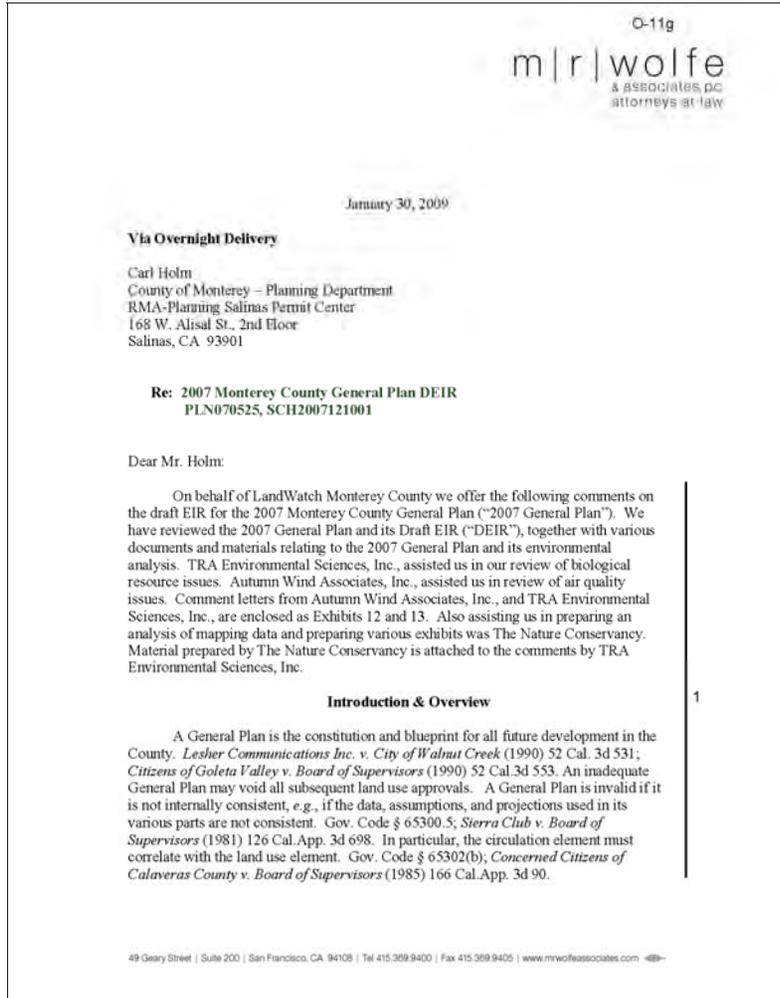
LandWatch hopes that the Planning Commission will seriously consider recommending the prohibition of steep slopes above 25%.

Again, LandWatch is preparing detailed comments on deficiencies in the DEIR and the 2007 General Plan. The County's response must be either to restrict harmful development by modifying the 2007 General Plan or to provide meaningful analysis that acknowledges the impacts of this development and then proposes all feasible mitigation.

Thank you for considering our comments.

Sincerely,

Chris Fitz, Executive Director
LandWatch Monterey County



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LandWatch advised the Planning Commission in its comments in November that it remains concerned about a number of features of the 2007 General Plan and is concerned that the County has not adequately disclosed its environmental consequences in the DEIR

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SLOPE DEVELOPMENT POLICY: The new plan proposes to abandon the County's policy that bars development on slopes over 25%. The new slope development policy contains vaguely worded exceptions that allow development even on slopes over 30%. Although the policy promises some form of discretionary permit for development on slopes over 25% or slopes that contain constraints, it postpones the identification of constrained slopes and provides no standards for allowable slope development or conditions to control erosion. Similarly, the policy proposes a system of discretionary and ministerial permits for agricultural development of uncultivated soils, but it does not identify criteria for the discretionary permit or conditions to constrain development for either permit.

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This new slope development policy, together with the proposed exemption of routine and ongoing agricultural activities from discretionary permitting, would permit residential and agricultural development on hundreds of thousands of acres of existing open space and habitat. Conversion of habitat to agricultural land has been occurring at over 800 acres per year for the last decade. Agricultural development on slopes will be spurred by the elimination of discretionary permitting and by the proposed Winery Corridor, which will create incentives to substantially expand the County's viticulture industry.

EROSION AND SEDIMENTATION: The DEIR has not provided any meaningful analysis of the environmental effects of altering the existing rules to permit this kind of development. For example, in its evaluation of potential erosion and sedimentation effects, the DEIR provides no description of the baseline conditions for erosion and sedimentation, no description of the likely location and intensity levels of slope development, and no meaningful analysis of the actual erosion and sedimentation that would result. Instead of analysis, the DEIR simply concludes that impacts will be less than significant based on a mechanical recitation of a list of policies that have little or no substantive content and that evince a determination to postpone any actual regulation of activities that may cause erosion and sedimentation. The policies and proposed mitigation measures postpone the formulation of specific regulations without providing performance standards or examples of measures that might be required to address impacts. For example, the DEIR admits that vineyard development will cause cumulative sedimentation impacts, but identifies as mitigation a policy that requires only that a task force look into the problem at some unspecified point in the future. The General Plan policies and the DEIR's proposed mitigation measures do not provide the substantial evidence that impacts will be less than significant that CEQA requires.

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BIOLOGICAL RESOURCE IMPACTS: Similarly, the DEIR fails to evaluate the impacts to biological resources from agricultural and residential development

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permitted under the 2007 General Plan. Once again, the DEIR's analysis consists of the recital of policies and mitigation measures that have no substantive content and simply postpone meaningful regulation. These policies call for activities, programs, or ordinances to be identified or developed later, but the policies do not contain performance standards or provide examples of these activities, programs, or ordinances. Policies calling for action by the County fail to identify responsible agencies, ensure that adequate resources will be available, specify schedules for implementation, or provide for alternative measures pending full implementation. And many policies are not enforceable because they call for voluntary action or merely call for encouraging and supporting beneficial activities. Again, these policies cannot provide assurance that CEQA requires that impacts will be avoided, minimized, or mitigated.

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The DEIR fails to consider and mitigate the effects of uncontrolled agricultural conversions on habitat fragmentation and movement corridors. Movement corridors are inadequately identified without using the best available science. Proposed mitigation for these landscape-level impacts is inadequate, because it relies on future *project*-level CEQA reviews that would be conducted when the County no longer has the flexibility to restrict or condition development at the landscape scale. Furthermore, the County proposes to exempt the agricultural and winery development responsible for much of these impacts from future CEQA review.

WATER IMPACTS: The DEIR fails to comply with CEQA's basic requirement that an EIR evaluate aggregate cumulative water demand and supply for each affected basin. The analysis for the Salinas basin is flawed and no analysis of basin-wide supply and demand is provided for the other affected basins.

The DEIR's conclusion that there will be an adequate water supply in the Salinas Basin ignores the ongoing cultivation of previously uncultivated land and the expansion of the viticulture industry that the DEIR encourages through its slope development policy and Winery Corridor program; and it is not based on an analysis of all competing demands for water resources. For example, the DEIR relies on the out of date EIR for the Salinas Valley Water Project ("SVWP") to conclude that there will be no increase in agricultural water demand. But the SVWP assumed no net increase in farmland whereas the DEIR admits that at least 7,300 acres of new cultivation will occur through 2030. The DEIR postpones the development of criteria for determining the availability of a long term sustainable water supply for *individual* development projects, but mysteriously concludes that there will be a long term sustainable water supply in the Salinas Basin for *all* future projects taken together.

8

The DEIR's conclusion that salt water intrusion will be halted is not consistent with the most current evidence of salt water intrusion and depends on the assumption that surface diversions from the Salinas River for the Salinas Valley Water Project can be doubled. The effect on endangered steelhead of doubling these diversions has not been evaluated by the County or by any other agency. We present expert evidence that this would significantly impact steelhead recovery efforts.

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TRAFFIC: The DEIR's traffic section provides a quantitative analysis of some major roadways and admits that there is no solution to the County's traffic problems on these facilities. Despite this admitted lack of resources, the DEIR concludes on the basis of yet another recitation of vague and unenforceable policies that impacts from future individual development projects will not be significant. There is simply no way to reconcile the DEIR's conclusion that cumulative impacts from future individual development projects will be mitigated with the DEIR's admission that most of the major facilities will suffer unavoidably significant impacts. Because there is no adequate proposal to meet circulation service standards, the 2007 General Plan does not meet the internal consistency requirements of the State Planning and Zoning Law. Numerous circulation policies are incomplete or inconsistent.

9

AGRICULTURE: The DEIR concludes that the loss of 2,571 acres of agricultural land redesignated by the 2007 General Plan to permit urban uses cannot be mitigated. It then mysteriously concludes that future *ad hoc* general plan amendments that convert agricultural land will be mitigated by an unspecified, to-be-devised mitigation program. If future loss of agricultural land can be mitigated, then the loss of the 2,571 acres should be mitigated too. Again, the deferral of the formulation of any substantive content to the policies that purport to mitigate growth impacts is improper.

10

AIR QUALITY: The DEIR purports to project demographic data for each Planning and Community Area based on the land use designations and policies in the 2007 General Plan. However, the DEIR does not document the details of the population, employment, and housing assumptions relied upon for the traffic and air quality analysis and the County failed to provide adequate documentation in response to LandWatch's requests. On its face, the 2007 General Plan is inconsistent with the 2008 Air Quality Management Plan because the DEIR projects more population. Because the DEIR simply "adjusted" its demographic assumptions to be consistent with the assumptions used in the 2004 Air Quality Management Plan, the DEIR's finding of consistency with the 2004 Plan is meaningless.

11

The DEIR inconsistently states both that the 2007 General Plan will *reduce* mobile source emissions and that it will *increase* mobile source emissions. While mobile source emissions *rates* may decline, that rate decline is not due to the 2007 General Plan. It is clear that new emissions from growth will represent an increase in emissions, but the DEIR does not acknowledge or quantify this. Mobile source emissions projections and significance conclusions in the DEIR are essentially incoherent. Finally, the DEIR fails to present an adequate analysis or mitigation of construction emissions or diesel toxics.

In sum, the County must modify the 2007 General Plan to restrict harmful development and to provide substantive policies that will demonstrably mitigate development impacts. The County must then revise and recirculate the DEIR to provide meaningful analysis of the remaining impacts and to propose all feasible mitigation.

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Our detailed comments follow.

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I. Unexplained and Inconsistent Demographic Data

A. Critical Data Not Supplied

The DEIR does not contain appendices that provide the assumptions and model outputs used to prepare the air quality and traffic analyses. Accordingly, LandWatch requested the source documents used to prepare the air quality and traffic analyses. See John Farrow, letter to Mike Novo, Sept. 18, 2008; John Farrow, letter to Carl Holm, September 18, 2008; John Farrow, letter to Mike Novo, Sept. 30, 2008.

RESUSAL TO SUPPLY TRAFFIC MODEL: In response to LandWatch's request for data used to prepare the traffic analyses, the County stated that there were no "source documents" for most of the tables in the traffic analysis. Leslie Girard, letter to John Farrow, Sept. 29, 2008. In response to LandWatch's request for the AMBAG traffic model, which was referenced as the source of the traffic analyses, the County simply stated that the model is proprietary with AMBAG. Wendy Strimling, letter to John Farrow, Oct. 3, 2008. In short, the public is asked to accept traffic output from a black box with no opportunity to review and challenge the methodology.

RAW TAZ DATA NOT EXPLAINED: In view of the fact that the AMBAG traffic model and its associated demographic data organized by Traffic Analysis Zone ("TAZ") are based on the land use assumptions in the existing Monterey County General Plan, the County has an obligation to explain how, if at all, those data were altered to reflect changes to land use assumptions in the 2007 General Plan. However, in response to LandWatch's request for the population, employment and household assumptions by Traffic Analysis Zone used to prepare the traffic analyses, the County provided unexplained, unmapped raw data by TAZ. Wendy Strimling, e-mail to John Farrow, Oct. 7, 2008. As set out below, LandWatch has identified numerous instances in which this TAZ data are inconsistent with the AMBAG 2004 forecasts on which it is purportedly based and/or inconsistent with land use constraints in the 2007 General Plan. The County failed to provide the data in a meaningful form, to explain how the TAZ data are consistent with AMBAG 2004 data, or to explain how the TAZ data were modified, if at all, to reflect changes in land use assumptions proposed in the 2007 General Plan. This failure substantially hampers the public's ability to understand and comment on the adequacy of the traffic and air quality analyses.

To address this failure, the DEIR must be revised to set out exactly how the traffic analyses' demographic assumptions were developed with reference to AMBAG forecast data and the land use constraints in the 2007 General Plan. This revision must address all of the inconsistencies noted below and explain how the proposed changes to existing land use designations have been reflected in the TAZ data.

SOURCES FOR TABLE 3-8 NOT PROVIDED: In response to LandWatch's request for the source document containing population, employment and household

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assumptions by planning area used in preparing Table 3-8, the County simply referred LandWatch to the 2004 AMBAG Population, Housing Unit & Employment Forecasts at AMBAG's website. Wendy Strimling, letter to John Farrow, Oct. 3, 2008. As noted above and detailed below, LandWatch has identified instances in which the Table 3-8 data are inconsistent with AMBAG's 2004 data. Furthermore, as explained below, the DEIR fails to provide any hint of the methodology by which AMBAG's aggregate forecasted population and housing units were allocated to the various Planning areas, Community Areas, Rural Centers, AHO's, and unincorporated areas outside CA's, RC's and AHOs, either as constrained by the 2007 General Plan land use assumptions or otherwise. In view of the instances of inconsistency between Table 3-8 data and the land use constraints in the 2007 General Plan identified above, the omission was critical.

To address this failure, the DEIR must be revised to set out exactly how the Table 3-8 demographic assumptions were developed with reference to AMBAG forecast data and the land use constraints in the 2007 General Plan. Table 3-8 must be expressly reconciled with the TAZ data used in the traffic and air quality analyses. This revision must address all of the inconsistencies noted below.

B. Inconsistencies Between Table 3-8, New Growth by Planning Area, Community Area and Rural Center, 2006-2030 and 2092 Buildout, and Other Data Sources Purportedly Relied Upon

In its Project description, the DEIR provides projected population, housing, and employment data in various tables. The most detailed projection of demographic data contained in Table 3-8, New Growth by Planning Area, Community Area and Rural Center, 2006-2030 and 2092 Buildout, which purports to be based on AMBAG's 2004 population forecast, adjusted to correct for traffic analysis zones (TAZ) that will be annexed into cities. DEIR, p. 3-8 to 3-12. The implication is that both the distribution and amount of growth were determined based on TAZ and AMBAG data. However, as discussed below, the Table 3-8 data are inconsistent with AMBAG 2004 data, with the TAZ data supplied by the County in response to LandWatch's request for the assumptions used in the traffic analyses, and with the land use constraints in the 2007 General Plan.

METHODOLOGY UNEXPLAINED: The DEIR states that AMBAG's 2004 population projections are "used as the basis for the 2030 growth assumptions used in this EIR's analysis." DEIR, p. 3-9. However, the DEIR does not explain how projections were made for growth in population, residential units, and employment for each Planning Area, Community Area, Rural Center, and Affordable Housing Overlay as set out in Tables 3-8 and 3-9. As set out below, there are a number of inconsistencies between the Table 3-8 data, on the one hand, and, on the other hand, the AMBAG 2004 projections, the Traffic Analysis Zone data provided by the County in response to LandWatch's request for the assumptions used in the traffic analysis, and the density constraints in the 2007 General Plan. In view of these inconsistencies, and in the interest of understanding how the Project description was prepared, we ask that the County explain how the DEIR preparers made projections for population growth for each Planning Area, Community

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Area, Rural Center, and Affordable Housing Overlay as set out in Tables 3-8 and 3-9. This explanation must account for changes in proposed land use designations as they affect growth in each area.

MONTEREY PENINSULA GROWTH INCONSISTENT WITH AMBAG: AMBAG's 2004 forecasts and the TAZ data used in AMBAG's traffic model show declining growth on the Monterey Peninsula for Carmel, Del Rey Oaks, Monterey, Pacific Grove, Sand City, and most unincorporated areas between 2005 and 2030. Population in the cities alone is shown to decline by 1,784 between 2005 and 2030. However, Table 3-8 identifies growth in the Monterey Peninsula area, including 1,761 dwelling units that would be built in Carmel Valley, Mid-Carmel Valley AHO, the Greater Monterey Peninsula and the Highway 68/Airport AHO. Thus, the Table 3-8 growth on the Monterey Peninsula is inconsistent with the 2004 AMBAG population forecasts and data used for the traffic model. Please explain this discrepancy.

CVMP TRAFFIC ASSUMPTIONS NOT PROVIDED AND INCONSISTENT WITH AMBAG 2004 PROJECTIONS: It appears that the DEIR has evaluated traffic impacts in the CVMP area based on the assumption that substantially more growth will occur in this area than projected by AMBAG. The DEIR states that the CVMP 2030 Cumulative plus Project analysis is based on the July 2007 CVMP Traffic Study. DEIR, p. 4.6-61 to 62. The DEIR states that this assumed development of 1,188 housing units between 2000 and 2030. The source document for the 1,188 housing unit assumption is apparently Appendix F to the DSEIR for the Carmel Valley Traffic Improvement Program. However, Appendix F is not provided in the DSEIR document for which a URL link is provided in the revised Section 11. Additional documents. (See the link in the revised section 11 at [2007c_Carmel Valley Traffic Improvement Program Draft Subsequent Environmental Impact Report_Available3](#)). Thus, the public has no way to understand the basis of the assumptions for the CVMP traffic analysis. The DEIR does state that the 1,188 housing units are "more units than assumed in the General Plan estimates to 2030." DEIR, p. 4.6-62. Indeed, Table 3-8 shows a total of only 251 units in Carmel Valley by 2030 (149 units for the mid-valley AHO and 101 units outside any CA, RC, AHO). DEIR, p. 3-16, 3-20. Table 3-8 data purport to be based on the AMBAG 2004 forecasts. DEIR, pp. 3-11 to 3-12. Please explain this discrepancy. A revised EIR must clearly provide the basis for the CVMP traffic analysis and reconcile demographic assumptions with the Project description.

COASTAL GROWTH: The DEIR references both AMBAG and DOF forecasts. DEIR, p. 3-9. These forecasts include coastal areas which are excluded from analysis in the DEIR. The Final EIR for GPU4, Tables 3-2, 3-5, 3-8, identified 2,589 Coastal Zone Legal Lots of Record, so some coastal development is likely. AMBAG 2004 forecasts in the TAZ data supplied for the traffic analysis also assume some coastal development - 309 units.¹

¹ AMBAG's forecast is actually low. Based on the County's on-line permitting data, between 2004 and 2008, 18 units were approved annually in the coastal zone. From 2006 to 2030, this rate of approval would result in a total of 432 new units by 2030.

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Table 3-5 shows that 2030 buildout of GPU5 would be 10,015 new units based on using an adjusted 2006 number minus AMBAG 2030 dwelling unit number (48,670 minus 38,655). Since AMBAG's 2030 forecasts include some growth in coastal areas, the 10,015 figure in Table 3-5 presumably also includes some coastal units. However, *Table 3-8 does not allocate any units to the coastal zone, but it also shows a total of 10,015 new units.* Thus, in effect, Table 3-8 projects greater population growth than AMBAG's 2004 data. Please explain how growth in coastal areas is accounted for in the Table 3-8 2030 buildout number of 10,015 new units and its relationship to AMBAG's 2030 forecasts.

In this regard, in its traffic analysis, the DEIR indicates that new development is not expected to occur in coastal areas under general plan buildout. DEIR, p. 4.6-27. Please identify how coastal units were accounted for in the traffic model.

AWCP UNITS OMITTED FROM TABLE 3-8: Table 3-8 does not include any units identified as attributable to residential development in the AWCP. The DEIR admits that by 2030 there would be 50 full-time residences and 150 employee residences spread across the AWCP area, but then states that winery workforce housing would be accommodated in cities, community areas, and Rural Communities. DEIR, p. 4.15-16. These statements are inconsistent and call into question the allocation of AWCP residential units in Table 3-8. The 2007 General Plan states in AWCP Section 3.3(G) and (H) that 4 residential units would be permitted by right on each of 50 wineries, of which 3 are for workforce housing, and that additional workforce housing would be permitted through discretionary permitting. Thus, there is no question that the AWCP would permit at least 200 housing units (4 units times 50 wineries) in the AWCP area. These units are not accounted for in Table 3.8.

HIGHWAY 68 AREA INCONSISTENCIES FOR 2030: Comparison of the TAZ data used to prepare the DEIR's traffic analyses to the data in Table 3-8 reveals that Table 3-8 shows substantially more development by 2030 in areas affecting Highway 68 than was assumed in the traffic analysis. The discrepancies are set out in the table below:

	TAZs (New Units)	Table 3-8 (New Units)
GMP Unincorporated	595	1510
Toro Area Plan	360	1046
Fort Ord	12	3295

Thus, it appears that the analysis of traffic impacts substantially understates the impacts to Highway 68 since it assumes many fewer new units by 2030. Please explain the discrepancies.

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Furthermore, the DEIR text at page 3-34 identifies 1,470 units for the Fort Ord Community Area. Table 3-8 shows a total of 3,295 units as of 2030. GPU4 identified a buildout number of 3,184 units. As noted, the TAZ data used to prepare the DEIR's traffic analyses show only 12 units of growth. Please explain these inconsistencies.

Finally, Table 3-8 shows for Toro that there are only 251 vacant residential lots, but projects 541 new potential units. However, only one unit is allowed per legal lot of record in the Highway 68 portion of the Toro Area, i.e., that portion of the Toro area outside the River Road RC and the Highway 68/Reservation Road AHO. Toro Area Plan, Policy T 1.7. Please explain the basis of projecting more units in 2030 than legal lots of record.

BUILDOUT ESTIMATES INCONSISTENT WITH PLAN: Table 3-8 also identifies full buildout estimated to occur by 2092. Buildout should be based on land use designations identified in GPU5. Please explain the following inconsistencies between Table 3-8 buildout data and the controlling constraints in the various land use plans:

- Buildout for North County is identified as 3,260 new units, exclusive of Community Areas; however, only one unit is allowed per legal lot of record outside the Community Areas. NCAP, Policy NC 1.5. Table 3-8 shows there are only 577 residential lots outside the Community Areas.
- Buildout for Toro is identified as 4,046 new units; however, only one unit is allowed per legal lot of record in the Highway 68 portion of the Toro Area, i.e., that portion of the Toro area outside the River Road RC and the Highway 68/Reservation Road AHO. Toro Area Plan, Policy T 1.7. Table 3-8 shows there are only 251 residential lots.
- Buildout for Carmel Valley is identified as 758 new units outside of the AHO; however, the Carmel Valley Master Plan limits buildout to 266 new units. CVMP, Policy CV 1.6.

BUILDOUT ESTIMATES INCONSISTENT WITH GPU4 ASSUMPTIONS: Table 3-8 identifies buildout estimates for a number of areas that are inconsistent with the buildout assumptions used in GPU4, despite the fact that there appear to have been no changes in assumptions or constraints. Please explain the following inconsistencies in buildout assumptions between GPU4 and the 2007 General Plan. If assumptions or constraints have changed since GPU4, please identify the changes.

- Buildout for Fort Ord is identified as 8,610 new units; however GPU4 identified buildout as 3,184 news units within the same boundary.
- Buildout for Pine Canyon is identified as 1,704 new units; however GPU4 identified buildout as 550 new units within the same boundary.

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- Buildout for Pajaro is identified as 676 new units; however GPU4 identified buildout as 100 new units within the same boundary.
- Buildout for Bradley is identified as 800 new units; however GPU4 identified buildout as 295 new units within the same boundary.
- Buildout for Lockwood is identified as 221 new units; however GPU4 identified buildout as 160 new units within the same boundary.
- Buildout for Pleyto is identified as 221 new units; however GPU4 identified buildout as 75 new units within the same boundary.
- Buildout for San Ardo is identified as 480 new units; however GPU4 identified buildout as 70 new units within the same boundary.

BASIS FOR PROJECTING UNITS IN UNINCORPORATED AREA: Table 3-8 and Table 3-9 show 2,003 units as of 2030 in the unincorporated County outside Community Areas, Rural Centers, and the AHOs. Please explain for each area how many of the projected units are single residences on legal lots of record and how many are attributable to subdivision activity. How was this determined? Please explain how proposed Policy LU 1.19 (permitting rural subdivisions in accordance with a Development Evaluation System that has yet to be devised) was interpreted and applied in projecting units in the unincorporated area. In particular, please explain how each of the various proposed "evaluation criteria" in Policy LU 1.19 were applied in each of the planning areas to constrain or permit rural subdivision activity.

Note in this regard that the GPU4 DEIR assumed that 1,200 units would be built through subdivisions in areas outside Community Areas and Rural Centers. Since the 2007 General Plan projects a different level of subdivision activity outside Community Areas and Rural Centers, please explain any change in assumptions that would justify a different projection.

TREATMENT OF UNITS IN DEVELOPMENT PIPELINE: Please explain how subdivisions that have been approved but not built have been accounted for, e.g., Morisoli (319 units) and Spreckels (77 units). Please explain how projects with completed applications before October 7, 2007 would affect buildout numbers.

C. Unexplained Aggregate Population Data In Traffic and Air Quality Analyses

In Table 4.7-3, the air quality analysis presents aggregate population data for various scenarios in its evaluation of consistency with the Air Quality Management Plan. The same data are presented in Table 4.6-11, purporting to summarize the population, housing, and employment data used to prepare the traffic analyses.

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Table 4.6-11 states that "Existing plus Project 2030 and Cumulative 2030 land uses were adjusted to match the published AMBAG 2004 Population, Employment and Housing Unit forecasts." DEIR, p. 4.6-22. It is unclear what this statement means. Please explain what land use and population data were "adjusted." Please explain with what other land use data the adjusted data are not consistent as a result of the "adjustment."

Please also explain whether this "adjustment" to match the published AMBAG 2004 data was also made to Table 4.7-3, which was used to determine consistency with the MBUAPCD Clean Air Plan. Since consistency with the MBUAPCD Clean Air Plan was found based on the fact that population in Table 4.7-3 was no larger than in the Clean Air Plan, and the Clean Air Plan itself used AMBAG data, it appears that the finding of consistency does not actually reflect any actual consideration of the ways in which the land use designations in the 2007 General Plan may affect population growth. In short, it appears that the consistency finding is nothing more than a reflection of the County's use of the same AMBAG growth assumptions.

Please explain whether the TAZ data supplied in response to LandWatch's request for the assumptions used in the traffic analysis are or are not consistent with Table 4.6-11. The DEIR must be revised to demonstrate how the TAZ data used in the traffic analysis correlate with the aggregate data in Table 4.6-11. If the data are not consistent, then the discrepancies must be corrected.

Please reconcile Table 3-8 with Table 4.7-3. For example, Table 3-8 shows that 10,015 residential units will be added in the unincorporated area between 2006 and 2030, whereas Table 4.7-3 shows that 13,483 units will be added between 2000 and 2030. Please explain whether the 3,468 unit difference in growth is attributable to development between 2000 and 2006. Please explain whether Table 4.7-3 includes or excludes coastal units, units in the development pipeline, and AWCP units.

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II. THE DEIR IMPROPERLY RELIES ON POLICIES AND MITIGATION MEASURES WITH NO SUBSTANTIVE CONTENT OR THAT ARE UNENFORCEABLE; AND THE DEIR DOES NOT JUSTIFY DEFERRAL OF MITIGATION PROGRAMS AND ORDINANCES

The 2007 General Plan DEIR bases its significance conclusions in many areas on its recitation of policies and mitigation measures intended to mitigate the impacts of future development. However, as discussed in sections below, these policies and mitigation measures frequently defer the formulation of any substantive programs, activities, or regulations. This deferral is only acceptable if the policy or mitigation measure specifies performance standards, lists exemplary measures, and avoids delegation away from the legislative body. The County must provide a justification for the deferral in the first instance. CEQA also requires that policies and mitigation measures be enforceable and feasible.

As discussed in the sections below, many of the DEIR's significance conclusions are unsupported because the substantive content to policies and mitigation measures has been improperly deferred or because these policies and mitigation measures are not enforceable or feasible. In the sections below, we provide detailed comments and questions regarding the policies and mitigation measures of particular concern to LandWatch, including those offered in support of significance conclusions regarding water supply, erosion and sedimentation, and traffic. TRA Environmental has also provided detailed comments and questions regarding the policies and mitigation measures intended to address impacts to biological resources. However, the DEIR's failures to identify meaningful substantive policies or mitigation measures is pervasive and affects its analysis and conclusions in other areas as well.

We ask that in addressing the comments and questions on the policies and mitigation measures the County revise the policies and mitigation measures to provide the required substantive content.

We briefly set forth some relevant law.

A. Requirements For Policies And Mitigation Measures Identified As The Basis Of A Significance Conclusion

Mitigation measures may be incorporated into plans, including general plans and specific plans. Pub. Resources Code, § 21081.6(b); CEQA Guidelines, § 15126.4(a)(2); *Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 358. Where this is done, however, the policies are subject to CEQA's rules regarding deferral of the formulation of mitigation. In particular, where policies defer the formulation of specific mitigation measures, they must include performance criteria. For example, in *Rio Vista Farm Bureau Center v. County of Solano* (1992) 5

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Cal.App.4th 351, 377 the Court upheld a hazardous waste facility siting plan because the plan provided "specific performance criteria" for future siting decisions.

The County cannot evade CEQA's requirements for deferred mitigation formulation simply by calling the measures "policies" instead of "mitigation." An agency may not use a first tier document to avoid coming to terms with the key environmental issues associated with a project. *Stanislaus Natural Heritage Project v. County of Stanislaus* (1996) 48 Cal.App.4th 182, 197. When an agency adopts a plan that will permit growth and development, it must actually evaluate the impacts that can be anticipated at that time, regardless of future tiers of review. *Koster v. County of San Joaquin* (1996) 47 Cal.App.4th 29, 39-40.

CEQA is clear that an agency may only defer the formulation of mitigation measures when it "recognizes the significance of the potential environmental effect, commits itself to mitigating its impact, and articulates specific performance criteria for the future mitigation." *Gentry v. City of Murietta* (1995) 36 Cal.App.4th 1359, 1411, citing *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1028-1029; CEQA Guidelines § 15126.4(a)(1)(B). In *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 794 the Court set out the standard for deferred formulation of mitigation measures:

"Deferral of the specifics of mitigation is permissible where the local entity commits itself to mitigation and lists the alternatives to be considered, analyzed and possibly incorporated in the mitigation plan. [Citation.] On the other hand, an agency goes too far when it simply requires a project applicant to obtain a biological report and then comply with any recommendations that may be made in the report. [Citation.] [*Defend the Bay v. City of Irvine, supra*, 119 Cal.App.4th at p. 1275, 15 Cal.Rptr.3d 176.] If mitigation is feasible but impractical at the time of a general plan or zoning amendment, it is sufficient to articulate specific performance criteria and make further approvals contingent on finding a way to meet them. (*Id.* at pp. 1275-1276, 15 Cal.Rptr.3d 176.)" *Id.* at 794.

The Court then rejected proposed mitigation because "[n]o criteria or alternatives to be considered are set out. Rather, this mitigation measure does no more than require a report be prepared and followed, or allow approval by a county department without setting any standards." In addition to identifying performance criteria, an agency should identify alternatives or exemplary measures. *Id.* As set out in the sections below, many policies purporting to mitigate impacts entirely fail to provide any performance criteria or to identify alternatives and examples of mitigation strategies.

An agency must have, and must articulate, a good reason for deferring the formulation of mitigation. *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 670, 684. Absent such a reason, deferral is simply not acceptable. And the fact that the County is engaged in first-tier review CEQA review is not, in itself, sufficient reason to evade CEQA's demand for meaningful information. *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007)

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40 Cal.4th 412, 431. The California Supreme Court made it clear that an agency may not evade its responsibility to provide meaningful information and analysis simply because it is undertaking first tier review:

“While proper tiering of environmental review allows an agency to defer analysis of certain details of later phases of long-term linked or complex projects until those phases are up for approval, CEQA’s demand for meaningful information “is not satisfied by simply stating information will be provided in the future.” (*Santa Clarita*, supra, 106 Cal.App.4th at p. 723, 131 Cal.Rptr.2d 186.) As the CEQA Guidelines explain: “Tiering does not excuse the lead agency from adequately analyzing reasonably foreseeable significant environmental impacts of the project and does not justify deferring such analysis to a later tier EIR or negative declaration.” (Cal.Code Regs., tit. 14, § 15152, subd. (b).) Tiering is properly used to defer analysis of environmental impacts and mitigation measures to later phases when the impacts or mitigation measures are not determined by the first-tier approval decision but are specific to the later phases. For example, to evaluate or formulate mitigation for “site specific effects such as aesthetics or parking” (*id.*, § 15152 [Discussion]) may be impractical when an entire large project is first approved; under some circumstances analysis of such impacts might be deferred to a later tier EIR.[footnote] But the future water sources for a large land use project and the impacts of exploiting those sources are not the type of information that can be deferred for future analysis.” *Id.*

Yet the DEIR here entirely evades the requirement to provide any meaningful information about the content of the future programs and ordinances that are supposed mitigate environmental impacts – and the DEIR does not explain why these policies have not been fleshed out. Even a cursory examination of many of the policies recited as the basis of the DEIR’s conclusions demonstrates that they simply have no content: no performance criteria, no exemplary measures, and no enforceable mandates.

The County may not delegate the formulation and approval of programs to address environmental impacts because an agency’s legislative body must ultimately review and vouch for all environmental analysis mandated by CEQA. *Sundstrom v County of Mendocino* (1988) 202 Cal.App.3d 296, 306-308. Thus, the DEIR may not rely on programs to be developed and implemented later without approval by the Board of Supervisors. Yet many of the policies cited by the DEIR call for programs without specifying what agency will develop, approve, and implement the program and what role the Board of Supervisors will play. The passive voice is pervasive, *e.g.*, OS 3.1 (BMPs shall be established and enforced), OS 3.3 (criteria shall be established), and PS 2.5 (regulations shall be considered).

CEQA also requires that policies and mitigation measures be enforceable and feasible. CEQA Guidelines, § 15126.4(a)(1), (2). Policies that have no standards cannot be enforced against development projects. Policies calling for future “programs” that do not identify a responsible agency, a deadline, or any substantive content are not enforceable by the public. Policies that call for future ordinances without identifying

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performance standards are also not enforceable, in the sense that the public will not be able to hold the County to any standards in enacting these ordinances. And policies that call for future projects and programs that the County is apparently unable to fund are not feasible.

A mitigation measure or policy is insufficient when it embodies nothing more than a hope that a solution will be found and fails to establish a method that will actually mitigate impacts. *King County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 728 (fatal flaw to rely on “mitigation agreement” where EIR presented no evidence that it was feasible). CEQA requires an agency to take steps to be sure that mitigation measures are actually implemented as a condition of development, not merely adopted and then neglected or disregarded. *Federation of Hillside & Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261. Here, however, many policies call for development of future programs or activities with no deadline or provision for interim measures. And many policies have so little content and contain so many exceptions that there can be no certainty that implementation of a conforming program or activity will actually have any real effect on the impacts at issue.

Finally, the empty policies violate the Planning and Zoning law requirements for completeness and consistency. Where the policies and programs that are supposed to achieve general plan goals are deferred without content or are vague and unenforceable, then they do not constitute a complete or consistent general plan. *Murieta Valley Unified School District v. County of Riverside* (1991) 228 Cal.App.3d 1212 (general plan must actually contain appropriate financing mechanisms or other arrangements that implement policies mandating the provision of school facilities).

B. Future CEQA Review Will Be Required To Adopt Ordinances and Programs Implementing Empty Policies Or to Approve Individual Projects

The County may not defer the formulation of substantive mitigation to address environmental impacts, that is, policies, programs, and ordinances that are enforceable and feasible and that contain clear performance standards. And even if it provides clear performance standards, the County must give a reason for deferring the formulation of mitigation measures. But even if it could legally defer mitigation formulation, it makes no sense to do so because the County will eventually have to come to terms with environmental consequences through CEQA review of the programs and ordinances that are yet to be adopted. Where the DEIR provides no real analysis of the inadequately specified programs and ordinances that are supposed to address environmental impacts, the County will have to conduct CEQA review before it adopts any such specific programs and ordinances.

Many of these ordinances will be permissive as well as restrictive, *e.g.*, the slope development ordinance under OS 3.5 and the Routine and Ongoing Agricultural Activities ordinance under AG 3.3 will permit some activities while restricting others. Because these ordinances will permit activities that may degrade the environment, they

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will not be eligible for the Class 7 or 8 categorical exemptions for activities to maintain, protect, or restore natural resources. CEQA Guidelines, § 15307 and 15308; *Mountain Lion Foundation v. Fish and Game Commission* (1997) 16 Cal.4th 105, 124-126; *International Longshoremen's and Warehousemen's Union v. Board of Supervisors of San Bernardino County* (1981) 116 Cal.App.3d 265.

Where there is no substantive content to these future programs and policies, the County will not be able to assert that the environmental consequences have already been addressed in a first tier review. Where potentially significant impacts of later projects were not "examined at a sufficient level of detail" in a first-tier document, a subsequent CEQA document may not dispense with analysis. Pub. Resources Code, § 21094(a). Where a later project may cause significant effects that were not adequately addressed in the prior EIR, including cumulative effects, an EIR will be required. CEQA Guidelines, § 15152(f). Thus, if the County does not adequately evaluate impacts in this first-tier document, it will inefficiently have to address these impacts in program EIRs for every implementing ordinance and program and/or in project EIR's for every future project level review for specific development projects. For example, the County defers both the analysis and mitigation of cumulative erosion and sedimentation impacts caused by conversion of hillside land for agricultural cultivation through Policy OS 3.9, which simply calls for a committee to develop a "Program" – with no performance standards to guide it. Until such a program has been evaluated under CEQA and adopted by the County, each individual project will have to undertake a cumulative impact analysis.

In sum, by adopting a series of empty policies and mitigation measures, the County is not actually obtaining the benefits of tiered environmental review. Instead, the County is just postponing environmental review and making it more complex.

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III. EROSION AND SEDIMENTATION ISSUES

A. Background and Overview

Adoption of the 2007 General Plan will permit development that causes erosion and sedimentation. A number of programs and policies in the 2007 General Plan are implicated.

- NEW SLOPE DEVELOPMENT POLICY - Policy OS 3.5: 2007 General Plan, p. C/OS-7. Policy OS 3.5 is a complex new policy modifying the current County policy reflected in Zoning Ordinance 21.66.030, which bans conversion of uncultivated land over 25% and requires a use permit for conversions between 15-25% in the North County Area Plan, Central Salinas Valley Area Plan and Cachagua Area Plan areas. Policy OS 3.5 is supposed to lead to a new permitting process applicable to both agricultural and other development on slopes. As discussed below, it has a number of defects: 1) it contains vaguely worded exceptions that would allow development on slopes over 30%; 2) it provides for a discretionary permit for residential/commercial development on slopes over 25% or slopes that contain constraints, but defers the identification of constrained slopes and provides no criteria for allowable slope development or conditions to control erosion; 3) it proposes a system of both discretionary and ministerial permits for agricultural development of uncultivated soils, but does not identify criteria for the discretionary permit or conditions to constrain development for either permit. See discussion below in connection with unfounded significance conclusions and inadequate mitigation.
- ROUTINE AND ON-GOING AGRICULTURE ("ROAA"): DEIR, pp. 3-46 ff. Various policies are proposed in order to permit ROAA without a discretionary permit, including conversion of previously uncultivated land, pursuant to Policy AG-3.3. Policy AG 3-3 exempts ROAA from a list of policies to the extent specified by those policies. One critical exemption is the partial exemption of conversion of uncultivated land on slopes under Policy OS 3.5. While there is an exception to the exemption in Policy AG 3.3 for projects "that create significant soil erosion impacts or violate adopted water quality standards," there are no criteria for determining what those projects are. Policy AG 3.3 calls for an ordinance to identify county permit requirements for specific ROAAs consistent with these exemptions.
- AGRICULTURAL WINERY CORRIDOR PLAN ("AWCP"): DEIR, pp. 3-39 ff. The AWCP establishes incentives for up to 50 wineries and visitor serving uses in a long corridor by exempting most activity from discretionary permits.

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Table 3-16. As discussed below, the wineries will encourage the recent trend toward conversion of uncultivated land to vineyards.

- CONVERSION OF UNCULTIVATED LAND: The 2007 General Plan will permit and encourage conversion of previously uncultivated land in order to make up for agricultural land lost to urban uses and to foster the trend toward viticulture on sensitive sloped land. While the DEIR contains cursory and fragmented references to the likely conversion of uncultivated land, a set forth below, these references fail to establish relevant baseline conditions and fail to provide a realistic projection of the extent and location of future conversions that will cause erosion and sedimentation.

The DEIR contains a brief discussion of erosion from agriculture and hillside development in the geology section. DEIR, 4.4-15. The DEIR addresses erosion and sedimentation impacts in a number of its impact analyses and significance findings. As discussed below, the DEIR does not provide any modeling or quantitative analysis and does not even qualitatively review different regions, activities, and conditions to support its conclusions that impacts will be less than significant. The relevant impact analyses in the DEIR include:

- WR1 – Non-point Pollution. DEIR, pp. 4.3-90 ff. This impact is found less than significant based on a list of policies and one new mitigation measure, which the DEIR states is not actually necessary. However, several of the rivers and streams in Monterey County are substantially impaired by sediment, and excessive erosion has the potential to continue to effect channel destabilization, habitat degradation and declines in water quality. Erosion from land development and road drainage activities have been shown to have substantial impacts on these resources, and as shown on Exhibit 4-4-5, most of the County is prone to high erosion hazards. As the letter from TRA Environmental demonstrates, continued sedimentation significantly impacts steelhead in the Salinas River and its tributaries. As discussed below, to demonstrate that the policies and mitigation measure would result in less than significant impacts, the County should provide an analysis of the expected areas of impacts, and their location relative to sensitive aquatic environments. The County should also demonstrate that the aquatic communities with the Monterey County are not sensitive to increased non-point source pollution or provide substantive policies to address the problem.
- WR2 – Construction-related Erosion and Sedimentation. DEIR, pp.4.3-99 ff. This impact is found less than significant based on a list of policies.
- WR3 – Agricultural and Resource Extraction Caused Sedimentation and Nutrient Loading. DEIR, pp. 4.3-107 ff. This impact is found less than significant based on a list of policies.
- WR10 - Increased Runoff Leading To Streambed Erosion. DEIR, pp. 4.3-173 ff. This impact is found less than significant based on a list of policies.

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- GEO5 – Soil Erosion Hazards. DEIR, p. 4.4-37. Impact found insignificant based on extensive list of policies and one additional mitigation measure (requirement that a stream setback ordinance be developed).
- Cumulative Impacts Related To Soils. DEIR, p. 6-6. The DEIR concludes with essentially no analysis that project-specific mitigation will avoid any cumulative impacts.
- CUM-2 – Surface Water Quality. DEIR, p. 6-10. The DEIR concludes that RWQCB regulations and proposed policies, including the entirely undefined future program to evaluate and address cumulative impacts through Policy OS 3.9, will ensure that contributions to significant cumulative impacts are not considerable.

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As discussed below in detail, the neither the DEIR nor the 2007 General Plan provides meaningful description and discussion of activities that may cause erosion and sedimentation. Neither provides any meaningful baseline information. And the DEIR's conclusions that impacts will be less than significant are based on a mechanical recitation of a list of policies that have little or no substantive content and that evince a determination simply to postpone any actual regulation of activities that may cause erosion and sedimentation. For the most part, the cited policies and proposed mitigation measures defer the formulation of specific regulations without providing performance standards or examples of measures that might be required to address impacts.

B. DEIR Fails to Provide An Adequate Description Of Erosion And Sedimentation Activity Permitted By the 2007 General Plan

CEQA requires an adequate project description, including a general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service services. CEQA Guidelines, § 15124. As noted above, the 2007 General Plan proposes to permit a number of activities that will cause erosion and sedimentation. Unfortunately, the DEIR fails to describe these activities with sufficient specificity to support the DEIR's conclusion that they will not cause significant impacts.

- 1. The DEIR does not describe the extent or location or, or the applicable constraints on, slope development for non-agricultural purposes**

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The proposed new slope development policy, Policy OS 3.5, would permit development on slopes of various steepness in accordance with a new permitting structure, which is to be devised later. The DEIR fails to describe the extent and location of likely slope development. The DEIR does not provide a map identifying sloped areas of the County, with or without an overlay of land use designations.

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Nor does the DEIR describe in meaningful detail the constraints to be imposed on future slope development through the permit processes to be devised later. (See discussion of inadequate mitigation policies below.)

Without this information, the project description is insufficient to support an analysis of likely impacts. The DEIR must be revised and recirculated to provide this information.

2. The DEIR fails to provide realistic projection of future conversions of uncultivated land for agricultural purposes

The AWCP is described as a program to establish a winery corridor including 50 wineries (40 artisan wineries and 10 full scale wineries), 10 off-site tasting rooms, 3 restaurants, 5 delis, and 8 inns. DEIR, pp. 3-39 to 40; see also 2007 General Plan, Chapter 9-J. However, neither the DEIR nor the 2007 General Plan provides any estimate of the amount of new vineyard capacity that would be induced. For example, although the DEIR's water supply analysis estimates wine production from the 50 wineries and estimates the water required to grow the grapes, it does not estimate how much land would be newly cultivated to support vineyards. DEIR 4.3-121. Instead, it states that the land required for the wineries themselves would be only 142 acres. DEIR 4.3-121.

The discussion of impacts associated with agricultural land conversion states that most of the area within the AWCP boundaries contains cultivated fields or grazing land. DEIR, 4.2-8. However, the discussion does not disclose how much previously uncultivated land (e.g., grazing land) would be converted to new vineyards. Some estimate of this must be provided.

Although the General Plan states that 65-70% of the County's grape production is shipped out of the County to wineries elsewhere, implying that there is an imbalance between vineyards and wineries (2007 General Plan, p. AWCP-1), there is no effort made to forecast how much additional vineyard development will occur – either in response to newly developed local winery production capabilities or in order to continue and expand what is apparently a profitable grape export business. No evidence is provided that grape harvests from existing vineyards would be diverted away from external wineries to local wineries, foregoing existing external markets. There is simply no reason to suppose that the existing external markets will be abandoned. A much more likely scenario is that additional vineyards will be created to support new winery capacity. The DEIR must be revised to project the extent and location of new vineyard development induced by the expansion of winery facilities, as the DEIR acknowledges will occur. DEIR, 4.4-41 (“Implementation of the AWCP could induce property owners to change crop cover to vineyards or to plant vineyards on uncultivated slopes, thereby increasing the potential for soil erosion.”)

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It is evident that the AWCP is likely to result in substantial conversion of uncultivated land located on slopes and on the Valley edge. As discussed below, data in the DEIR and common sense suggest that significant and concentrated new vineyard development will occur in the AWCP corridor, proximate to the new wineries, as a direct result of the incentives for winery development in the AWCP. Data in the DEIR also indicate that additional conversions of uncultivated land to agriculture will occur throughout the County.

The DEIR states that adoption of the 2007 General Plan will remove 2,571 acres of important farm land from agricultural land use designation. DEIR, p. 4.2-12, Table 4.2-9; p. 4.2-18. The DEIR then observes that that new vineyards are likely to be established on lands currently devoted to grazing, thereby partially mitigating the loss of farmland to other land uses. DEIR, 4.2-19. However, the DEIR fails to quantify this. Please provide an estimate.

The discussion of potential impacts to biological resource movement corridors states that conversion of previously uncultivated land to new farmland is not expected to result in significant impacts because it is projected to be only 450 acres per year and is expected to occur in a “sporadic and discontinuous pattern,” based on the pattern of historic conversion. DEIR, p. 4.9-95. This conclusion is based on historic habitat conversion data from 1982 to 2006. DEIR, p. 4.9-46, Table 4.9-6 (habitat conversion 1982-2006); p. 4.9-57, Table 4.9-7 (impacts on natural vegetation communities due to development); p. 4.9-64, Table 4.9-8 (agricultural habitat conversions to 2030 and to buildout). However, as set out below, this conclusion is not supported by data in the DEIR itself, which establishes that conversions are accelerating and concentrated in sloped locations.

Data in the DEIR demonstrate that the trend in conversion of habitat to agriculture of all kinds is accelerating, with conversions in the most recent 10 years proceeding at a rate 4 times higher than in the 14 years prior to that – from 212 acres per year in 1982-1996 to 820 acres per year in 1996-2006. DEIR, Table 4.9-6. Furthermore, the DEIR states that conversions for vineyards in particular are also accelerating: 700 acres of vineyard conversions occurred in 1982-1996 representing only 24% of the 2,976 total acres converted in that period, whereas 3,300 acres of vineyard conversions occurred between 1996-2006 representing 40% of the 8,209 total acres converted in that period. DEIR, p. 4.9-63; p. 4.9-46, Table 4.9-6. Thus, the data in the DEIR support a projection that conversion of habitat to agriculture will continue at the rate of 820 acres per year based on the recent trend, not just the 450 acres per year that the DEIR projects by diluting the recent data with older data. The data also support the conclusion that a growing percentage of that land conversion will be for new vineyards.

The only basis the DEIR provides for its conclusion that there will be no net expansion in agricultural acreage is the observation that AMBAG does not forecast an increase in agricultural employment. DEIR, p. 4.9-63. However, the DEIR offers no evidence that AMBAG forecasts took into consideration the County's as yet unadopted

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plan to create substantial incentives for new vineyard production through the AWCP, and there is no reason to suppose that AMBAG has done so.

Furthermore, the DEIR acknowledges that one driver of agricultural conversion is the need to replace the land lost to development due to urban use; thus, even if there were no net change in agricultural acreage, the increase in urban uses proximate to Monterey County cities and Community Areas will result in conversion of existing natural habitat distant from urban development to replace lost agricultural land. DEIR, p. 4.9-63. The DEIR states 2,571 acres of "important farm land" will be removed from the agricultural land use designation to accommodate urban development through enactment of the 2007 General Plan. DEIR, p. 4.2-12, Table 4.2-9; p. 4.2-18. The DEIR does not disclose how much other farmland (e.g., grazing land) will be redesignated, but data in the DEIR show that historically the conversion of grazing land has occurred at a rate at least half that of the conversion of important farm land. DEIR, p. 4.2-7, Table 4.2-7. Furthermore, the DEIR acknowledges that additional, but not quantified, agricultural land will be converted to urban use through subsequent development pressure. DEIR, pp. 4.2-25 to 4.2-28. Thus, it is reasonable to conclude that conversion of previously uncultivated land will occur to replace agricultural land lost to urban land use, and that this conversion will occur in fringe areas such as the Valley edge and slopes.

And, in fact, the DEIR states that "spatial analysis of the vineyard development indicated that most of the recent vineyard expansion is at the valley edges and upslope." DEIR, p. 4.9-63. It goes on to state that "the dominant locales of recent conversions are along the eastern and western slope of the Salinas Valley. It is expected that these slopes of the Salinas Valley along with the slopes of tributary valleys to the Salinas Valley will be the likely focus of future conversions of habitat to agriculture." DEIR, p. 4.9-63. Exhibits 4.9-6 through 4.9-9 show that land conversions are in fact concentrated on sloped areas.

In short, it is reasonable to conclude based on data in the DEIR itself that at least 820 acres of uncultivated land will be converted to agriculture annually, that at least 40% of that will be for vineyard development located primarily on sloped land and on the valley edges proximate to the winery corridor. Comments and mapping data provided by TRA Environmental demonstrate that there are thousands of available acres of land designated to permit agriculture on the sloped edges of the Salinas Valley. The removal of the ban on slope development over 25% would open up thousands of additional acres. Substantial increases in erosion and sedimentation may result from new cultivation of this land.

The DEIR must be revised to provide a reasonable estimate of the location and extent of conversion of previously uncultivated agricultural land that is consistent with recent data. This estimate should be used to project erosion and sedimentation impacts, particularly cumulative impacts, analysis of which the DEIR simply postpones. DEIR, p. 6-10 (Policy OS 3.9 postpones development of a program to address cumulative hydrologic impacts of the conversion of hillside rangeland areas to cultivated croplands.) The estimate should then be used to develop effective, substantive policies and mitigation

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measures to prevent erosion and sedimentation and to demonstrate in the EIR how those policies and mitigation measures would in fact be effective.

C. DEIR Fails To Provide Baseline Information On Erosion And Sedimentation

CEQA requires that an EIR provide a description of a project's environmental setting that is sufficient to support an analysis of the significance of the project's effects. CEQA Guidelines, § 15125(a). The cursory discussion of erosion and sedimentation in the DEIR identifies common causes of erosion and sedimentation, but does not provide any systematic baseline information about conditions that would lead to erosion and sedimentation, including soil types, slopes, and vegetative cover of the areas in the County that are likely to be subject to development or newly cultivated for agriculture; rainfall; surface water flows; dams and weirs; roads; gullies and landslides; and channel incision. For example, the 2007 General Plan proposes to permit development on slopes over 25%, but the document fails to present a map showing the areas in the County that will be permitted to be developed under this policy. Policies calling for the preparation of databases related to soil conditions at some unspecified time in the future are not an adequate substitute for presentation of baseline data in this first tier CEQA document. Baseline data must be presented now to support the DEIR's impact analyses.

The only information provided about existing sedimentation effects is a list of 303d impaired streams. DEIR, pp. 4.3-54. The DEIR does not characterize the sedimentation conditions in other streams. The DEIR provides no information about existing erosion or identifying erosive soils or other conditions that may contribute to erosion. Thus, the DEIR provides no basis for evaluating the likelihood or extent of soil erosion from development activity permitted by the 2007 General Plan, including future cumulative effects.

A reasonable approach to addressing baseline conditions affecting erosion and sedimentation would require preparation of a baseline data report, such as the report prepared by Jones and Stokes for Napa County, which is intended to be used for future planning efforts, including the Napa County General Plan update. Jones and Stokes/EDAW, Napa County Baseline Data Report, Nov. 2005, chapters 15-17.² Absent this kind of information, the DEIR fails CEQA's information disclosure requirements.

D. The Impact Analysis Is Predicated On Avoidance, Minimization, And Mitigation Through Policies And Mitigation Measures That Cannot Support The Conclusions That Impacts Will Be Less Than Significant

The DEIR evaluates erosion and sedimentation impacts and finds them to be less than significant in the context of General Plan policies that for the most part call for programs and ordinances to control erosion that are not specified in any meaningful detail, that contain no performance criteria, that identify no exemplary measures, that

² Available at <http://www.co.napa.ca.us/gov/departments/29000/bdr/index.html>.

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propose no deadline for implementation or interim mitigation, or lack any enforceable mandates for action. The DEIR's impact analyses do not provide any information about the likely extent of erosion-causing activities or explain with any specificity how the recited General Plan policies or proposed additional mitigation measures would prevent significant impacts. For both of these reasons, the DEIR's discussion of significant impacts cannot support its conclusions that impacts will be less than significant.

For a discussion of the requirements for policies identified as the basis of a significance conclusion, please see Section II above. Generally, such policies are subject to CEQA's rules on deferral of the formulation of mitigation, including the requirement to specify performance standards, to list exemplary measures, to avoid delegation away from the legislative body, and to provide a justification for the deferral in the first instance. CEQA also requires that policies identified as mitigation be enforceable and feasible. In addition, the Planning and Zoning Law requires that policies completely and consistently implement general plan goals.

**1. Slope Development Policy OS 3.5
Is Inadequate**

Policy OS 3.5, the proposed new slope development policy, embodies most of the possible defects in general plan policies that are offered as the basis of a significance conclusion under CEQA or that purport to implement a general plan goal under the State planning and Zoning law. The following defects must be addressed and resolved.

UNJUSTIFIED RELAXATION OF BAN ON DEVELOPMENT OVER 25%: Zoning Ordinance 21.66.030(C) bans conversion of uncultivated land over 25% and requires a use permit for conversions between 15-25% in the North County Area Plan, Central Salinas Valley Area Plan and Cachagua Area Plan areas. This ordinance was adopted consistent with Policy 21.1.3 in the 1982 General Plan, which requires the County to *maintain* the erosion control ordinance and update it as new information becomes available. Policy 21.1.3 was specifically identified as mitigation for impacts to soils, hydrological, and water quality resources. 1982 GP. P. 196. Policy OS 3.5 proposes to relax the existing slope development ordinance to permit development on slopes up to 30% (and even to permit development of steeper slopes under vague and unenforceable exception provisions).

CEQA requires that an agency explain and provide substantial evidence to justify its decision to abandon previously adopted mitigation measures. *Napa Citizens v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 364. No new information is offered in the DEIR to justify relaxation of the existing ordinance, and by extension, relaxation of the existing mitigation measure embodied in Policy 21.1.3. The DEIR does not offer any information suggesting that development on slopes over 25% will not contribute to erosion and sedimentation problems. Nor does the DEIR offer any information suggesting that the slope development policy should be relaxed for any other reasons despite the erosion and sedimentation consequences. For example, the DEIR contains no analysis that demonstrates any need to accommodate demand for

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development on steep slopes. Indeed, the DEIR claims that the demand for cultivation of previously uncultivated land will be relatively modest based on weighting recent data showing accelerating agricultural conversions with historic data. The DEIR cannot logically claim that there is modest demand for cultivation of steep slopes and that the slope development policy must be relaxed.

Policy OS 3.5 must be revised to continue the current ban on development of slopes over 25%, or the DEIR must provide substantial evidence to justify relaxing this ban. Such evidence would have to consist of precisely the fact-based analysis of erosion and sedimentation impacts that the DEIR fails to provide, including identification baseline conditions and likely development, and an analysis of erosion and sedimentation from that development.

VAGUE AND UNENFORCEABLE EXCEPTION TO THE BAR ON DEVELOPMENT OVER 30%: Although Policy OS 3.5 bars development on slopes over 30%, it contains vaguely worded exceptions that make this bar unpredictable and unenforceable. The policy would permit development on slopes over 30% when, after a hearing, there is finding that there is no "alternative" or that the development is "better:"

"The exception may be granted if one or both of the following findings are made, based upon substantial evidence:

- A) there is no alternative which would allow development to occur on slopes of less than 30%; or,
- B) the proposed development better achieves the resource protection objectives and policies contained in the Monterey County General Plan, accompanying Area Plans and Land Use Plans, and all applicable master plans." Policy OS 3.5.

The wording of the first exception ("A") does not present any genuine constraint. The lack of any "alternative" must be determined with reference to some objectives, but the policy does not explain how those objectives would be determined, by whom, or in what context. Since the *developer's* objective is usually to develop a particular piece of property with a particular use, the developer would simply point out that there is no alternative. As worded, the first exception provides no meaningful constraint on exceptions, which could be granted on an *ad hoc* basis to any project proponent.

The second exception ("B") is equally wide open. This exception would permit development over 30% when the proposed development "better achieves resource protection objectives and policies in applicable plans." Determining whether a proposal "better achieves" some goal requires that it be compared to some alternative. The second exception does not explain how the alternative for comparison is to be formulated, by whom, in what context, and with reference to what goals. Again, a developer would apparently be free to identify a straw man alternative that causes much more adverse effects, and then argue his proposed development project on the steep slope is "better."

Both exceptions must be eliminated from the policy. If exceptions are to be permitted, they must be justified and meaningfully constrained.

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UNSPECIFIED AND UNENFORCEABLE DISCRETIONARY PERMIT FOR NON-AGRICULTURAL DEVELOPMENT ON SLOPES OVER 25%: OS 3.5 proposes that a discretionary permit be required for non-agricultural development on slopes over 25% or slopes that contain geologic hazards as shown on the databases of geologic and hydrologic hazards, which are to be prepared under Policies S1.2 and PS 2.7 [sic, PS 2.6].

"A discretionary permit process for development on slopes greater than 25-percent (25%) or that contain geologic hazards and constraints shown on the County's GIS Geologic (Policy S-1.2) or Hydrologic (Policy PS-2.7) Hazard Databases shall be established. The process shall be designed to:
a. evaluate possible building site alternatives that better meet the goals and policies of the general plan
b. identify development and design techniques for erosion control, slope stabilization, visual mitigation, drainage, and construction techniques.
c. minimize development in areas where potentially unstable slopes, soil and geologic conditions, or sewage disposal pose substantial risk to public health or safety." Policy OS 3.5

The County has not even identified the areas where a discretionary permit would be required. As noted below, although Policies S 1.2 and PS 2.6 provide for doing so at some point, neither policy contains a deadline or any interim measures pending completion of the databases. This must be addressed. Also as noted below, neither Policy S 1.2 nor PS 2.6 provide any criteria by which areas to be subject to discretionary permits will be identified. Until the County has identified areas where development of slopes greater than 25% should be allowed, and has provided a defensible technical justification for allowing such development, no development on such slopes should be permitted.

There is no excuse for the County's failure to identify areas containing geologic hazards. The information could have been developed in the general plan update process, which has now gone on for years, and which has consistently identified the need to develop this information. This information should be part of the DEIR's baseline information, and it should have been used to identify and limit land use designations.

Neither S1.2 nor PS 2.6 contains performance criteria for key terms such as "highly erodible soils" or "moderate and high erosion hazards," so the public has no idea what terrain would require a discretionary permit. These terms must be defined and justified with reference to a technical analysis that considers the actual effects of allowing development.

Although Policy S1.2 requires mapping impaired water bodies on the State Water Resources Control Board 303d list, there is no indication how that information would be used to constrain development. Nor is it clear why only 303(d) listed streams are the primary focus of the County's policies, since sedimentation to any stream has the potential to impact aquatic communities, water quality, and sensitive species. As noted

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below, the County has not developed or meaningfully specified criteria for the proposed Stream Setback Ordinance under BIO-2.1, DEIR p. 4.9-86 either.

OS 3.5 states that the discretionary permit process is to be designed to "evaluate possible building site alternatives that better meet general plan goals and policies." However, again, this language will be in practice unpredictable and unenforceable because it would require formulation of "alternatives" for comparison with reference to unspecified objectives (e.g., there would be no alternative to a project meeting the proponent's narrowly defined objective to develop a particular use on a particular site). This language must be clarified to explain under what conditions development would not be permitted because of the existence of better "alternatives."

The discretionary permit process calls for identifying techniques for erosion control, but it fails to provide any performance specifications or to identify any exemplary measures. The vague and generic language in OS3.5 that requires that "permit processes shall be designed to require that an erosion control plan be developed and implemented that addresses slope stabilization, and drainage and flood hazards" does not contain performance criteria or exemplary measures. The policy must provide a performance specification and exemplary measures that are based on meeting the water quality and soil retention goal OS 3.5.

In sum, this portion of Policy OS 3.5 purporting to set up a discretionary permit process is simply a hollow shell that would permit essentially any kind of non-agricultural development on steep and erosive slopes. As written, the discretionary permit process for non-agricultural development does not provide any substantial evidence to support a finding that erosion and sedimentation effects of the 2007 General Plan would be less than significant. And it does not actually implement Goal OS-3, to prevent soil erosion and enhance water quality.

UNSPECIFIED AND UNENFORCEABLE DISCRETIONARY PERMIT FOR AGRICULTURAL DEVELOPMENT ON SLOPES OVER 25%: OS 3.5 calls for both a discretionary and a ministerial permit for agricultural slope conversions over 25%:

"The County shall develop and implement an Agricultural Permit process for the conversion, for agricultural purposes, of previously uncultivated lands on slopes in excess of 25-percent (25%). An Agricultural Permit shall recognize unique grading criteria for agricultural purposes and the process shall include criteria when a discretionary permit is required. Projects that are subject to a State Agricultural Waiver Program, Agricultural Registration Program, or other similar program that regulates irrigation of agricultural land on steep slopes or projects where only a small portion of the affected area has slopes in conflict with this policy shall be allowed with a ministerial permit that requires compliance with the criteria developed for the following resource areas:
a. Water Quality/Water Supply
b. Biological Resources
c. Cultural Resources

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- d. Erosion Control
- e. Drainage
- f. Flood Hazards." Policy OS 3.5.

The policy refers to, but does not specify, "criteria when a discretionary permit is required." As written, projects subject to the "State Agricultural Waiver Program, Agricultural Registration Program, or other similar program that regulates irrigation of agricultural land on steep slopes" would require only a ministerial permit. The policy also requires only a ministerial permit for "projects where only a small portion of the affected area has slopes in conflict with this policy." It is not clear whether *all* other projects would require a discretionary permit, and, if not, *what* other projects would require a discretionary permit. This must be clarified.

Please identify the "State Agricultural Waiver Program, Agricultural Registration Program, and other similar program that regulates irrigation of agricultural land on steep slopes." Please explain how these programs would address erosion and sedimentation effects from cultivation of steep slopes. We note that the current RWQCB Basin Plan identifies only two waivers of Waste Discharge Requirements and reporting requirements applicable to agriculture: #20, for irrigation return water where sediment meets turbidity objectives and discharge is not toxic; and #16, for agricultural commodity wastes. RWQCB, Central Coast Region, Water Quality Control Plan, Appendix A-23. Neither of these waivers appears to be focused on regulating irrigation on steep slopes in particular. Sedimentation from storm water-caused erosion would not be controlled by the irrigation return water waiver.

The criteria for permitting conversion with a ministerial permit is not clear because the term "small portion" is undefined. Is this term to be defined in a to-be-developed program, or will it be left for *ad hoc* determination as permits are requested? Is "small portion" to be evaluated in absolute (e.g., ¼ acre) or percentage (e.g., 2% of proposed conversion) terms or with reference to the actual erosion and sedimentation potential (e.g., contributing a specified sediment load)? This must be clarified.

Furthermore, assuming it can be determined what projects are not eligible for a ministerial permit and therefore must be evaluated through a discretionary permit process, Policy OS 3.5 contains no criteria whatsoever for deciding *whether* a discretionary permit should be issued, and if so, *what conditions* should attach to such a permit. An adequate policy must provide both. The vague and generic language in OS3.5 that requires that "permit processes shall be designed to require that an erosion control plan be developed and implemented that addresses slope stabilization, and drainage and flood hazards" does not contain performance criteria or exemplary measures. Conditions on development must be justified with reference to attaining the water quality and soil retention goal OS 3.5, and must include performance specifications and exemplary measures.

In sum, this portion of Policy OS 3.5 purporting to set up a discretionary permit process for agricultural conversions is also a hollow shell that would permit essentially

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any kind of agricultural development on steep and erosive slopes. As written, the discretionary permit process for agricultural development does not provide any substantial evidence to support a finding that erosion and sedimentation effects of the 2007 General Plan would be less than significant. And it does not actually implement Goal OS-3, to prevent soil erosion and enhance water quality

MINISTERIAL PERMIT CONDITIONS UNSPECIFIED FOR CONVERSION OF UNCULTIVATED LAND TO AGRICULTURE ON SLOPES OVER 25%: Policy OS 3.5 permits agricultural conversions on land sloped over 25% subject only to an unspecified ministerial permit:

- "Projects that are subject to a State Agricultural Waiver Program, Agricultural Registration Program, or other similar program that regulates irrigation of agricultural land on steep slopes or projects where only a small portion of the affected area has slopes in conflict with this policy shall be allowed with a ministerial permit that requires compliance with the criteria developed for the following resource areas:
- a. Water Quality/Water Supply
 - b. Biological Resources
 - c. Cultural Resources
 - d. Erosion Control
 - e. Drainage
 - f. Flood Hazards." Policy OS 3.5.

No conditions are specified for permits to cultivate previously uncultivated land other than language stating that the permit shall require "compliance with the criteria developed for the flowing resource areas," followed by a list of "resource areas" including "Water Quality/Water Supply," "Erosion Control," and "Drainage." These references are not meaningful since they do not identify "the criteria" or any applicable constraints with any specificity. What are these criteria? The vague and generic language in OS3.5 that requires that "permit processes shall be designed to require that an erosion control plan be developed and implemented that addresses slope stabilization, and drainage and flood hazards" does not contain performance criteria or exemplary measures.

Again, this portion of Policy OS 3.5 purporting to set up a ministerial permit process for agricultural conversions would permit essentially any kind of agricultural development on steep and erosive slopes. As written, this unspecified ministerial permit process for agricultural development does not provide any substantial evidence to support a finding that erosion and sedimentation effects of the 2007 General Plan would be less than significant. And it does not actually implement Goal OS-3, to prevent soil erosion and enhance water quality.

MINISTERIAL PERMIT CONDITIONS UNSPECIFIED FOR DEVELOPMENT, INCLUDING AGRICULTURAL CONVERSION, ON SLOPES UNDER 25%: The policy requires a ministerial permit for agricultural and non-

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agricultural development on slopes between 15-24% or between 10 and 15% on highly erodible soils:

“ A ministerial permit process shall be developed and implemented for proposed development, including for purposes of this policy conversion of previously uncultivated lands, on slopes between 15- and 24-percent (15-24%), and 10- to 15-percent (10-15%) on highly erodible soils.” Policy OS 3.5.

Again, no performance criteria or exemplary measures are provided for the conditions on such a ministerial permit other than that it must require an unspecified erosion control plan to address slope stabilization, and drainage and flood hazards. Again, this unspecified ministerial permit process for agricultural development does not provide any substantial evidence to support a finding that erosion and sedimentation effects of the 2007 General Plan would be less than significant. And it does not actually implement Goal OS-3, to prevent soil erosion and enhance water quality

ROUTINE AND ONGOING AGRICULTURAL ACTIVITIES EXEMPTED:
All Routine And Ongoing Agricultural Activities (“ROAA”) other than slope conversions are exempt from the permit process and conditions to be developed under Policy OS 3.5. ROAA includes many activities that may contribute to erosion and sedimentation, including grazing; conversion to other agricultural uses; planting, harvesting, cultivation, tillage, irrigation, and soil preparation activities; maintenance of sediment, drainage, and erosion control systems; and maintenance of roads, trails, and parking. See Policy AG 3.3. For example, the DEIR admits that agricultural practices related to growing strawberries and grapes cause erosion and sedimentation, independent of the conversion of previously uncultivated land for these purposes. DEIR, pp. 4.3-20 to 21, 4.3-107. And the table of 303d water bodies identifies range grazing, both upland and riparian, as a source of sedimentation. DEIR, 4.3-56.

Because the DEIR presents no justification for exempting ROAA from the permit process, the DEIR does not provide any substantial evidence to support a finding that erosion and sedimentation effects of the 2007 General Plan would be less than significant. And Policy OS 3.5 does not actually implement Goal OS-3, to prevent soil erosion and enhance water quality with respect to ROAA.

2. Cumulative Impacts Not Adequately Addressed

The DEIR concludes that sedimentation and erosion impacts will be less than cumulatively considerable, based on RWQCB regulations and proposed policies, including the entirely undefined future program to evaluate and address cumulative impacts from agricultural land conversions through Policy OS 3.9. DEIR, p. 6-10.

Cumulative impact analysis must answer two questions: 1) is the impact of past, current and foreseeable future projects cumulatively significant, and 2) does the project under review make a considerable contribution to the cumulative impact. CEQA

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Guidelines, §§ 15130(a), 15065(a)(3). The DEIR’s answers to these questions are not clear or adequate.

Since the DEIR lists a number of water bodies that the RWQCB has identified as suffering from sedimentation, there should be no doubt about the answer to the first question: sedimentation impacts are already cumulatively significant. DEIR, pp. 4.3-54. The EIR must clarify whether its conclusion rests on the assumption that *only* the water bodies listed as impaired for sediment suffer cumulatively significant impacts, or will suffer sediment impacts in the future. If not, please identify each water body that was considered that *may* suffer cumulatively significant sedimentation impacts as a result of past, present, or probable future development.

The EIR must also identify which areas will suffer cumulatively significant erosion impacts.

Despite identification of 303d impaired water bodies, the DEIR claims that “[t]he RWQCB’s conditional agricultural waiver program is preventing sediment-laced runoff from agricultural land.” The claim that RWQCB’s conditional agricultural waiver program is preventing sediment-laced runoff from agricultural land appears to suggest that the County does not acknowledge that cumulative impacts are already significant. Please clarify this. Please identify the referenced RWQCB’s conditional agricultural waiver program. Please reconcile the admission that there are numerous stream segments on the 303d list that are impaired by agriculturally-caused sediment with the claim that the RWQCB’s conditional agricultural waiver program is preventing sediment-laced runoff from agricultural land. Again, we note that the current RWQCB Basin Plan identifies only two waivers of Waste Discharge Requirements and reporting requirements applicable to agriculture: #20, for irrigation return water where sediment meets turbidity objectives and discharge is not toxic; and #16, for agricultural commodity wastes. RWQCB, Central Coast Region, Water Quality Control Plan, Appendix A-23. Neither of these waivers appears to be focused on regulating irrigation on steep slopes in particular.

The DEIR also appears to be relying on the RWQCB TMDL program. The DEIR identifies only one water body for which a sedimentation TMDL has been adopted. TMDLs for other sediment impaired water bodies are not expected for years, e.g., for Elkhorn Slough the estimated completion of a TMDL is 2015 and for Moro Cojo Slough and Moss Landing Harbor a TMDL will not be completed until 2019. The DEIR cannot reasonably base a finding that cumulative impacts will not be significant on TMDL programs that has not yet been formulated, and which will take years to work even when they are implemented.

The other bases for the DEIR’s conclusion that the future development under the 2007 General Plan will not make a considerable contribution to significant cumulative erosion and sedimentation impacts are Policies OS 3.5 and 3.6 regulating slope development; Policy 3.8 requiring the county to cooperate with appropriate regional, state and federal agencies to provide public education/outreach and technical assistance programs on erosion and sediment control; Policy OS 3.9 to establish a program to

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address cumulative impacts of agricultural conversion; and Policy OS 5.7 requiring that forestry projects prepare a Timber Harvest Plan. As set out below, these policies are not a sufficient basis for this conclusion.

Policies OS 3.5 and 3.6 regulate individual development projects and do not even purport to consider cumulative impacts. Mitigation of a particular project's individually significant impacts does not ensure that cumulative impacts will be avoided because a project may make a considerable contribution to a significant cumulative impact even if its own impacts are not individually significant. CEQA Guidelines, §§ 15355(b) (cumulative impacts can result from individually minor but collectively significant projects), 15065(a)(3) (impacts may be individually limited but cumulatively considerable). Furthermore, as discussed above, there is essentially no content to Policy 3.5, which calls for future development of a complex permitting system but which does not contain any performance specifications or proposed conditions on development. And there is no basis identified in Policy 3.6 to conclude that cumulative impacts would be avoided.

Policy 3.8 does not mandate any specific program, and does not require the County to do anything other than "cooperate" with technical assistance programs. Policy OS 5.7 does not mandate anything that is not already mandated by other regulations and only addresses timber harvesting.

Please explain how each of the cited policies can be expected to address cumulative impacts in light of the defects identified in the discussion of OS 3.5 above and the discussion of the other policies in the Table of Erosion and Sedimentation Policies below. Please address all sources of erosion and sedimentation, including slope development and conversion of previously uncultivated agricultural land.

Policy OS 3.9 is the only policy explicitly addressing cumulative erosion and sedimentation impacts. However, this policy cannot constitute a meaningful basis for the DEIR's conclusion that the contributions from future development will not be cumulatively considerable because the policy has no actual substantive content:

"The County will develop a Program that will address the potential cumulative hydrologic impacts of the conversion of hillside rangeland areas to cultivated croplands. The Program will be designed to address off-site soil erosion, increased runoff-related stream stability impacts and/or potential violation of adopted water quality standards. The County should convene a committee comprised of county staff, technical experts, and stakeholders to develop the Program, including implementation recommendations." Policy OS-3.9, 2007 General Plan, p. C/OS-9.

The policy calls for an entirely unspecified "program" to be developed at some unspecified point in the future. There is no *hint* of the measures that might be considered and implemented, or the performance standards that might be imposed, through the to-be-developed program. The policy as written calls for conducting a study and then

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following its recommendations – exactly the kind of mitigation measure that CEQA does not permit. *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 794. No provision is made for interim measures pending completion of this program. Thus, the policy as written cannot form the basis of a conclusion that future impacts will not be cumulatively considerable.

Policy OS 3.9 implicitly acknowledges that unless the County takes some action, the conversion of hillside rangeland areas to cultivated croplands *will* result in considerable contributions to cumulatively significant erosion and sedimentation. Accordingly, the County is obliged to provide some substantive program or policies to address this impact or to admit that it remains significant and unavoidable.

3. Other Policies And Additional Mitigation Measures Purporting to Address Erosion And Sedimentation Are Inadequate

The remaining policies and additional mitigation measures cited by the DEIR do not provide substantial evidence that erosion and sedimentation impacts will be less than significant. Essentially all of the policies and additional mitigation measures identified as the basis for the conclusion that impacts will be less than significant suffer from one of more to the following defects:

- deferred without any performance criteria or examples of potential measures, thus failing to meet CEQA's requirements for deferred formulation of mitigation measures (e.g., OS3.1 calling for future establishment and enforcement of unspecified BMPs, making no reference to any performance standards and providing no examples)
- deferred without deadline for completion or interim measures (e.g., OS 3.3 – development of criteria for studies to evaluate and address hydrologic constraints and hazards conditions shall be established for new development)
- non-mandatory and unenforceable measures (e.g., OS 3.2 – support soil conservation and restoration programs and encourage voluntary efforts)
- exceptions that make policies unpredictable or unenforceable (e.g., OS 3.5, as discussed above or see comments on exceptions to AG 3.3's exemptions below)
- exemptions that render the policy inapplicable to development that will cause impacts (e.g., AG 3.3 exempts Routine and Ongoing Agriculture from a list of GP Policies to the extent specified by those policies, including the partial exemption of conversion of uncultivated land on slopes under OS 3.5).

The table set forth below lists each policy or mitigation measure cited as the basis of the conclusion in WR-1, WR-2, WR-3, WR-10, GEO-5, and CUM-2 that erosion and

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sedimentation impacts would be less than significant. The table identifies and discusses the specific inadequacies of each policy.

We ask that the comment responses address each identified policy deficiency.

We ask that the responses explain with reference to each listed policy how, in light of the deficiencies identified, the policy can support the DEIR's conclusions that future development projects will not result in significant erosion and sedimentation impacts and that future development will not make a considerable contribution to cumulatively significant erosion and sedimentation impacts.

POLICIES AND MITIGATION MEASURES CITED IN DEIR AS THE BASIS FOR CONCLUDING THAT EROSION AND SEDIMENTATION IMPACTS WILL BE LESS THAN SIGNIFICANT	
POLICIES AND MITIGATION CITED IN WR-2, WR-3, WR-10, GEO-5, AND CUM-2 PURPORTING TO AVOID, MINIMIZE, OR MITIGATE EROSION AND SEDIMENTATION	COMMENTS
POLICIES APPLICABLE COUNTY-WIDE	GENERAL COMMENT: For each policy, please address the identified concerns by revising the policy and/or explaining how, in light of these concerns, the policy can provide a foundation for the DEIR's conclusion that erosion and sedimentation impacts will be less than significant.
Goal AG-3 Assume that the County's land use policies do not inappropriately limit or constrain "routine and ongoing agricultural activities"	<ul style="list-style-type: none"> At page 4.3-108, the DEIR states that "Goal AG-3 and its policies exempt routine and ongoing activities from many County permit requirements that would otherwise be interpreted as applicable, except for activities that create significant soil erosion impacts or violate adopted water quality standards." The individual policies that purport to implement Goal AG-3 are listed below.
AG-3.1 "Routine and Ongoing Agricultural Activities" shall be allowed pursuant to the policies in this plan. Activities that may have significant impacts are subject to a greater level of review.	<ul style="list-style-type: none"> This policy is not coordinated with Policy AG 3.3 creating exemptions from General Plan policies so it is not clear how "activities that may have significant impacts" will be subject to a "greater level of review." If this policy actually adds any meaningful additional constraint to Policy AG 3.3, the DEIR should explain what that constraint is. For example, does this policy purport to provide for individual, farm-by-farm review and permitting of activities that would otherwise be exempted under Policy 3.3? If so, how will this be implemented and monitored, e.g., how will individual farms with "significant impacts" be made subject to a greater level of review? If the policy does not add any additional review of individual farms or activities, then what does this policy actually add to Policy 3.3?

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POLICIES AND MITIGATION MEASURES CITED IN DEIR AS THE BASIS FOR CONCLUDING THAT EROSION AND SEDIMENTATION IMPACTS WILL BE LESS THAN SIGNIFICANT

AG-3.2 In order to encourage the continuation and economic viability of the agricultural industry, the County shall work with the agricultural industry and state and federal agencies to streamline permit procedures for "Routine and Ongoing Agricultural Activities" as enumerated in policy.	<ul style="list-style-type: none"> This policy does not contain any substantive content related to erosion and sedimentation – it merely evinces an intent to streamline permitting, which can only have the effect of increasing the chance that erosive practices would not be regulated.
AG-3.3 In lands with a Farmlands, Permanent Grazing, or Rural Grazing land use designation, farming and ranching activities that are "Routine and Ongoing Agricultural Activities" should be exempted from the General Plan policies listed below to the extent specified in those policies except for activities that create significant soil erosion impacts or violate adopted water quality standards. The County shall, after consultation with the Agricultural Commissioner and with appropriate review by the Agricultural Advisory Committee, establish by ordinance a list of "Routine and Ongoing Agricultural Activities" that can, in harmony with General Plan goals and in accordance with State and Federal law, be exempted from the listed General Plan policies as described. Activities to be considered for inclusion in the list of "Routine and Ongoing Agricultural Activities" may include, but are not limited to: <ul style="list-style-type: none"> a. pasture and rangeland management; b. conversion of agricultural land to other agricultural uses; c. preparation of product for market, and delivery of product to market; d. planting, harvesting, cultivation, tillage, selection, rotation, irrigation, fallowing, and all soil preparation activities; e. raising of livestock, poultry, fur bearing animals, dairying, or fish; f. maintenance of sediment basins, stock ponds, irrigation and tail water return systems, stream bank and grade stabilization, water retention and pumping facilities, erosion control and surface drainage activities; g. maintenance of farm access roads, trails, and parking facilities; h. fencing, corrals, animal handling facilities; i. greenhouses, sheds, storage and outbuildings; j. Emergency activity that protects the health and safety of the general public. "Routine and Ongoing Agricultural Activities" are exempt from the following General Plan policies to the extent specified by those policies: C-5.5 (Scenic Highway Corridors), C-3.4 (Scenic Highway Corridors), OS-1.9 (views), OS-1.12 (scenic routes), OS-3.3 (slope), OS-3.6 (erosive soils), OS-3.4 (native vegetation), OS-6.3 (archaeological), OS-7.3 (paleontological), OS-8.3 (burial sites), OS-10.B (air quality), S-2.3 (localplan). Further	<ul style="list-style-type: none"> The policy calls for a general exemption, but also states that certain activities will be exempted from that exemption. Does the County plan to identify the to-be-exempted "activities that create significant soil erosion impacts or violate adopted water quality standards" on an individual basis (farm-by-farm) or on a categorical basis (e.g., new cultivation on land sloped over 15%)? If exceptions are to be identified individually (farm-by-farm), in what context will these exceptional impacts be identified? If ROAA are not required to obtain any permits, it would be necessary to monitor individual farming activity to determine whether it should or should not be treated as exempt. What monitoring and enforcement program will be implemented to identify "exceptional" activities on a farm-by-farm basis? The listing of activities potentially to be exempted suggests that the exceptions for activities that create significant soil erosion impacts or violate water quality standards will also be categorical rather than individual. If so, how will the policy take into account the geographic differences in erosion potential? For example, cultivation on slopes may be highly erosive in some areas but acceptable in others. No performance standards are provided to determine which activities would "create significant soil erosion impacts or violate adopted water quality standards." What are "significant soil erosion impacts"? Will this be determined with reference to a soil loss metric or with reference to particular categories of activities? The policy states that the to-be-developed ordinance will also specify "County permit requirements for specific "Routine and Ongoing Agricultural Activities" consistent with these exemptions, General Plan goals, and State and Federal Law." This implies that some (but perhaps not all) ROAA will be subject to some form of permitting, despite their exemption from the enumerated General Plan policies. This would appear to create a more complex permitting structure. What will be the basis of the permitting requirements for ROAA under this

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<p>modifications may be made in Area Plans as part of this process. The ordinance to be enacted by the County will also identify County permit requirements for specific "Routine and Ongoing Agricultural Activities" consistent with these exemptions, General Plan goals, and State and Federal Law.</p>	<p>policy? What resource areas will be protected by these permitting requirements? What performance standards will have to be met?</p> <ul style="list-style-type: none"> Are these permit requirements intended to be in lieu of permit requirements that would be applicable to activities that are not included in the to-be developed list of ROAA? How do these permit requirements relate to the to-be-developed discretionary and ministerial permit requirements mentioned in Policy OS 3.5? That is, are the permit requirements that are to be developed under this policy distinct and applicable only to farming activity that is not subject to any permitting under Policy OS 3.5, or would the permitting requirements overlap somehow? How can the DEIR conclude that this complex and to-be-developed permitting structure will streamline and simplify permitting? Will there be a class of farming activities that are not subject to <i>any</i> permitting requirements under this policy? How will they be identified? In sum, the policy entirely defers the identification of ROAA that will be exempted from general plan policies, the basis for that exemption, and the "permit requirements" that would be imposed. Because these activities have not been identified, because no standard has been identified for "significant soil erosion impacts," because no basis whatsoever is specified for future "permit requirements," and because no consideration is given to cumulative impacts, the DEIR cannot reasonably rely on this policy to conclude that there will in fact be no significant soil erosion impacts from ROAA or that ROAA will not result in a considerable contribution to cumulatively significant soil impacts.
<p>AG-5.1 Programs that reduce soil erosion and increase soil productivity shall be supported</p>	<ul style="list-style-type: none"> Does not identify or mandate any program. Policies that "support," "promote," or "encourage" activities and programs do not create any enforceable constraints on development projects. No performance criteria for "programs" are specified. No exemplary measures for "programs" are identified.
<p>AG-5.2 Policies and programs to protect and enhance surface water and groundwater resources shall be promoted, but shall not be inconsistent with State and federal regulations.</p>	<ul style="list-style-type: none"> Does not identify or mandate any policies or programs. Policies that "support," "promote," or "encourage" activities and programs do not create any enforceable constraints on development projects.

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	<ul style="list-style-type: none"> No performance criteria for "policies and programs" are specified. No exemplary measures for "policies and programs" are identified.
<p>OS-3.1 Best Management Practices (BMPs) to prevent and repair erosion damage shall be established and enforced.</p>	<ul style="list-style-type: none"> Formulation of BMP is deferred. No exemplary BMPs are identified. No performance criteria for BMPs are specified. No interim measures are required prior to formulation of the BMPs. No deadline for formulation of BMPs is specified.
<p>OS-3.2 Existing special district, state, and federal soil conservation and restoration programs shall be supported. Voluntary restoration projects initiated by landholders, or stakeholder groups including all affected landowners, shall be encouraged.</p>	<ul style="list-style-type: none"> Does not identify or mandate any programs. Policies that "support," "promote," or "encourage" activities and programs do not create any enforceable constraints on development projects.
<p>OS-3.3 Criteria for studies to evaluate and address through appropriate designs and BMPs geological and hydrologic constraints and hazards conditions such as slope and soil instability, moderate and high erosion hazards, and drainage, water quality and stream stability problems created by increased stormwater runoff shall be established for new development and changes in land use designations.</p>	<ul style="list-style-type: none"> Formulation of criteria is deferred. No performance criteria for the content of this policy are provided, which is unsurprising since the very object of this policy is to defer the formulation of criteria to the future. The apparent object of the policy is to formulate criteria for future <i>studies</i> to evaluate hydrologic constraints and hazard conditions for new development. Thus, the policy does not require formulation of any criteria for the actual designs and BMPs that would be required actually to <i>address</i> these constraints and hazard conditions. It is not clear who would be required to use the criteria that are to be developed in conducting studies "to evaluate and address through appropriate designs and BMPs geological and hydrologic constraints and hazards conditions." Is the point of this policy to establish criteria to be used in future studies for site-specific designs and BMPs in connection with individual development projects? Or is the point to establish criteria for studies that will lead to "designs and BMPs" of wider applicability? Who must conduct these studies and in what context? No deadline for formulation of the criteria is specified. No interim measures are required prior to formulation of the criteria.
<p>OS-3.4 Those areas where slopes pose sever constraints for development shall be mapped in the County's GIS. The information shall be updated at least every five (5) years.</p>	<ul style="list-style-type: none"> No criteria are specified to identify what slopes would pose "severe constraints for development." No use is identified for the information to be developed. For example, this policy is not

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<p>referenced by Policy S-1.2 calling for eventual development and maintenance of a "Geologic Constraints and Hazards Database," Policy OS-3.5 regulating slope development, or Policy PS-2.6 calling for development and maintenance of a "Hydrologic Resources Constraints and Hazards Database." Merely collecting the information without specifying how the information would constrain development permitting is of no value.</p> <ul style="list-style-type: none"> No deadline for mapping this data is specified. No interim measures are specified pending completion of the mapping. 	<p>23</p>
<p>OS-3.5 The County shall prohibit development on slopes greater than 30%. It is the general policy of the County to require dedication of scenic easement on a slope of 30% or greater. Upon application, an exception to allow development on slopes of 30% or greater may be granted at a noticed public hearing by the approving authority for discretionary permits or by the Planning Commission for building and grading permits. The exception may be granted if one or both of the following findings are made, based upon substantial evidence:</p> <p>A) there is no alternative which would allow development to occur on slopes of less than 30%; or,</p> <p>D) the proposed development better achieves the resource protection objectives and policies contained in the Monterey County General Plan, accompanying Area Plans and Land Use Plans, and all applicable master plans.</p> <p>A permit process will be established as follows:</p> <ol style="list-style-type: none"> A discretionary permit process for development on slopes greater than 25-percent (25%) or that contain geologic hazards and constraints shown on the County's GIS Geologic (Policy S-1.2) or Hydrologic (Policy PS-3.5) Hazard Databases shall be established. The process shall be designed to: <ol style="list-style-type: none"> evaluate possible building site alternatives that better meet the goals and policies of the general plan; identify development and design techniques for erosion control, slope stabilization, visual mitigation, drainage, and construction techniques; minimize development in areas where potentially unstable slopes, soil and geologic conditions, or sewage disposal pose substantial risk to public health or safety. The County shall develop and implement an Agricultural Permit process for the conversion, for agricultural purposes, of previously uncultivated lands on slopes in excess of 25-percent (25%). An Agricultural Permit shall recognize unique grading criteria for agricultural purposes and the process shall include criteria when a discretionary permit is required. Projects 	<p>• See comments in text above</p> <ul style="list-style-type: none"> Reference to Policy PS-2.7 makes no sense, since that Policy refers to incentive programs to encourage voluntary retirement of cultivated land on highly erodible soils. The reference is probably intended to be to Policy PS-2.6 calling for development of a Hydrologic Resources Constraints and Hazards Database.

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<p>that are subject to a State Agricultural Waiver Program, Agricultural Registration Program, or other similar program that regulates irrigation of agricultural land on steep slopes or projects where only a small portion of the affected area has slopes in conflict with this policy shall be allowed with a ministerial permit that requires compliance with the criteria developed for the following resource areas:</p> <ol style="list-style-type: none"> Water Quality/Water Supply Biological Resources Cultural Resources Erosion Control Drainage Flood Hazards <p>3. A ministerial permit process shall be developed and implemented for proposed development, including for purposes of this policy conversion of previously uncultivated lands, on slopes between 15- and 24-percent (15-24%), and 10- to 15-percent (10-15%) on highly erodible soils.</p> <p>4. The permit processes shall be designed to require that an erosion control plan be developed and implemented that addresses slope stabilization, and drainage and flood hazards.</p> <p>5. All Routine and Ongoing Agricultural Activities, except for conversion of previously uncultivated lands as described in this policy above, are exempt from the above permit requirements.</p> <p>OS-3.6 Except in Community Areas where Community Plans or Specific Plans are adopted (Policy LU-10.4), areas designated as Medium Density Residential or High Density Residential, or in areas designated as commercial or industrial where residential use may be allowed, a formula based on slope shall be established to calculate the maximum possible residential density for individual parcels.</p> <ol style="list-style-type: none"> Those portions of parcels with cross-slope of between zero and 19.9-percent shall be assigned one (1) building site per each one (1) acre. Those portions of parcels with a cross-slope of between 20 and 29.9-percent shall be assigned one (1) building site per each two (2) acres. Those portions of parcels with a cross-slope of 30-percent or greater shall be assigned zero building sites. The density for a particular parcel shall be computed by determining the cross-slope of the various portions of the parcel applying the assigned densities listed above according to the percent of cross-slope and by adding the densities derived from this process. The maximum density derived by the procedure shall be used as one of the factors in final 	<p>23</p> <ul style="list-style-type: none"> Nothing in the DEIR explains how this policy relates to erosion and sedimentation impacts. Nothing in the policy takes into account the site-specific constraints other than slope, including vegetative cover and soil types. The EIR must explain how specifically the policy was developed to address erosion and sedimentation impacts and how it supports a finding that erosion and sedimentation impacts will be less than significant, if it does support such a finding. Policies that "support," "promote," or "encourage" activities and programs do not create any enforceable constraints on development projects. The EIR should explain why clustering is merely "encouraged" rather than mandated to control development on slopes over 25%. The policy would allow extremely low density development or a single family home despite non-compliance with unspecified "plan policies." The EIR must explain how permitting development on parcels on which it would otherwise be barred by other policies purporting to control erosion and sedimentation is consistent

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<p>determination of the actual density that shall be allowed on a parcel.</p> <p>Clustering is encouraged as a technique to avoid development on slopes over 25-percent (25%). Where an entire parcel would not be developable because of plan policies, an extremely low density of development or single family home will be allowed, as appropriate.</p>	<p>with a finding that erosion and sedimentation impacts will in fact be controlled.</p> <ul style="list-style-type: none"> This policy would allow some development to occur on any parcel, regardless of slope, soil conditions, and other hazards. No criteria are specified to determine whether an extremely low density of development or a single family home will be allowed, as "appropriate." This policy appears to relate only to residential uses, but the language in Policy AG 3.3 indicates that it is at least potentially applicable to agricultural activities. How will this policy be applied to constrain agricultural activities that are not included in the to-be-developed list of routine and ongoing agricultural activities that are specifically exempted from this policy under Policy AG 3.3? That is, what agricultural activities are subject to this policy?
<p>OS-3.7 Voluntary preparation and implementation of a coordinated resources management plan shall be encouraged in watersheds of State designated impaired waterways.</p>	<ul style="list-style-type: none"> Does not identify or mandate any program Policies that "support," "promote," or "encourage" activities and programs do not create any enforceable constraints on development projects
<p>OS-3.8 The County shall cooperate with appropriate regional, state and federal agencies to provide public education/outreach and technical assistance programs on erosion and sediment control, efficient water use, water conservation and re-use, and groundwater management. This cooperative effort shall be centered through the Monterey County Water Resources Agency.</p>	<ul style="list-style-type: none"> Does not identify or mandate any program "Cooperation" does not commit County to any specific efforts
<p>OS-3.9 The County will develop a Program that will address the potential cumulative hydrologic impacts of the conversion of hillside rangeland areas to cultivated croplands. The Program will be designed to address off-site soil erosion, increased runoff-related stream stability impacts and/or potential violation of adopted water quality standards. The County should convene a committee comprised of county staff, technical experts, and stakeholders to develop the Program, including implementation recommendations.</p>	<ul style="list-style-type: none"> See discussion of cumulative sediment impacts, above. The policy has no substantive content and formulation of the program it calls for is entirely deferred with no performance standards or examples. The policy provides no substantive basis to support a conclusion that cumulative impacts will be less than significant or that development allowed by the 2007 General Plan will not make considerable contributions to that impact.
<p>OS-5.7 Proposals for harvesting commercially valuable timber or as a part of a Timberland Conversion Project (as defined by the California Department of Forestry) shall:</p> <p>a. include filing of a Timber Harvest Plan that provides for selective, sustained yield harvesting and reforestation, and erosion control;</p> <p>b. consider opportunities for concurrent and subsequent use of publicly owned timber land for public recreation;</p> <p>c. require approval by the California Department of</p>	<ul style="list-style-type: none"> Policy does not mandate any controls on erosion and sedimentation that are not already in effect through the CDF regulations. Policy only applies to timber operations, which are not identified by the DEIR as a substantial potential source of erosion and sedimentation.

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<p>Forestry,</p> <p>e. complete environmental review by the County and other appropriate agencies; and</p> <p>f. comply with the resource protection goals and policies of this General Plan</p>	
<p>PS-2.5 Regulations shall be considered for water quality testing for new individual wells on a single lot of record to identify:</p> <p>a. Water quality testing parameters for a one-time required water quality test for individual wells at the time of well construction.</p> <p>b. A process that allows the required one-time water quality test results to be available to future owners of the well.</p> <p>c. Regulations pursuant to this policy shall not establish criteria that will prevent the use of the well in the development of the property.</p> <p>d. Agricultural wells shall be exempt from the regulation.</p>	<ul style="list-style-type: none"> Policy does nothing to prevent or control erosion and sedimentation. Policy does not actually require that regulations be adopted, only "considered." Policy does nothing to prevent other water quality problems; it simply calls for some unspecified testing program to see if the aquifer has been polluted.
<p>PS-2.6 A Hydrologic Resources Constraints and Hazards Database shall be developed and maintained in the County Geographic Information System (GIS). The GIS shall be used to identify areas containing hazards and constraints (see Policy S-1.2) that could potentially impact the type or level of development allowed in these areas (Policy OS-3.9). Maps maintained as part of the GIS include:</p> <p>a. Impaired water bodies on the State Water Resources Control Board 303d list.</p> <p>b. Important Groundwater Recharge Areas</p> <p>c. 100-year Flood Hazards</p> <p>d. Hard rock areas with constrained groundwater</p> <p>e. Areas of septic tank leachfield unsuitability</p>	<p>23</p> <ul style="list-style-type: none"> This policy is apparently to be used to identify areas that would require discretionary permits under Policy OS 3.5, although this is not stated here. Please clarify. Policy S 1.2 calls for developing a "Geologic Constraints and Hazards Database." It is not clear how the "Hydrologic Resources Constraints and Hazards Database" called for under Policy 2.6 differs, particularly since Policy 2.6 references Policy S 1.2 in connection with identifying areas containing hazards and constraints. No criteria are provided to identify areas containing hazards and constraints, including Hydrologic Resources Constraints and Hazards. Although Policy S 1.2 requires mapping impaired water bodies on the State Water Resources Control Board 303d list, there is no indication how that information would be used to constrain development. Nor is there any indication how identification of other Hydrologic Resources Constraints and Hazards would constrain development. The EIR must explain how this policy would be implemented to regulate development. No deadline for completing the database is provided and no interim measures are specified.
<p>PS-2.7 As part of an overall conservation strategy and to improve water quality, Area Plans may include incentive programs that encourage owners to voluntarily take cultivated lands on slopes with highly erosive soils out of production</p>	<ul style="list-style-type: none"> Does not identify or mandate any program. Area Plans may or may not include incentive programs. Policies that "support," "promote," or "encourage" activities and programs do not

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	<ul style="list-style-type: none"> create any enforceable constraints on development projects No explanation of the nature of allowable incentives is provided. If incentives require expenditure of County resources, they will not be demonstrably feasible unless the EIR identifies the source of those resources. If incentives are to include development or land use concessions, the concessions should be identified and the secondary environmental effects should be evaluated. 	
S-1.1 Land uses shall be sited and measures applied to reduce the potential for loss of life, injury, property damage, and economic and social dislocations resulting from ground shaking, liquefaction, landslides, and other geologic hazards in the high and moderate hazard susceptibility areas.	<ul style="list-style-type: none"> No criteria are provided to identify high and moderate hazard susceptibility areas. It is unclear that this policy relates at all to erosion and sedimentation hazards. No explanation is provided as to how land uses should be "sited" or what "measures applied" to control risk. The policy does not create any enforceable mandate. 	
S-1.2 A Geologic Constraints and Hazards Database shall be developed and maintained in the County Geographic Information System (GIS). The GIS shall be used to identify areas containing hazards and constraints (see Policy PS-2.8) that could potentially impact the type or level of development allowed in these areas (Policy OS-3.5). Maps maintained as part of the GIS include: a. Active Regional Faults b. Relative Seismic Shaking Hazards c. Relative Landslide Susceptibility d. Relative Earthquake Induced Liquefaction Susceptibility e. Steep Slope Constraints (see Policy OS-3.5) f. Coastal Erosion g. Moderate and High Erosion Hazards h. Highly Erodible Soils	<ul style="list-style-type: none"> This policy is apparently to be used to identify areas that would require discretionary permits under Policy OS 3.5, although this is not stated here. PS 1.2 does not contain criteria for key terms such as "highly erodible soils," "moderate and high erosion hazards," "steep slope constraints," or "relative landslide susceptibility," so the public has no idea what terrain would require a discretionary or ministerial permit. These terms must be defined and justified with reference to a technical analysis that considers the actual effects of allowing development. No criteria are provided to identify areas containing hazards and constraints, including A Geologic Resources Constraints and Hazards. There is no indication how information in the database would be used to constrain development. The EIR must explain how this policy would be implemented to regulate development. No deadline for completing the database is provided and no interim measures are specified. 	23
S-1.3 Site-specific geologic studies may be used to verify the presence or absence and extent of the hazard on the property proposed for new development and to identify mitigations for any development proposed. An ordinance including permit requirements relative to the siting and design of structures and grading relative to seismic hazards shall be established.	<ul style="list-style-type: none"> The policy does not mandate uses of site-specific geologic studies; it merely provides that they "may" be used. The policy adds nothing more than should already be done under CEQA review. the development of the ordinance is deferred and no performance standards or exemplary measures 	

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	<p>are provided. The public has no idea what permit requirements might be developed under this policy.</p>	
S-1.6 New development shall not be permitted in areas of known geologic or seismic hazards unless measures recommended by a California certified engineering geologist or geotechnical engineer can be implemented to reduce the hazard to an acceptable level. Areas of known geologic or seismic hazards include: a. Moderate or high relative landslide susceptibility. b. High relative erosion susceptibility. c. Moderate or high relative liquefaction susceptibility. d. Coastal erosion and seacliff retreat. e. Tsunami run-up hazards.	<ul style="list-style-type: none"> No criteria are provided for key terms including "High relative erosion susceptibility," "Moderate or high relative landslide susceptibility," and ". Coastal erosion and seacliff retreat." No criteria are provided for an "acceptable level" of hazards. The areas of "known geologic or seismic hazards" are not identified and no procedure for identifying them is provided. If they are to be identified via Policies S 1.2 and PS 2.6, then note that these policies in turn lack any criteria for hazard areas. 	
S-1.7 Site-specific reports addressing geologic hazard and geotechnical conditions shall be required as part of the planning phase and review of discretionary development entitlements and as part of review of ministerial permits in accordance with the California Building Standards Code as follows: a. Geotechnical reports prepared by State of California licensed Registered Geotechnical Engineers are required during building plan review for all habitable structures and habitable additions over 500 square feet in footprint area. Additions less than 500 square feet and non-habitable buildings may require geotechnical reports as determined by the pre-site inspection. b. A Registered Geotechnical Engineer shall be required to review and approve the foundation conditions prior to plan check approval, and if recommended by the report, shall perform a site inspection to verify the foundation prior to approval to pour the footings. Setbacks shall be identified and verified in the field prior to construction. c. All new development and subdivision applications in State- or County-designated Earthquake Fault Zones shall provide a geologic report addressing the potential for surface fault rupture and secondary fracturing adjacent to the fault zone before the application is considered complete. The report shall be prepared by a Registered Geologist or a Certified Engineering Geologist and conform to the State of California's most current Guidelines for evaluating the hazard of surface fault rupture. d. Geologic reports and supplemental geotechnical reports for foundation design shall be required in areas with moderate or high landslide or liquefaction susceptibility to evaluate the potential on- and off-site impacts on subdivision layouts, grading, or building structures.	<ul style="list-style-type: none"> The only portion of this policy that may relate to erosion is the provision requiring a report for areas of "high landslide . . . susceptibility," but no criteria are provided for the term "high landslide . . . susceptibility." The requirement for "appropriate site-specific mitigation" lacks any performance standards and no exemplary measures are provided. 	23

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<p>e. Where geologic reports with supplemental geotechnical reports determine that potential hazards effecting new development do not lead to an unacceptable level of risk to life and property, development in all Land Use Designations may be permissible, so long as all other applicable General Plan policies are complied with.</p> <p>f. Appropriate site-specific mitigation measures and mitigation monitoring to protect public health and safety, including deed restrictions, shall be required.</p>	
<p>S-1.8 As part of the planning phase and review of discretionary development entitlements and as part of review of ministerial permits in accordance with the California Building Standards Code, new development may be approved only if it can be demonstrated that the site is physically suitable and the development will neither create nor significantly contribute to geologic instability or geologic hazards.</p>	<ul style="list-style-type: none"> The critical terms are not defined with reference to any performance criteria. The EIR must explain what "physically suitable" and "significantly contribute to geologic hazards" mean in the context of erosion and sedimentation.
<p>S-1.9 A California licensed civil engineer or a California licensed landscape architect can recommend measures to reduce moderate and high erosion hazards in the form of an Erosion Control Plan.</p>	<ul style="list-style-type: none"> The measure is permissive ("can recommend") not mandatory ("shall recommend") so it creates no enforceable mandate. The term "moderate and high erosion hazards" is not defined. No criteria are identified for an acceptable Erosion Control Plan and no exemplary measures are identified. Civil Engineers are appropriate for structural mitigations, but there are several other approaches to address erosion hazards that include process-based solutions, or the use of specific best management practices. Experts familiar with these other approaches include hydrologists, geomorphologists, and erosion control specialists.
<p>S-3.1 Post-development, off-site peak flow drainage from the area being developed shall not be greater than pre-development peak flow drainage. On-site improvements or other methods for storm water detention shall be required to maintain post-development, off-site, peak flows at pre-development levels, where appropriate, as determined by the Monterey County Water Resources Agency.</p>	<ul style="list-style-type: none"> The policy <i>sounds</i> like it creates a binding standard in the first sentence, but that standard is undercut by the phrase "where appropriate" in the second sentence. Will the standard identified in the first actually have to be met by all development? If not, why not? What criteria would be used to make exceptions where "appropriate"? Furthermore, it is unclear how the policy will relate to the "runoff performance standards" that are to be developed under Policy S 3.5. Will the runoff performance standards to be developed under Policy S 3.5 be permitted to relax the requirement that post-development, off-site peak flow drainage from the area being developed shall not be greater than pre-development peak flow drainage? No procedure is specified to implement this policy. Will a hydrological study be required for

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	<p>every project? How will the policy be implemented for ministerially permitted projects? How will it be implemented for agricultural projects, including conversion of previously uncultivated land and routine and ongoing agricultural activities?</p>
<p>S-3.2 Best Management Practices to protect groundwater and surface water quality shall be incorporated into all development.</p>	<ul style="list-style-type: none"> Formulation of BMP is deferred. No exemplary BMPs are identified. No performance criteria for BMPs are specified. No interim measures are required prior to formulation of the BMPs. No deadline for formulation of BMPs is specified
<p>S-3.3 Drainage facilities to mitigate the post-development peak flow impact of new development shall be installed concurrent with new development.</p>	<ul style="list-style-type: none"> It is unclear what the runoff standards would be. See comments on S 3.1 and S 3.5. It is unclear to which projects this policy applies. Will it apply to agricultural projects, including conversion of previously uncultivated land and routine and ongoing agricultural activities? If not, why not? Will it apply to any and all residential development on any slope? Will it apply where no discretionary permit is required? How will it be implemented?
<p>S-3.5 Runoff Performance Standards that result in an array of site planning and design techniques to reduce storm flows plus capture and recharge runoff shall be developed and implemented, where appropriate, as determined by the Monterey County Water Resources Agency.</p>	<ul style="list-style-type: none"> This policy explicitly defers formulation of a performance standard to be used for future mitigation of development impacts, so it necessarily fails to include a performance standard. If this policy would permit a runoff performance standard weaker than requiring that "post-development, off-site peak flow drainage from the area being developed shall not be greater than pre-development peak flow drainage," then it conflicts with Policy S 3.1. If it would permit more stringent runoff standards, then that should be clarified. If the intent of this policy is to require not just the development of runoff performance standards but also the development of "an array of site planning and design techniques to reduce storm flows plus capture and recharge runoff," then the policy lacks any performance standards for those or exemplary measures for those "site planning and design techniques."
<p>S-3.6 An inventory of areas where there is a high probability of accelerated erosion, sedimentation, and/or chemical pollution shall be maintained as part of the County's GIS mapping database.</p>	<ul style="list-style-type: none"> No criteria are provided to identify "areas where there is a high probability of accelerated erosion, sedimentation, and/or chemical pollution." The policy is not referenced by OS 3.5, PS 2.6, or S 1.2 so it is unclear how it would be coordinated with those policies, if at all. No explanation as to how this policy would constrain future development policies is

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	provided
<p>S-3.7 The Monterey County Water Resources Agency shall prepare a Flood Criteria or Drainage Design Manual that established flood plain management policies, drainage standards and criteria, stormwater detention, and erosion control and stormwater quality protection measures in order to prevent significant impacts from flooding and ensure that development does not increase flooding risk over present conditions. The manual will include, as appropriate, hydrologic and hydraulic analysis procedures, procedures to assess stream geomorphology and stability, potential development impacts on streams and design guidelines for channel design, including biotechnical bank stabilization. Until the Drainage Design Manual is prepared, the County shall continue to apply existing policies and ordinances to manage floodplains and minimize flood risk, erosion control and water quality impacts.</p>	<ul style="list-style-type: none"> This policy explicitly defers formulation of a performance standard to be used for future mitigation of development impacts, so it necessarily fails to include a performance standard or to identify any exemplary measures. No examples or constraints are provided for the to-be-developed "appropriate, hydrologic and hydraulic analysis procedures, procedures to assess stream geomorphology and stability, potential development impacts on streams and design guidelines for channel design, including biotechnical bank stabilization." Application of "existing policies and ordinances to manage floodplains and minimize flood risk, erosion control and water quality impacts" in the interim is demonstrably insufficient to address erosion and sedimentation problems, in light of the 303d listings for sediment impaired water bodies. No authority under which "existing policies" could continue to be applied since the 2007 General Plan would supercede all existing policies. If this policy does purport to rely on continuation of a set of policies from the 1982 General Plan, it must specifically identify and re-enact those policies as interim measures, and must ensure that these interim measures are consistent with all other policies in the 2007 General Plan.
<p>S-3.8 To assist planners in determining potential inundation hazards for existing and future development, the County shall coordinate the periodic review, completion, and filing (with appropriate State and County Offices of Emergency Services) of inundation maps for all dams and levees whose failure could cause loss of life or personal injury within Monterey County. Where inundation maps indicate dam or levee failure could cause loss of life or property or personal injury, the corresponding responsible party shall investigate levee or dam stability and management, identifying emergency alert, evacuation, rehabilitation, and maintenance needs as appropriate.</p>	<ul style="list-style-type: none"> The policy does not pertain to erosion or sedimentation.
<p>Mitigation Measure BIO-2.1: Stream Setback Ordinance, DEIR p. 4.9-86</p> <p>The county shall develop and adopt a county-wide Stream Setback Ordinance to establish minimum standards for the avoidance and setbacks for new development relative to streams. The ordinance shall identify standardized inventory methodologies and mapping requirements. A</p>	<ul style="list-style-type: none"> The DEIR asserts that proposed policies are sufficient and that no additional mitigation is necessary to address erosion and sedimentation caused by urban development or by agriculture and resource development in its discussion of water resources. DEIR, pp. 4.3-97 (WR-1), 4.3-113 (WR-3). Apparently contradicting this conclusion, the DEIR then concludes that

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<p>stream classification system shall be identified to distinguish between different stream types (based on hydrology, vegetation, and slope, etc.) and thus allow application of standard setbacks to different stream types. The ordinance shall identify specific setbacks relative to the following rivers and creeks so they can be implemented in the Area Plans: Salinas, Carmel River, Arroyo Seco, Pajaro River, Nacimiento, San Antonio, Gabilan Creek, and Toro Creek. The ordinance may identify specific setbacks for other creeks or may apply generic setbacks based on the stream classification developed for the ordinance. The purpose of the ordinance will be to preserve riparian habitat and reduce sediment and other water quality impacts of new development.</p> <p>The Stream Setback Ordinance shall apply to all discretionary development within the County and to conversion of previously uncultivated agricultural land (as defined in the General Policy Glossary) on normal soil slopes over 15% or on highly erodible soils on slopes over 10%.</p>	<p>additional mitigation in the form of a stream setback ordinance is needed to prevent erosion in its discussion of geological hazards: "However, the development and implementation of erosion control measures on steep slopes and areas of highly erodible soils can be challenging and often are only partially successful, and high erosion hazards are widespread throughout the County. Therefore, the potential remains for significant erosion hazards to occur from development on individual lots of record and new hillside agricultural cultivation projects. The 2007 General Plan policies and the existing federal, state, and local erosion control requirements do not adequately mitigate this potentially significant impact to a less-than-significant level. Mitigation Measure BIO-2.1 (see Section 4.9, Biological Resources) would reduce the significance of this impact." DEIR, p. 4.4-43. Please explain why DEIR deems the stream setback ordinance necessary to address erosion from hillside agricultural development but not to address sedimentation impacts from the same activity. These conclusions are inconsistent given that the primary focus of a stream setback ordinance is to prevent transport of sediment to streams as opposed to preventing the erosion itself.</p> <ul style="list-style-type: none"> Setback ordinances only act to reduce surface erosion immediately adjacent to streams. However, sediment delivery to streams can occur whenever concentrated runoff associated with rills, gullies and ditches occurs, and such sources deliver sediment from sources far beyond setbacks. Extensive surface erosion processes associated with rills and gullies have been documented within the County.³ This mitigation measure is deferred. Since the whole point of the measures is simply to postpone development of "minimum standards" for stream setbacks it violates CEQA's rules barring deferral without any performance standards. No reason is provided for deferring the formulation of this mitigation measure. The term "highly erodible soils" is not defined so there is no basis for determining to which development projects this ordinance would apply.
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³ See e.g., Philip Williams and Associates, Supplemental Carmel River Watershed Action Plan, prepared for The Planning and Conservation League Foundation in partnership with the Carmel River Watershed Conservancy.

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- No deadline for adoption of the ordinance is provided and no interim measures are required.
- As written the policy is not coherent because words appear to be missing. The policy refers to "minimum standards for the avoidance and setbacks for new development relative to streams." It is not stated what is to be "avoided."
- Because the policy does not identify what streams would be subject to the ordinance, other than 8 named streams, it is unclear to which streams it will apply. For example, will it apply to ephemeral streams? If not, why not?
- On what basis was it determined to which kinds of agricultural land conversions the mitigation measure would be applied? Absent a specific study, how did the DEIR conclude that streams setbacks need not be required for other agricultural conversions to prevent impacts? Furthermore, the terms "normal soils" and "highly erodible soils" are not defined, so there is no objective standard for applying or enforcing the policy.

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POLICIES LIMITED TO SPECIFIC AREA PLANS

- GENERAL COMMENT: For each policy, please address the identified concerns by revising the policy and/or explain how, in light of these concerns, the policy can provide a foundation for the DEIR's conclusion that erosion and sedimentation impacts will be less than significant.**
- For each policy, please explain why it is limited in application to a specific area plan and is not applied throughout the County.**

CACH-3.3 Alteration of hillsides and natural landforms caused by cutting, filling, grading or vegetation removal shall be minimized through sensitive siting and design of all improvements and maximum feasible restoration. Where cut and fill is unavoidable on steep slopes, disturbed areas shall be re-vegetated.

- No criteria are provided for "sensitive siting and design of all improvements and maximum feasible restoration"
- The policy does not create an enforceable mandate because there are no criteria for "unavoidable" cut and fill (relative to what objectives?) and "maximum feasible restoration" (feasible within what constraints?)

CACH-3.5 Mining or commercial timber, or other resource production operations that include methods to screen areas, vehicle access, impacts on roadways, noise impacts, measures to control on site and off site drainage and reclamation plans for mined or quarried areas may be considered in the Planning Area. Impacts on watersheds, local roads, flora and fauna shall be mitigated.

- The policy is incoherent. What are "methods to screen areas, vehicle access, impacts on roadways, noise impacts, measures to control on site and off site drainage and reclamation plans for mined or quarried areas?"
- Citing a policy that requires that "impacts . . . shall be mitigated" as the basis of a conclusion that impacts will be mitigated does not inform the public.
- The policy lacks any substantive content.
- The term "minimize erosion" is not defined.

CACH-3.7 New development shall be sited to protect

- The term "minimize erosion" is not defined.

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riparian vegetation and threatened fish species, minimize erosion, and preserve the visual aspects of the Carmel and Arroyo Seco Rivers. Private property owners are encouraged to preserve the Carmel River in its natural state, to prevent erosion and protect fishery habitat. Fishery habitats located above the Los Padres and San Clemente Dams shall be maintained in a productive state accessible to fish populations, especially steelhead.

Unless the policy is to be implemented by banning development on the watershed, some criteria for acceptable levels of erosion must be specified.

- Policies that "support," "promote," or "encourage" activities and programs do not create any enforceable constraints on development projects
- No responsibility is assigned for ensuring that fishery habitats are maintained in a productive state accessible to fish populations, especially steelhead. Is this the responsibility of the County or of development proponents? Thus, there is no enforceable mandate.

CACH-4.1 Commercial mining, timber, and other resource production operations shall be so designed that additional run-off, additional erosion or additional sedimentation will not occur off the project site.

- This policy should be implemented County-wide, but it should not be limited to commercial mining, timber, and other resource production operations. The DEIR should explain why this policy should not be applied globally, and specifically justify a recommendation not to apply it to any specific area with reference to information about the watershed's ability to absorb additional erosion and sedimentation.

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CSV-1.1 Special Treatment Area: Paraiso Hot Springs.- The Paraiso Hot Springs properties shall be designated a Special Treatment Area. Recreation and visitor serving land uses for the Paraiso Hot Springs Special Treatment Area may be permitted in accordance with a general development plan and other discretionary approvals such as subdivision maps, use permits and design approvals. The Special Treatment Area may include such uses as a lodge, individual cottages, a visitor center, recreational vehicle accommodations, restaurant, shops, stables, tennis courts, aquaculture, mineral water bottling, hiking trails, vineyards, and orchards. The plan shall address fire safety, access, sewage treatment, water quality, water quantity, drainage, and soil stability issues. (APN: 418-361-004, 418-361-009, 418-361-021, 418-361-022)

- This policy has no actual substantive content related to standards for erosion and sedimentation control. There are no performance standards or exemplary measures specified.

CSV-1.2 All recreation and visitor-serving commercial land uses shall require a use permit. Said uses on sites greater than 10 acres shall require a comprehensive development plan that addresses hydrology, water quantity and quality, sewage disposal, fire safety, access, drainage, soils, and geology.

- This policy has no actual substantive content related to standards for erosion and sedimentation control. There are no performance standards or exemplary measures specified.

CSV-1.3 Special Treatment Area: Spence/Potter/Encinal Roads.- The area generally along Potter, Spence and Encinal Roads, excluding large properties under cultivation located between Spence and Potter Roads, shall be designated as a Special Treatment Area to permit agricultural operations. The minimum parcel size in this area shall be 10 acres and subdivision of land may be approved only if the following

- This policy has no actual substantive content related to standards for erosion and sedimentation control because the drainage management plan is not defined and because there are no standards for acceptable run-off to adjoining farmland. For example, how does this policy relate to policies S 3.1 and S 3.5 that apparently govern runoff standards County-wide?

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<p>conditions are met:</p> <p>a. Residential uses are allowed only on parcels of 40 acres or more;</p> <p>b. A drainage management plan to mitigate run-off to adjoining farmlands must be prepared for the entire Special Treatment Area;</p> <p>c. One caretaker unit per 10 acres may be allowed, and</p> <p>d. That no uses other than agriculture, agricultural support services, labor contracting, businesses, and agricultural equipment rental and maintenance businesses will be allowed on subdivided parcels.</p> <p><i>(see also Policies GS-1.2 and CSU-1.4)</i></p>		
<p>CSV-5.1 Development shall be designed to maintain groundwater recharge capabilities on the property. To protect and maintain areas for groundwater recharge, preservation of riparian habitats, and flood flow capacity, the main channels of the Arroyo Seco River and the Salinas River shall not be encroached on by development.</p>	<ul style="list-style-type: none"> It is not clear how this policy relates to erosion and sedimentation. Please explain. 	23
<p>CSV-5.2 Recreation and visitor-serving commercial uses shall only be allowed if it can be proven that</p> <p>a. areas identified by the Water Resources Agency as prime-groundwater recharge areas can be preserved and protected from sources of pollution as determined by the Director of Environmental Health and the Water Resources Agency;</p> <p>b. proposed development can be phased to ensure that existing groundwater supplies are not committed beyond their safe, long-term yields where such yields can be determined;</p> <p>c. floodways associated with the main channels of either the Arroyo Seco River or the Salinas River will not be encroached on by development because of the necessity to protect and maintain these areas for groundwater recharge, preservation of riparian habitats, and flood flow capacity as determined by the Water Resources Agency;</p> <p>d. the proposed development meets both water quality and quantity standards expressed in Title 22 of the California Code of Regulations and Title 13.04 of the Monterey County Code as determined by the Director of Environmental Health;</p> <p>e. the proposed development meets the minimum standards of the Regional Water Quality Control Basin Plan when septic systems are proposed and also will not adversely affect groundwater quality, as determined by the Director of Environmental Health; and</p> <p>f. the proposed development will not generate levels of runoff which will either cause erosion or adversely affect</p>	<ul style="list-style-type: none"> No criteria are provided for levels of runoff which will either cause erosion or adversely affect surface water resources 	23

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surface water resources as determined by the Water Resources Agency.		
<p>CSV-5.3 The Spence/Potter Road area, including the Special Treatment Area described in Policy CSU-1.3 is designated a study area for alternative land uses to support the agricultural industry. Prior to new development, other than those consistent with the underlying land use designation, in the Spence/Potter Road study area, the following must be completed:</p> <p>a. A cumulative impact analysis of industrial build-out of the study area, including road capacity, highway access, drainage, and viewshed impacts from Highway 101;</p> <p>b. Recommended changes to the Special Treatment Area boundaries or allowable uses within the Special Treatment Area, as necessary, to address the impacts identified;</p> <p>c. A drainage management plan to mitigate runoff to adjoining farmlands for the entire study area;</p> <p>d. Amendments to the General Plan, as necessary, and ordinance amendments to address revised landscaping and screening standards; and</p> <p>e. An implementation plan to fund and construct the identified infrastructure improvements.</p> <p>The studies and plans identified in this policy may be paid for by the County or interested property owners.</p> <p>CV-1.20 Design ("D") and site control ("S") overlay district designations shall be applied to the Carmel Valley area. Design review for all new development throughout the Valley, including proposals for existing lots of record, utilities, heavy commercial and visitor accommodations but excluding minor additions to existing development where those changes are not conspicuous from outside of the property shall consider the following guidelines:</p> <p>a. Proposed development encourages and furthers the letter and spirit of the Master Plan.</p> <p>b. Development either shall be visually compatible with the character of the valley and immediate surrounding areas or shall enhance the quality of areas that have been degraded by existing development.</p> <p>c. Materials and colors used in construction shall be selected for compatibility with the structural system of the building and with the appearance of the building's natural and man-made surroundings.</p> <p>d. Structures should be controlled in height and bulk in order to retain an appropriate scale.</p> <p>e. Development, including road cuts as well as structures, should be located in a manner that minimizes disruption of views from existing homes.</p> <p>f. Minimize erosion and/or modification of landforms.</p> <p>g. Minimize grading through the use of step and pole</p>		
<p>CSV-5.1 Development shall be designed to maintain groundwater recharge capabilities on the property. To protect and maintain areas for groundwater recharge, preservation of riparian habitats, and flood flow capacity, the main channels of the Arroyo Seco River and the Salinas River shall not be encroached on by development.</p>	<ul style="list-style-type: none"> No performance standards or exemplary measures are provided for "a drainage management plan to mitigate runoff to adjoining farmlands for the entire study area" 	
<p>CSV-5.2 Recreation and visitor-serving commercial uses shall only be allowed if it can be proven that</p> <p>a. areas identified by the Water Resources Agency as prime-groundwater recharge areas can be preserved and protected from sources of pollution as determined by the Director of Environmental Health and the Water Resources Agency;</p> <p>b. proposed development can be phased to ensure that existing groundwater supplies are not committed beyond their safe, long-term yields where such yields can be determined;</p> <p>c. floodways associated with the main channels of either the Arroyo Seco River or the Salinas River will not be encroached on by development because of the necessity to protect and maintain these areas for groundwater recharge, preservation of riparian habitats, and flood flow capacity as determined by the Water Resources Agency;</p> <p>d. the proposed development meets both water quality and quantity standards expressed in Title 22 of the California Code of Regulations and Title 13.04 of the Monterey County Code as determined by the Director of Environmental Health;</p> <p>e. the proposed development meets the minimum standards of the Regional Water Quality Control Basin Plan when septic systems are proposed and also will not adversely affect groundwater quality, as determined by the Director of Environmental Health; and</p> <p>f. the proposed development will not generate levels of runoff which will either cause erosion or adversely affect</p>	<ul style="list-style-type: none"> No standards are identified to evaluate whether a proposal will "minimize erosion and/or modification of landforms" No enforceable mandate is created because minimization of erosion is merely one of many "guidelines" and there is no indication how the guidelines will be weighed 	23

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foundations:	
CV-2.9 No roads should cross slopes steeper than 30-percent (30%) unless factors of erosion and visible scarring can be mitigated.	<ul style="list-style-type: none"> No standards are provided to evaluate whether "factors of erosion and visible scarring can be mitigated."
CV-3.4 Alteration of hillsides and natural landforms caused by cutting, filling, grading or vegetation removal shall be minimized through sensitive siting and design of all improvements and maximum feasible restoration including botanically appropriate landscaping. Where cut and fill is unavoidable on steep slopes, disturbed areas shall be revegetated.	<ul style="list-style-type: none"> No criteria are provided for "sensitive siting and design of all improvements and maximum feasible restoration." The policy does not create an enforceable mandate because there are no criteria for "unavoidable" cut and fill (unavoidable relative to what objectives?) and "maximum feasible restoration" (feasible within what constraints?)
CV-3.8 Development shall be sited to protect riparian vegetation, minimize erosion, and preserve the visual aspects of the Carmel River. In places where the riparian vegetation no longer exists, it should be planted to a width of 150 feet from the river bank, or the face of adjacent bluffs, whichever is less. Density may be transferred from this area to other areas within a lot.	<ul style="list-style-type: none"> No standard is provided to determine whether a project will "minimize erosion."
CV-3.9 Willow cover along the banks and bed of the Carmel River shall be maintained in a natural state for erosion control. Constructing levees, altering the course of the river, or dredging the river shall only be allowed by permit from the Monterey Peninsula Water Management District or Monterey County.	<ul style="list-style-type: none"> This policy should be implemented County-wide, but it should not be limited to the Carmel River. The DEIR should explain why this policy should not be applied globally, and specifically justify a recommendation not to apply it to any specific area with reference to information about the watershed's ability to absorb additional erosion and sedimentation. The criteria for "natural state" is difficult to define, and possibly undesired. Willows often occur in response to excessive sedimentation and may indicate problems that require mitigation.
CV-4.1 In order to reduce potential erosion or rapid runoff: a. The amount of land cleared at any one time shall be limited to the area that can be developed during one construction season. b. Motorized vehicles shall be prohibited on the banks or in the bed of the Carmel River, except by permit from the Water Management District or Monterey County. c. Native vegetative cover must be maintained on areas that have the following combination of soils and slope: 1. Santa Lucia shaly clay loam, 30-50% slope (SIF) 2. Santa Lucia-Reliz Association, 30-75% slope (Sg) 3. Cieneba fine gravelly sandy loam, 30-70% slope (CcG) 4. San Andreas fine sandy loam, 30-75% slope (ScG) 5. Sheridan coarse sandy loam, 30-75% slope	<ul style="list-style-type: none"> Sections "a" and "b" of this policy should be implemented County-wide, and should not be limited to the Carmel River. The DEIR should explain why sections "a" and "b" this policy should not be applied globally, and specifically justify a recommendation not to apply it to any specific area with reference to information about the watershed's ability to absorb additional erosion and sedimentation. The DEIR should explain why native vegetative cover should not be maintained on slopes over 25%. Requirements for maintenance of native vegetative cover should be developed for all other areas of the County.

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(SoG)	
6. Junipero-Sur complex, 50-85% slope (Jc)	
CV-4.2 A comprehensive drainage maintenance program should be established by either sub-basins or valley-wide watershed zones.	<ul style="list-style-type: none"> The policy calls for future action that is not constrained by any performance standard – what would constitute an adequate and comprehensive program? No responsibility for implementing the policy is identified, so there is no enforceable mandate. No deadline for developing the program is identified and no interim measures are proposed.
CV-6.2 Gardens, orchards, row crops, grazing animals, farm equipment, and farm buildings are part of the heritage and the character of Carmel Valley. This rural agricultural nature should be encouraged, except on slopes of 25-percent (25%) or greater or where it would require the conversion or extensive removal of existing native vegetation.	<ul style="list-style-type: none"> The DEIR must explain why slope development for agriculture will not cause erosion and sedimentation impacts on slopes less than 25%. The DEIR must explain why the 25% slope limitation is encouraged in Carmel Valley but not County-wide. The policy does not create an enforceable mandate because it merely states that conversion and extensive vegetation removal on slopes over 25% should not be encouraged. Nothing in the policy actually bars such slope development.
Fort Ord Master Plan Soils and Geology Policy A-1 In the absence of more detailed site-specific information, the County shall use the Natural Resources Conservation Service's Soil Survey of Monterey County in determining the suitability of soil for particular land uses.	<ul style="list-style-type: none"> The DEIR should explain why this policy is not proposed for application throughout the County.
Fort Ord Master Plan Soils and Geology Policy A-2 The County shall require developers to prepare and implement erosion control and landscape plans for development projects. Each plan shall be prepared by a registered civil engineer or certified professional in the field of erosion and sediment control and shall be subject to the approval of the Public Works Director for the County of Monterey. The erosion component of the plan must at least meet the requirements of Storm Water Pollution Prevention Plans (SWPFPs) required by the California State Water Resources Control Board.	<ul style="list-style-type: none"> The DEIR should explain why this policy is not proposed for application throughout the County.
Fort Ord Master Plan Soils and Geology Policy A-3 Through site monitoring, the County shall ensure that all measures included in the developer's erosion control and landscape plans are properly implemented.	<ul style="list-style-type: none"> The DEIR should explain why this policy is not proposed for application throughout the County.
Fort Ord Master Plan Soils and Geology Policy A-4 The County shall continue to enforce the Uniform Building Code to minimize erosion and slope instability problems.	<ul style="list-style-type: none"> The DEIR should explain why this policy is not proposed for application throughout the County.
Fort Ord Master Plan Soils and Geology Policy A-5 Before issuing a grading permit, the County shall require that geotechnical reports be prepared for developments proposed on soils that have limitations concerning slope and soils that have piping, low-strength, and shrink-swell potential. The County shall require that engineering and	<ul style="list-style-type: none"> No criteria are provided to define "limitations concerning slope and soils that have piping, low-strength, and shrink-swell potential." These terms must be defined so that the policy can be objectively enforced. The DEIR should explain why this policy.

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design techniques be recommended and implemented to address these limitations.	revised to define critical terms, is not proposed for application throughout the County.	
Fort Ord Master Plan Soils and Geology Policy A-6 The County shall require that development of lands having a prevailing slope above 25% include implementation of adequate erosion control measures.	<ul style="list-style-type: none"> No performance standards or exemplary measures are identified for "adequate erosion control measures." The DEIR must explain why development of slopes <i>under</i> 25% do not also require adequate erosion control plans. 	
Fort Ord Soils and Geology Program A-6.2 The County shall designate areas with extreme slope limitations for open space or similar use if adequate erosion control measures and engineering and design techniques cannot be implemented.	<ul style="list-style-type: none"> The DEIR must explain why the County should not have already designated such areas. No criteria for "extreme slope limitations" are provided. No criteria or exemplary measures for "adequate erosion control measures and engineering and design techniques" are provided. 	
Fort Ord Master Plan Soils and Geology Policy B-1 The County shall identify areas of highly valuable mineral resources within the former Fort Ord, based on the State of California Division of Mines and Geology's mineral resource "classification-designation" system, and provide for the protection of these areas.	This policy does not relate to erosion and sedimentation.	
Fort Ord Master Plan Soils and Geology Policy B-3 Prior to granting permits for operation, the County shall require that mining and reclamation plans be prepared for all proposed mineral extraction operations.	<ul style="list-style-type: none"> This policy contains no standards or exemplary measures for adequate mining and reclamation plans. The policy does not add anything to the existing mandate under SMARA. 	23
Fort Ord Master Plan Hydrology and Water Quality Policy A-1 At the project approval stage, the County shall require new development to demonstrate that all measures will be taken to ensure that runoff is minimized and infiltration maximized in groundwater recharge areas.	<ul style="list-style-type: none"> No standards are provided for determining if "is minimized and infiltration maximized." The DEIR must make clear whether this policy supercedes or supplements Policies S 3.5 (runoff performance standards are to be determined) and S 3.1 (related to runoff performance standards, but not containing a clear constraint). Why is a distinct policy specified for this area of the County? How will it differ from the global standards under S 3.1 and 3.5? 	
Fort Ord Master Plan Hydrology and Water Quality Policies A-2 To avoid adversely affecting groundwater recharge of surface water users in downstream areas, the County shall ensure that land use and drainage facilities on newly developed lands do not decrease the magnitude and duration of flows less than the mean annual flow in creeks downstream of the development sites.	<ul style="list-style-type: none"> The policy sounds like a performance standard, but it is written backward. It should require that land use and drainage facilities on newly developed lands do not <i>increase</i> the magnitude and duration of flows <i>more</i> than the mean annual flow in creeks downstream of the development sites. No procedure for implementing this policy is specified. Who is responsible for implementation and in what context? Will each development project be required to provide a hydrological study to demonstrate compliance? If not, why not? If not, when will studies ever be required? Will the policy apply to ministerially permitted activities? Will the policy apply to 	

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	conversion of previously uncultivated agricultural land and routine and ongoing agricultural activities?	
	<ul style="list-style-type: none"> The DEIR must explain why this policy, revised to address the above concerns, should not be applied County-wide. 	
Fort Ord Hydrology and Water Quality Program C-1.1 The County shall comply with the nonpoint pollution control plan developed by the California Coastal Commission and the State Water Resources Control Board (SWRCB), pursuant to Section 6217 of the Federal Coastal Zone Management Act Reauthorization Amendments of 1990, if any stormwater is discharged into the ocean.	This policy does not create any constraints on development that were not already mandated.	
Fort Ord Hydrology and Water Quality Program C-1.2 The County shall comply with the General Industrial Storm Water Permit adopted by the SWRCB in November 1991 that requires all storm drain outfalls classified as industrial to apply for a permit for discharge.	This policy does not create any constraints on development that were not already mandated.	
Fort Ord Hydrology and Water Quality Program C-1.5 The County shall adopt and enforce a hazardous substance control ordinance that requires that hazardous construction activities involving the handling, storing, transport, or disposal of hazardous waste materials.	<ul style="list-style-type: none"> Development of any substantive controls is deferred but no criteria define the subject matter of this ordinance and no performance standards or exemplary measures are identified. This policy does not appear to relate to erosion and sedimentation. 	23
Fort Ord Hydrology and Water Quality Policy C-4 The County shall prevent siltation of waterways, to the extent feasible.	<ul style="list-style-type: none"> No criteria for "siltation" is provided. How much sediment deposition would constitute "siltation?" The critical term, "to the extent feasible," is not defined. Do the constraints on feasibility include just technological constraints are economic constraints included? How would this policy operate if a developer sought to implement a project that would cause "siltation," but claimed that control measures would render the project economically infeasible? No plan for implementing this policy is provided. What measures will the County take? What measures would the County require others to take? In what context? How does the policy apply to activities that require only a ministerial permit or no permit at all? 	
Fort Ord Hydrology and Water Quality Program C-4.1 The County, in consultation with the Natural Resources Conservation Service, shall develop a program that will provide, to owners of property near waterways and other appropriate entities, information concerning vegetation preservation and other best management practices that would prevent siltation of waterways in or downstream of the former Fort Ord.	<ul style="list-style-type: none"> Development of information and BMPs is deferred without performance standards or exemplary measures. Provision of information does not create any enforceable mandate. There is no provision to make any of the to-be-developed BMPs mandatory. 	
Fort Ord Biological Resources Policy A-4 The County	<ul style="list-style-type: none"> "Degradation" is entirely unspecified. 	

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shall protect the habitat corridor in the RV park/youth camp parcel from degradation due to the development in, or use of, adjacent parcels.	<ul style="list-style-type: none"> What authority does the County have to regulate use of adjacent parcels?
Fort Ord Biological Resources Policy A-5 The County shall ensure that the habitat management areas are protected from degradation due to development in, or use of adjacent parcels within its jurisdiction.	<ul style="list-style-type: none"> "Degradation" is entirely unspecified. What authority does the County have to regulate use of adjacent parcels?
Fort Ord Biological Resources Program A-5.3 The County shall require stormwater drainage plans for all developments adjacent to the habitat management areas to incorporate measures for minimizing the potential for erosion in the habitat management areas due to stormwater runoff.	<ul style="list-style-type: none"> No performance standards or exemplary measures are identified. No definition of "minimizing the potential for erosion" is provided. Minimize within what constraints – economic or technological?
GMP-4.1 Redwood, pine, and oak forest and chaparral habitat on land exceeding 25 percent slope should remain undisturbed due to potential erosion impacts and loss of visual amenities.	<ul style="list-style-type: none"> How does this policy related to the County-wide Policies OS 3.5 and 3.6, which would permit development on slopes over 25%? What policy governs in the GMP area? The DEIR must explain why limitation of slope development to 25% is not warranted County-wide.
GS-1.2 Special Treatment Area, Spence/Potter/Escinal Road – Parcel generally located south of Potter Road and North of Spence Road between Old Stage Road, Highway 101, plus parcels along the Escinal Road extension, excluding large properties under cultivation located between Spence and Potter Roads, shall be designated a "Special Treatment Area" to permit on-site soil dependent agricultural operations such as greenhouses. Subdivision of land in this area shall be approved only under the following conditions: a. Minimum parcel size in this area shall be 10 acres. b. Residential uses are allowed only on parcels of 40 acres or more. c. A Drainage Management Plan to mitigate run-off to adjoining farmlands must be prepared for the entire Special Treatment Area. d. One caretaker unit per 10 acres is allowed; e. No uses other than agriculture, agricultural support services, labor contracting businesses, and agricultural equipment rental and maintenance businesses will be allowed on subdivided parcels. f. Residential development rights on parcels formed through subdivision approval shall be dedicated by means of an agricultural conservation easement to the County or a qualified organization such as that specified in Section 501(c)(3) of the Internal Revenue Code; g. Pertinent structures such as processing, packaging, supply, and boiler sheds shall have concrete foundations no thicker than four inches and may be no larger than 4,000 square feet; and	<ul style="list-style-type: none"> This policy has no actual substantive content related to standards for erosion and sedimentation control because the drainage management plan is not defined and because there are no standards for acceptable run-off to adjoining farmland. For example, how does this policy relate to policies S 3.1 and S 3.5 that apparently govern runoff standards County-wide?
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in One mobile home only may be allowed for a caretaker or security personnel and not for residential purposes. (see also Policies CSF-1.3 and US-1.7)	
GS-3.1 All vegetation on land exceeding 25 percent slope, particularly chaparral and broad leaf evergreen, should remain undisturbed to minimize erosion and retain important visual amenities.	<ul style="list-style-type: none"> How does this policy related to the County-wide Policies OS 3.5 and 3.6, which would permit development on slopes over 25%? What policy governs in the GMP area? Will development, land cultivation, and/or routine and ongoing agricultural activities be permitted on land sloped over 25%? If this policy does in fact bar development, land cultivation, and routine and ongoing agricultural activities, the DEIR must explain why limitation of slope development to 25% is not warranted County-wide.
NC-1.3 Large acreages in higher elevations and on steeper slopes should be preserved and enhanced for grazing, where grazing is found to be a viable use.	<ul style="list-style-type: none"> Both upland and riparian grazing may in fact contribute to soil erosion, as is evidence by the identification of grazing activity as a factor responsible for sedimentation to the Pajaro River in the list of 305d impaired water bodies. DEIR, p 4.3-56, the DEIR must explain how this policy would not in fact aggravate sedimentation. No criteria are provided to identify "large acreages" or "higher elevations" or to determine whether grazing is a "viable use." This policy creates no enforceable mandate since it does not actually constrain future development. As written, the County could not actually bar development under the policy because it lacks any objective standards.
NC-5.3 Cooperative soil conservation, water quality protection, and resource restoration programs within watershed basins shared with neighboring counties shall be pursued.	<ul style="list-style-type: none"> No responsibility for "pursuing" these programs is assigned. No resources are identified that would make pursuing these programs feasible. No content for these programs is specified.
SC-5.2 Cooperative soil conservation, water quality protection, and resource restoration programs within watershed basins shared with neighboring counties shall be pursued.	<ul style="list-style-type: none"> No responsibility for "pursuing" these programs is assigned. No resources are identified that would make pursuing these programs feasible. No content for these programs is specified.
SC-5.3 New development may not encroach on the main channels and associated floodways of the Nacimiento, San Antonio, and Salinas Rivers in order to conserve groundwater recharge, preserve riparian habitats, and protect flood flow capacity.	<ul style="list-style-type: none"> The extent of this bar on encroachment to "associated floodways" is not specified. E.g., does this include the floodways associated with 10 year or 100 year floods? How will this policy be coordinated if at all with the proposed Mitigation Measures Bio-2 calling for a stream setback ordinance?
SC-5.4 Stormwater facilities in new urban development shall be designed to mitigate impacts on agricultural lands located downstream.	<ul style="list-style-type: none"> No performance standards or exemplary measures are identified, so there is no basis to conclude what would constitute adequate
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	<p>mitigation of downstream impacts.</p> <ul style="list-style-type: none"> How is this policy related, if at all, to policies purporting to control runoff volumes?
<p>T-3.6 Large acreages in higher elevations and on steeper slopes shall be preserved and enhanced for grazing, where grazing is found to be a viable use.</p>	<ul style="list-style-type: none"> Both upland and riparian grazing may in fact contribute to soil erosion, as is evidence by the identification of grazing activity as a factor responsible for sedimentation to the Pajaro River in the list of 303d impaired water bodies. DEIR, p. 4.3-56. the DEIR must explain how this policy would not in fact aggravate sedimentation. No criteria are provided to identify "large acreages" or "higher elevations" or to determine whether grazing is a "viable use." This policy creates no enforceable mandate since it does not actually constrain future development. As written, the County could not actually bar development under the policy because it lacks any objective standards.
<p>T-4.1 Land uses and practices that may contribute to significant increases of siltation, erosion, and flooding in the Toro Area shall be prohibited.</p>	<ul style="list-style-type: none"> No performance standards are identified for "significant increases of siltation, erosion, and flooding." No provision is made to address cumulative impacts.

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Finally, Policy AG 5.2 states that "policies and programs to protect and enhance surface water and groundwater shall be promoted, but shall not be inconsistent with State and federal regulations." This Agriculture Element policy is intended to support the goal of ensuring compatibility between agricultural use and environmental resources. As written, the policy appears to impose a limitation on policies and programs to protect and enhance surface water and groundwater. If the purpose of the policy is to limit water protection policies and programs to the provisions of State and federal regulations, it is an apparent abdication of the County's own police power to protect its resource base. Please explain what constraint is meant to be placed on such policies and programs by the requirement that they not be inconsistent with State and federal regulations. Please also explain how this policy would be implemented and in what context.

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IV. WATER ISSUES

A. Water Supplies Not Demonstrated for Development In The Salinas Basin

SVWP EXPANSION INFEASIBLE IN LIGHT OF UNMITIGATED IMPACTS TO STEELHEAD, LIMITATION OF NOAA BIOLOGICAL OPINION, AND COST: The DEIR relies on the assumption that the Salinas Valley Water Project (SVWP) can be expanded from the 9,700 acre-feet per year (AFY) permitted by NOAA. This assumption is used to support findings that impacts on water supply in the Salinas Valley would be less than significant through 2030, that overdraft would be reversed, and that seawater intrusion would be halted. (DEIR, pp. 4.3-127, 130, 153, 162). As discussed below, the assumption that additional water can be diverted from the Salinas River through the SVWP underlies the DEIR's conclusions that sufficient water will be available for several community areas and other development. The environmental consequences of increased diversions to steelhead have not been addressed. As discussed below, the comments by TRA Environmental and the limitation of NOAA's Biological Opinion to a diversion rate of 9,700 AFY provide substantial evidence that these consequences will be significant.

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At page 4.3-34, the DEIR claims, "Operation of the SVWP will divert an average of 9,700 AF and up to 12,800 AF of additional Salinas River water (available from re-operation of upstream reservoirs) to the CSIP during the peak irrigation season. This will provide a total yearly average of 12,000 AF and up to 25,000 AF to the CISP for injection into the groundwater aquifer (Monterey County Water Resources Agency 2003). Modeling undertaken by the MCWRA for the SVWP indicates that by 2030 seawater intrusion will be reduced to 2,300 AF with surface water deliveries only to the CISP. However, if an additional 14,300 AF of SVWP water is delivered outside the CSIP, modeling indicates that seawater intrusion would be halted (Monterey County Water Resources Agency 2001a)."

The DEIR's discussion relies on information contained in the 2001 SVWP DEIR.⁴ In particular, the DEIR relies on the preliminary, conceptual discussion of a "Potential Expanded Delivery System." SVWP DEIR, section 3.2.4. That section assumes, with no environmental analysis, that "diversion from the Salinas River would be increased from an average of 9,700 to 18,300 AFY" in order to provide additional water for delivery outside the CSIP delivery area. In addition, that section states that the delivery system expansion would cost \$40.8 million.

It is clear that the "expanded delivery system" is not just an unfunded \$40.8 million pipeline project, but also an increase in diversions from the Salinas River. This increased diversion would clearly affect steelhead and other aquatic resources, yet the

⁴ The reference to Monterey County Water Resources Agency 2003 is puzzling. The referenced document is 2003 floodplain management plan that does not even mention the SVWP or the CISP.

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DEIR presents no evidence that the SVWP diversions can be increased to 18,300 AFY with no environmental consequences.

The only discussion of environmental consequences related to the proposed "Expanded Delivery System" is provided in the discussion of potential impacts associated with water system infrastructure in section WR-5. This cursory discussion incorrectly claims that 1) the SVWP EIR has already disclosed all of the impacts of the SVWP, and 2) that the impacts related to the "Expanded Delivery System" would be primarily related to pipeline construction:

"The impacts of the SVWP have been disclosed and mitigated with adoption of the EIR/EIS prepared for that project by the MCWRA in 2002. As noted above, there will be certain significant and unavoidable impacts. Extension of distribution lines from SVWP supplies to new residential, commercial, industrial, and agricultural uses will also result in environmental impacts *due primarily to construction.*" DEIR, p. 4.3-143, emphasis added.

It is clear that the SVWP EIR did *not* evaluate the environmental effects of the Expanded Delivery System – either the effects of the additional pipeline project or the effects of additional diversions. The entire discussion of the Expanded Delivery System in the SVWP DEIR is as follows:

"Potential Expanded Delivery System

While the SVIGSM indicates that seawater intrusion will be halted by the project (in conjunction with the CSIP deliveries) based on current (1995) demands, with a projected increase in water demands (primarily associated with urban development) in the north valley area in the future, seawater intrusion may not be fully halted based on year 2030 projections.

For the year 2030, modeling indicates seawater intrusion may be 2,200 AFY with surface water deliveries only to the CSIP area. This is substantially less than the 10,500 AFY of intrusion that would occur without the project. It is important to note that, given the dynamics of the hydrologic system, the uncertainties of whether future demands will occur as projected, and the limitations of any modeling effort, it is not known if this level of seawater intrusion will occur. The project could potentially fully halt intrusion in 2030 with deliveries only within the CSIP system. As discussed in Section 3.2.7, a monitoring program will be implemented to determine the success of the project.

Given that the SVIGSM is used by MCWRA as a planning tool, it is prudent to consider the potential that additional deliveries may be needed in 2030. However, given the uncertainties expressed above, it is **only appropriate to conceptually consider and environmentally evaluate potential future delivery systems. If needed in the future, more precise planning and environmental analysis will be required.** However, SVIGSM modeling does demonstrate that delivery of an

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average 18,300 AFY of SVWP water in combination with recycled water to CSIP and agricultural uses outside of the CSIP area would fully halt seawater intrusion.

Diversion from the Salinas River would be increased from an average of 9,700 AFY to 18,300 AFY. Of this total diversion, 14,300 AFY would be delivered outside the CSIP delivery area. CSIP deliveries would shift in their composition. An average of 4,000 AFY would be provided by Salinas River diversions. Recycled water deliveries would increase to 16,000 AFY. [2] Supplemental pumping of groundwater wells up to 2,800 AFY would provide the balance of water needed to meet water use demands (approximately 23,000 AFY) in the CSIP area.

In order to deliver the additional water to areas outside of CSIP, a pipeline parallel to the existing CSIP pipeline would need to be constructed from the diversion dam to a new distribution area adjacent to the CSIP distribution area. For purposes of analysis, it is assumed that deliveries would occur to the southeast of the CSIP service area, as this is the area nearest the diversion dam that is not within the CSIP area. A 42-inch diameter new pipeline would be required, along with a distribution system to deliver diverted water to agricultural users in the expanded service area. A general route of a delivery pipeline is depicted on Figure 3-3. Specific alignment of the expanded distribution system would be developed to deliver agricultural water to turnouts for each affected property.

[] Construction & Cost

Use of the existing CSIP distribution pipeline would not require construction, and no additional expense is anticipated.

If expanded delivery is required in the future, costs would be determined at the time it is needed. For purposes of this analysis, it is assumed that 5 miles of transmission pipeline would be needed, at an estimated cost on the order of \$10.6 million. A distribution system from the transmission line would also be needed, at an estimated cost of \$30.2 million. The total estimated cost of the expanded distribution system is \$40.8 million. Section 3.2.4." SVWP DEIR, section 3.2.4, emphasis added.

As noted, the SVWP EIR's discussion is merely "conceptual" and does not in fact consider any environmental effects of either the increased diversions or the additional pipeline construction. The 2007 General Plan DEIR admits that "the pipeline and its impacts are discussed in concept in the SVWP EIR/EIS, but it has not been planned in detail." DEIR, p. 4.3-38. However, nowhere in the DEIR does the County acknowledge that increased diversions from the Salinas River would be required and that these diversions may cause significant impacts to steelhead.

In 2007, NOAA issued its Final Biological Opinion for the SVWP related to effects on the endangered steelhead. The Biological Opinion is expressly limited to the

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assumption that only 9,700 AFY will be diverted, and explicitly provides for reinitiation of consultation if diversion is increased beyond this limit. National Marine Fisheries Service, Southwest Region, Biological Opinion, SWR/2003/2080 (Admin. No.: 1514228SWR2003SR8711), June 21, 2007, p. 66, Exhibit 1. The Biological Opinion makes it clear that the flow prescription based on 9,700 AFY was intended to minimize project impacts and benefit steelhead:

“The SRDF will operate seasonally from April 1 through October 31, if enough surface water is available. As currently proposed, maximum rate of diversion will be 85 cubic feet per second (cfs). The diversion facility will be built to support future expansion to a diversion rate of 135 cfs. *Future diversion rates above 85 cfs were not considered by NMFS in this opinion, because the flow prescription to minimize project impacts and benefit steelhead was jointly developed by MCWRA and NMFS based on an assumed maximum diversion rate of 85 cfs. With this assumption, the average diversion of the SRDF will be about 9,700 AF per year (AFY).*” *Id.*, p. 8, emphasis added, Exhibit 1.

Increasing diversions to support the Expanded Distribution System in addition to the 9,700 AF NOAA has permitted would require changes to the river flow regime that is supposed to protect steelhead and would require NOAA to change the project’s permit. The DEIR provides no evidence that protection of steelhead is feasible if diversions from the Salinas River are doubled. As the California Supreme Court explained in *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 430-431, an EIR cannot ignore environmental problems or simply assume solutions. It must actually evaluate the impacts of providing water supply. Yet the DEIR here has simply failed to discuss the impacts to steelhead from increased diversions from the Salinas River. The DEIR must evaluate this impact since it assumes that these diversions will be available to support continued growth.

The express limitation of the Biological Opinion to diversions of 9,700 AFY evidences the potential for increased diversions to harm steelhead. Please explain on what basis the DEIR has concluded that, despite the NOAA limitation, additional supplies will be available from the SVWP without consequences to steelhead.

Furthermore, comments provided by TRA Environmental demonstrate that additional diversions would in fact have a significant impact on adult fish migration and to smolt out-migration.

Finally, mitigation must be feasible. In light of the difficulty funding the existing \$16 million SVWP, it appears unlikely that an additional \$40.8 million in funding could be provided for the expansion. Please explain on what basis the DEIR has determined it would be feasible to fund the \$40.8 million pipeline expansion that would be required. In particular, how would the cost be allocated to beneficiaries?

In light of the limitation imposed by NOAA on yields from the SVWP, the expert evidence that increased diversions would cause significant impacts to steelhead, and the apparent financial infeasibility of constructing the proposed Expanded Distribution

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System for the SVWP, the DEIR’s assumption that additional water supplies are available is not justified. For these reasons, the DEIR must be revised to acknowledge that water supply impacts within the Salinas River basin are significant and to propose all feasible mitigation.

NO EVIDENCE THAT RECYCLED WATER WILL BE AVAILABLE TO COMPLETE THE SVWP EXPANDED DELIVERY: In its discussion of the expanded delivery system, the SVWP EIR assumes that the entire capacity of the Monterey County Water Recycling Projects at 2030 (15,900 AFY) will be dedicated to the SVWP. However, the full amount may not be available for this purpose. The DEIR points out on page 4.3-46, “As constraints on local water supply increase, the use of treated wastewater (i.e. recycled water) and other subpotable supplies becomes a more significant component of the total water supply picture.” And, as a matter of fact, the Water for Monterey County Coalition (WFMCC), a county-wide stakeholder group attempting to develop regional solutions to water supply problems, has targeted up to 5,000 acre-feet of recycled water per year as part of its plan. WFMCC, Water for Monterey County Program Elements, Exhibit 2.⁵ Please explain on what basis the DEIR assumes that sufficient recycled water will be available to implement the plan to expand SVWP deliveries.

Ironically, the DEIR identifies the WFMCC proposal as a possible alternative solution to the Coastal Water Project for the shortage of water for the Monterey Peninsula. DEIR, p. 4.3-128. In addition to assuming the availability of 5,000 AFY of recycled water, the WFMCC proposal includes an additional 5,000 AFY in diversions from the Salinas River, with no apparent consideration of the impacts to steelhead or of the SVWP plan to divert an additional 8,300 AFY from the Salinas River to address saltwater intrusion in the Salinas Valley basin. The WFMCC proposal also includes pumping 6,000 AFY of Salinas Basin groundwater from “additional wells to tap highest quality and lowest cost resource,” with no apparent consideration of the effects on saltwater intrusion and overdrafting, and with no apparent consideration of the prohibition against exporting any groundwater for any purpose from the Salinas River Groundwater Basin. See Monterey County Water Resources Agency Act, 1990 Stats. 1159, 1991 Stats. 1130, 1993 Stats. 234, and 1994 Stats. 803, Water Code Appendix, Chapter 51, § 21. The DEIR’s conclusion regarding the supply sufficiency of the Salinas Valley basin has already assumed that all of the MCWRA recycled water and an additional 8,300 AFY of Salinas River diversions will be used to solve the groundwater overdraft problem in the Salinas River basin, and apparently does not plan for exporting another 5,000 AFY of Salinas Basin groundwater to the Peninsula – although the absence of any comprehensive water balance analysis makes this difficult for the public to determine. It appears that the DEIR’s failure to present a complete water balance analysis, discussed in detail below, results in double counting even the speculative future resources. Accordingly, please identify competing proposals for use of recycled water, Salinas River diversions, and Salinas Valley groundwater pumping beyond the level assumed by the DEIR in its evaluation of the sufficiency of the Salinas Valley basin.

⁵ Available at <http://www.waterformontereycounty.org/initiation.php>

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Please explain the effects these competing proposals would have on the DEIR's significance conclusions.

CONTINUED OPERATION OF NACIMIENTO AND SAN ANTONIO DAMS: The DEIR states that dams owned and operated by MCRA control flows of Nacimiento and San Antonio Rivers, the main tributaries to Salinas River. DEIR, 4.3-5. The flow regime is currently managed to maximize recharge and minimize ocean outflow. *Id.* Because clay underlies the river bed north of Chualar, managed outflows only maintain river flow as far north as SR68 bridge. *Id.* Most of the groundwater is used for agriculture. *Id.* Again, both the dams are operated to maximize percolation into the Salinas Valley aquifer. DEIR, p. 4.3-6.

The DEIR relies on the continued operation of these two dams to assure groundwater recharge. It expressly states that groundwater will continue to be available in the Salinas Valley basin to support planned growth under the General Plan without causing overdrafting and saltwater intrusion only by virtue of the continued operation and expansion of the SVWP. DEIR, pp. 4.3-127, 130, 153, 162.

The DEIR does not disclose the effects on steelhead of the continued operation of the two dams. Because the DEIR expressly assumes that Salinas Valley groundwater will be available to support continued growth, it is incumbent on the DEIR to evaluate these effects.

Expert evidence in comments by TRA Environmental demonstrates that continued operation of these dams will have a significant impact to steelhead. These impacts will be caused by loss of spawning and rearing habitat and lack of water for migration and emigration.

Note that there is no evidence that the effect of the continued operation of the two dams on steelhead has in fact been evaluated in other documents. In this connection, note that the NOAA biological opinion expressly disclaims any analysis of this effect:

"We are not analyzing ongoing dam operations and maintenance as a part of the proposed action because they are neither indirect effects nor interrelated or interdependent actions to the proposed action. Most dam operations and maintenance are a part of the environmental baseline to which the effects of the proposed action will be added. As a result, the Incidental Take Statement for this opinion does not exempt any incidental take resulting from those baseline operations. This includes the bulk of the flow released from the Nacimiento and San Antonio dams. One exception is modified operations of these reservoirs to meet the purposes of the proposed action. Those modified operations are considered interrelated with the Corps' proposed action and are considered in the Effects of the Proposed Action section of this opinion." NOAA Biological Opinion, p. 2.

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The SVWP EIR, although referenced in the EIR, also does not purport to evaluate the effects of the continued operation of the dams on steelhead. Indeed, there is no evidence in the General Plan DEIR that the continued operation and maintenance of the dams, which were built in 1957 and 1965, have ever been evaluated under the Endangered Species Act and no evidence that the continued operation of the dams is covered by an Incidental Take Permit under section 10 of the ESA or an Incidental Take Statement under section 7 of the ESA. If operation of these dams has not in fact been permitted under the ESA, the EIR must disclose this fact and provide an analysis of the biological impacts of the use of their water supply to support continued growth under the 2007 General Plan.

Furthermore, the NOAA Biological Opinion states at pp. 5-6 that the Salinas River Channel Maintenance Biological Opinion issued to the Corps on July 23, 2003 is in conflict with the NOAA Biological Opinion. The EIR must explain this conflict and how it has been resolved.

Most fundamentally, the EIR must be revised to disclose and discuss the effect on steelhead of the operation of the MCWRA dams on Nacimiento and San Antonio Rivers to provide water for continued growth under the 2007 General Plan.

CASTROVILLE: At page 4.3-117 the DEIR states, "Castroville is in the 180-foot/400-Foot subarea of the Salinas Valley basin, where any additional pumping from the local groundwater would result in further seawater intrusion." This statement is contradicted on page 4.3-118 where the DEIR concludes, "With operation of the SVWP, CSIP, and/or other measures, anticipated withdrawals from the 180-Foot/400-Foot subarea to meet water demands of the Castroville Community Area would avoid further lowering of water levels in the aquifer and further seawater intrusion."

Please explain this contradiction.

Please also explain what "other measures" besides the SVWP and CSIP will meet water demands of the Castroville Community Area. The SVWP is expected to expand the amount of water delivered to Castroville farmers through the CSIP system by 9700 acre-feet annually. However, CSIP water is not potable and is used exclusively for agricultural irrigation. As the DEIR states, "additional pumping from the local groundwater would result in further seawater intrusion," so what is the new source of potable water that will meet new water demands of the Castroville community?

Monterey County voters approved the SVWP in 2001. At page 4.3-9, the DEIR states that the "SVWP is currently underway; construction on the Nacimiento Dam Spillway Modification Component began in April 2008" with a completion date of fall 2009. The rubber dam "component will begin construction after completion of the Nacimiento Dam work." No completion date for the rubber dam, which will increase water deliveries to Castroville farmers, is given. Please explain what measures will be employed to avoid further seawater intrusion until that time.

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BORONDA: The DEIR states at page 4.3-118 that increased water pumping in Boronda "would contribute to further seawater intrusion." The DEIR concludes that this concern is addressed by Cal-Water, the water purveyor for Boronda, which "has already begun shifting production further south and into the 400-foot aquifer (in response to seawater intrusion into the 180-foot aquifer within 1 mile of Cal-Water's closest well)."

As the DEIR points out on page 4.3-7, "According to the California Department of Water Resources (DWR), the Salinas Valley groundwater basin consists of one large hydrologic unit composed of four subareas (Exhibit 4.3.3)." The DEIR also acknowledges that "barriers to horizontal flow do not separate them and water can move between them (California Department of Water Resources 2004a-d)." Further, the DEIR states that surface recharge in the 180-Foot/400-Foot subarea does not occur. "Instead, recharge is from underflow originating from the Upper Valley and Forebay Subareas and, more recently, from seawater intrusion (California Department of Water Resources 2004b)."

Since the Salinas Basin is one large hydrologic unit and since recharge of the subarea is from underflow originating upstream, please explain how Cal-Water's moving its wells upstream within the same, interconnected basin will do anything to address seawater intrusion caused by increased pumping in Boronda.

CHUALAR: The DEIR states that although Chualar is situated in a portion of the Salinas Valley groundwater basin, it is "not subject to seawater intrusion" (page 4.3-118). As noted above, the DEIR acknowledges that recharge of the 180-Foot/400-Foot Aquifer occurs through subsurface flow originating upstream. Although Chualar is not yet "subject to seawater intrusion" the DEIR seems to be claiming that increased pumping there has no impact on seawater intrusion. Please justify this conclusion.

Cal-Am supplies Chualar from "one of the company's six Highway 68 corridor systems, which are managed independently of the larger basin systems." Please explain how "independent management" of some water within the Salinas Basin leads the DEIR to conclude that increased water demand at Chualar will incur no significant water supply impacts.

FORT ORD: Development at Fort Ord is also constrained by seawater intrusion. The DEIR, on page 4.3-119 describes a number of projects that, if successful, will produce some new water supply for development there. However, the "Fort Ord Reuse Plan identified a need to augment available potable water supply by 2,400 AFY to accommodate future development. This projection assumed the availability of an additional 6,600 AFY under an agreement with MCWRA that includes Fort Ord as a beneficiary of the SVWP. Sources for both the 6,600 AFY and the additional 2,400 AFY remain uncertain, pending approval of Cal-Am's Coastal Water Project."

Please explain why, in the instance of Fort Ord development, the 6,600 acre-feet of water to be supplied by the SVWP is characterized as "uncertain" when there is no expressed "uncertainty" that the SVWP will provide sufficient water elsewhere.

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SIGNIFICANCE CONCLUSIONS: As noted above, the DEIR relies on the SVWP to provide water for development in community areas within the Salinas Basin. The DEIR also claims that adequate water to meet new water demand for Rural Centers, Affordable Housing Overlays and existing lots of record within the Salinas Basin will all be provided by the SVWP. DEIR, p. 4.3-120. Again, as the DEIR acknowledges at page 4.3-7, the Salinas Basin is one large basin and water flows from one subarea to another. The DEIR also states that the 180-Foot/400-Foot Subarea depends upon subsurface recharge from water upstream.

The DEIR concludes at page 4.3-130, "Within the Salinas Valley, the SVWP will provide sufficient supply to reverse existing overdraft and seawater intrusion problems and to provide water for new development. No new or expanded water entitlements are contemplated to meet demand to 2030, and thus this is considered a less-than-significant water supply impact (see separate discussion below under Impact WR-5 regarding water supply infrastructure)."

The impetus behind the SVWP was to avoid adjudication of the Salinas Basin. Since the basin has not been adjudicated, water from the basin and from the SVWP has not been allocated among water users in the basin. No caps on water use have been imposed for any of the new water uses within the basin, which includes urban growth, wine grape processing, and, as discussed below, agricultural expansion, including expansion onto slopes 25% or greater. The DEIR simply assumes, without any evidence to support the assumption, that these new, unregulated uses will not use more water than the SVWP can provide. Downstream communities within the Salinas Basin north of Chualar must depend upon subsurface recharge for their water. Those communities have no control over the amount of groundwater consumed by uses and communities upstream, nor, absent basin adjudication, can they make any legal claim to protect the subsurface flow they depend upon. Although rate payers at the north end of the Salinas Basin pay the highest fees for the SVWP, the circumstances identified above make the project's benefits far from certain. This is of particular concern to residents living within the project's benefit zone who are currently out of water, for example residents in the Granite Ridge area of North Monterey County. Considering this uncertainty, please justify the DEIR's conclusion that new water demand in the Salinas Basin is considered a less-than-significant water supply impact.

As noted earlier, NOAA has limited SVWP surface diversion to 9,700 acre-feet per year. The entire surface diversion is committed to expanding water delivery to farmers in the Castroville area through the CSIP pipeline. This pipeline, which will deliver non-potable water for agriculture, is the only infrastructure in place to directly deliver benefits of SVWP. The DEIR acknowledged at page 4.3-35 that seawater intrusion would continue at 2,300 acre-feet per year unless "an additional 14,300 AF of SVWP water is delivered outside the CSIP." For purposes of analysis throughout the Water Resources element, the DEIR assumed the 14,300 acre-feet would be available.

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That additional water supplies from the SVWP are at best uncertain, is evident from the DEIR's proposal of Mitigation Measure WR-2, which calls for the County to "pursue expansion of the SVWP by initiating investigations of the capacity for the Salinas River water storage and distribution system to be further expanded." DEIR, p. 4.3-133. If additional water supplies through the SVWP were reasonably certain, it would not be necessary for the County to *initiate investigations* as to whether there is any additional capacity. It is simply inconsistent for the DEIR to state that this water will be available while at the same time calling for an investigation into its availability as a mitigation measure.

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We ask that the County revise and recirculate the DEIR to realistically evaluate the water supply for the Salinas Basin.

B. Water Demand In the Salinas Valley Is Understated

The DEIR projects new water demand associated with the 2007 General Plan in Tables 4.3-11 (AWCP demand) and 4.3-9. However, the information in these tables is incomplete and inaccurate. Water demand for wineries is not justified, water demand from non-winery development permitted by the AWCP is omitted, and, most critically, water demand from new agricultural development is omitted even though the DEIR admits that agricultural conversions will substantially increase irrigated lands.

AWCP WINERY PRODUCTION NOT JUSTIFIED: For example, calculation of new water demand for wineries in the AWCP is arbitrary and therefore questionable. Winery Corridor policies allow 40 new artisan wineries producing between 2,000 to 50,000 cases of wine per year and 10 full-scale wineries producing from 50,000 cases to 2,000,000 cases of wine per year.

At page 4.3-120 the DEIR states, "40 artisan wineries will be built by 2030, each averaging a production rate of 25,000 cases per year by that time." By definition an artisan winery can produce up to 50,000 cases per year. There is no data cited or rationale given for the assumption that they will average only *half* this size. The actual water demand for artisan wineries could be 103 acre-feet per year, not merely the 51.6 acre-feet per year that the DEIR assumes. Please provide the data and explain the rationale for this assumption.

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Water use estimates for full-scale wineries are equally lacking in data and rationale. "The full-scale wineries will reflect the following numbers and production rates by 2030: 5 producing 75,000 cases per year; 2 producing 175,000 cases per year; and 1 each producing 375,000, 750,000 and 1.5 million cases yearly." Why, specifically, will they "reflect the following numbers?" Potential water use for each full-scale winery is approximately 103 acre-feet per year – or a total for all ten of 1030 acre-feet per year. This is six times more water use than the DEIR's total water demand – slightly less than 173 acre-feet per year for all 10 full-scale wineries. Please provide the data and the rationale for the calculation of water use at the 10 full-scale wineries.

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AWCP WATER DEMAND PER UNIT OF PRODUCTION NOT JUSTIFIED: Furthermore, the DEIR relies on the assertion that "a typical winery uses 7 gallons of water to produce one gallon of wine," citing an October 19, 2005 technical memorandum from West Yost & Associates. West Yost provides no explanation or justification for the 7 gallon figure, which it does not in fact rely upon. West Yost (2005), p. 10. In fact, West Yost independently determined the winery water demand based on vineyard acreages and found it to be "larger than the more typical factor of approximately 7 gallons of water demand per gallon of bottled wine." *Id.* In view of the lack of any foundation for the 7 gallon figure in the West Yost report and the fact that West Yost does not rely on the figure, please explain how it can be justified.

AWCP WATER DEMAND FAILS TO ACCOUNT FOR PROCESSING EVEN THE EXISTING LEVEL OF GRAPE PRODUCTION: According to the DEIR and the Monterey County Vintners and Growers Association, the Monterey County wine industry lacks processing facilities for 70% to 80% of the county's wine grape harvest. This, they claim, is the motivation behind the winery corridor policies.

According to the DEIR's assumptions about the scale of the new wineries, all the new wineries (full-scale and artisan) will process a total of 4,350,000 cases of wine annually. DEIR, p. 3.3-120. The average yield of wine per ton of wine grapes is 62.5 cases. Monterey County, Monterey County 21st Century General Plan Update Draft Environmental Impact Report, March 27, 2002, p. 5.2-56, Exhibit 3. Thus, according to the DEIR, in-County wine grape processing during the life of the General Plan will increase by a mere 69,600 tons (4,350,000 cases divided by 62.5 cases per ton).

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However, existing grape production is well in excess of 69,600 tons. The 2007 Monterey County Crop Report indicates that Monterey County growers and vintners produced 224,000 tons of wine grapes during 2007. Monterey County Agricultural Commissioner, Monterey County Crop Report 2007, p. 13, Grape Production, Exhibit 4. With a 70% to 80% shortfall in processing capability, this would translate into an *immediate need* for processing facilities to handle between 157,000 and 179,000 tons of grapes grown in Monterey County (9,812,500 cases to 11,187,500 cases). At 16.8 gallons of water per case (DEIR, p. 4.3-120), local processing of Monterey County's entire 2007 wine grape harvest would immediately boost water use in the Salinas Basin by between 506 acre-feet per year and 577 acre-feet per year.

Furthermore, the 2007 crop report also shows that 3,068 non-bearing acres of grapes have been planted. At maturity, if processed locally, this acreage will further increase winery water use in the Salinas Basin by 56 acre-feet per year.

Thus, just increasing processing capacity to handle 2007 vineyard acreage will increase water demand in the Salinas Basin by between 562 acre-feet per year and 633 acre-feet per year. In light of the stated purpose of the AWCP to provide local winery capacity sufficient to accommodate local grape production, please explain why the DEIR analysis estimates that by 2030 wine processing will not increase enough to handle even the 2007 wine grape production. In particular, please explain why the DEIR projected

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that the 40 artisan wineries would be built at only half their allowable capacity and why the DEIR projected that the full-scale wineries would not fully accommodate the rest of the local grape production, in light of what vintners have characterized as pent-up demand for local processing of 70% to 80% of the County's harvest.

DEIR OMITTS AWCP WATER DEMAND FOR PERMITTED NON-WINERY DEVELOPMENT: The DEIR also admits on page 4.3-121, "This estimate does not include other uses allowable in the AWCP. They would add to the demand, but would have less demand than the wineries." Please explain this conclusion given the fact that no analysis was conducted to determine water demands of those other allowable uses. At page 4.2-19 the DEIR states, "The potential impacts of any future restaurants, inns, or the business cluster cannot be determined at this time because their sizes, intensities, and locations are unknown." How can the DEIR conclude other allowable uses will have less water demand than wineries when there has been no effort to quantify that demand?

DEIR FAILS TO INCLUDE DEMAND FOR IRRIGATION OF NEW AGRICULTURAL LAND: The DEIR concludes that water use for agriculture will "remain relatively stable, with a small decline." DEIR, p. 4.3-115. Thus, the DEIR includes no new water demand from agriculture in Table 4.3-9.

The DEIR's conclusions regarding agricultural water use were based on the fact that AMBAG did not project an increase in agricultural employment and that the SVWP EIR forecast a slight decline for agricultural water use in the Salinas Valley. DEIR, p. 4.3-114.

However, as noted elsewhere in these comments, there is no evidence that the AMBAG agricultural employment forecast was based on assumptions consistent with the 2007 General Plan, including the assumptions that the County would create substantial incentives for wineries and grape production and that conversion of previously uncultivated land to farmland would continue to add farmland.

The SVWP EIR is internally inconsistent in projecting agricultural water use. It states at page 3-22, Section 3.2.4, "Agricultural needs, which make up a far greater share of water use, are projected to decrease by approximately 51,700 AFY." However, this statistic is contradicted at page 7-5, Section 7.2.1. Here, the SVWP DEIR states that agricultural water use "would result in a net reduction of 60,000 acre-feet per year (AFY) by 2030." The SVWP DEIR states that a 60,000 AFY reduction in agricultural water use would be countered by an increase in urban water use of 40,000 AFY. The projected result would be a reduction in overall water demand in the Salinas Basin of 20,000 AFY (4%). However, if that same demand were calculated using the earlier 51,700 AFY figure, overall demand in the Basin would only decline by 11,700 AFY. The 2007 General Plan DEIR cannot rely on the SVWP EIR without reconciling this inconsistency.

Furthermore, it is clear that the SVWP EIR did not make assumptions about the continuing growth of farming that are consistent with the data and conclusions in the

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2007 General Plan DEIR or the facts on the ground through 2007. The SVWP draft EIR states that agricultural land use will remain unchanged:

"Agricultural land uses would shift, with a large increase in relative acreage devoted to vineyards (a 25% increase between 1995 and 2030 was assumed), and a decrease to all other uses (truck crops, field crops, pasture, and orchards). Conversion of agricultural acreage to urban uses is also assumed to occur, but would be generally replaced by land not currently in agricultural use. *Net agricultural acreage would remain effectively unchanged.*" SVWP DEIR, § 7.2.1, emphasis added.

However, as the DEIR points out repeatedly on pages 4.2-6 to 4.2-7 of the Agricultural Resources chapter, despite conversion of agricultural land to urban uses, new land is brought into cultivation to replace it.

Indeed, the 2007 General Plan DEIR projects that at least 450 acres of previously uncultivated land will be converted to agriculture annually. DEIR, pp. 4.9-45, 95. Over the next 22 years, this would add 9,900 acres of irrigated farmland. The DEIR states that only 2,571 acres of existing agricultural land will be converted to urban uses by the 2007 General Plan. DEIR, p. 4.2-11. Thus, the DEIR projects a net increase of 7,329 acres of irrigated farmland through 2030. The DEIR's projection of at least 7,329 acres of new irrigated farmland is simply inconsistent with the assumption in the SVWP DEIR that agricultural acreage would remain unchanged.

It is evident that the SVWP EIR substantially under-predicted vineyard conversion activity based on data that has already been reported. As cited above, the SVWP EIR assumed "a large increase in relative acreage devoted to vineyards," noting parenthetically that "a 25% increase between 1995 and 2030 was assumed." In 1995, Monterey County vineyard acreage was 30,483. Monterey County Vintners and Growers Association official website, Monterey Wine Country, Table: Monterey County Premium Wine Grape Production, Exhibit 5.⁶ A 25% increase would produce vineyard acreage totaling 38,104 acres. However, as the 2007 crop report reveals, current vineyard acreage has already reached 42,764. Thus, acreage in 2007 already exceeded the SVWP EIR projected 2030 vineyard acreage by almost 5,000 acres. And as discussed below, the DEIR projects that agricultural conversions will continue at a rate of at least 450 acres annually; and a more reasonable projection would be at least 820 acres annually. These ongoing conversions after 2007 render the SVWP EIR's forecast even more out of touch.

The SVWP EIR projected a slight decline in net water use based on the assumption that urban land uses would replace agricultural uses and that lost agricultural land would be replaced by vineyards. However, as discussed above, the SVWP EIR grossly underestimated the amount of new agricultural land conversions. Furthermore, other assumptions have changed since the SVWP EIR was completed and certified. In 2001, Monterey County ordinance prohibits new cultivation on slopes of 25% or greater. "Conversion of uncultivated land to cropland shall not be permitted on slopes over 25%"

⁶ Available at http://www.montereywines.org/wineries_acreage.html

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Monterey County code, § 21.66.030 C-1. Under the 2007 General Plan, this prohibition would be eliminated for slopes of any steepness by 2007 General Plan Policy OS-3.5(2). It states, "The County shall develop and implement an Agricultural Permit process for the conversion for agricultural purposes, of previously uncultivated lands on slopes in excess of 25-percent (25%)." There are 496,432 acres of land with intact natural vegetation designated to permit agriculture (farmland, rural grazing, permanent grazing, or resource conservation) on slopes exceeding 25% in the County. See TNC, Analysis of Slope and Vegetation by Planning Area for Land Permitting Agriculture Under the 2007 Monterey County General Plan, Exhibit B to comments by TRA Environmental, Exhibit 13. The SVWP EIR had no way to evaluate this "bonanza" of potentially cultivated acreage that would be made available by the proposed change in slope development policy that would add thousands of acres of potential farmland to the County. And the DEIR fails to analyze the potential increase in water use resulting from this significant change in slope policy.

The SVWP EIR assumed that new acreage will be devoted exclusively to wine grape production. However, other high-profit crops must also be considered for cultivation on slopes that will become available under the new slope policy – strawberries, for example. According to the 2007 Monterey County Crop Report, in the decade from 1997 to 2007 the value of Monterey County's strawberry crop almost tripled, galloping from \$209,000,000 to \$605,000,000. As the crop report shows, strawberry acreage continues to expand, as does the acreage for many other high-value crops – citrus, raspberries, walnuts, tomatoes, etc. Many of these crops use much more water than wine grapes. There is no reason to assume wine grapes will be the only crop taking advantage of the new acreage available, especially since the 2007 General Plan policies regarding Routine and Ongoing Agricultural Activities apply to all growers. See Policy AG-3.3, 2007 General Plan, pp. AG-6 to AG-7 in the 2007 General Plan.

In sum, the DEIR must be revised and recirculated to provide a reasonable projection of water demand to support new agriculture in light of the facts that 1) the SVWP EIR, on which the DEIR relies, substantially underestimated agricultural conversions, 2) the SVWP EIR's assumption of no net change in agricultural land is inconsistent with the 2007 General Plan EIR's own projection that irrigated farmland will increase by at least 7,329 acres, and 3) the DEIR's policy changes that create incentives for new vineyards and other agricultural cultivation on sloped land.

How much additional water will be required for the new agricultural land? The DEIR's projection that 450 acres of new farmland will be converted annually is based on a 25 year period in which one third of the land was converted for vineyards.⁷ DEIR, p. 4.9-63. Thus, accepting the DEIR's 25-year sample (which, as discussed below, substantially understates the accelerating trend in conversions), 2,443 acres (one third of the net increase of 7,329 acres through 2030) would represent vineyards and 4,886 acres

⁷ The more recent data shows that 40% of conversion acreage is vineyards. However, as discussed below, this data also shows that the actual rate of conversion is 820 acres per year, rather than 450. DEIR, p. 4.9-63. To be consistent with the DEIR's choice to skew the conversion projection by including 25-years of data, we use the vineyard data for the 25 year period.

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(two thirds of the net increase of 7,329 acres) would represent other more water intensive row crops. Conservatively assuming that wine grapes are irrigated at a rate of 1 acre-foot per year and that row crops are irrigated at 2 acre-feet per year, the additional water demand would amount to at least 12,215 acre-feet per year.⁸ The DEIR must be revised to include this 12,215 acre-feet of water demand water demand in Table 4.3-9. Obviously, this demand dominates the 6,123 acre-foot total new demand for non-agricultural purposes through 2030 that the DEIR presents in Table 4.3-9.

Because the basin has not been adjudicated, there are no constraints on groundwater pumping to support new agriculture. The 2007 General Plan does not have any policies that would prevent farmers from pumping to support new agriculture, particularly since the 2007 General Plan intends through Policy AG 3.3 to exempt Routine and Ongoing Agriculture from many otherwise applicable policies and since the Policies PS 3.1 to 3.3 requiring proof of long term sustainable water supplies do not apply to agricultural wells. Accordingly, recognition of the water demand for new agricultural uses renders unsupported the DEIR's conclusions that water supply, overdrafting, and saltwater intrusion impacts will be less than significant through 2030.

In light of the inconsistencies in assumptions, we ask that the County reconcile the land and water use assumptions used to develop Table 1-2 in the SVWP EIR, on which the 2007 General Plan DEIR relies for its conclusions regarding overdrafting, saltwater intrusion, and agricultural water demand, with the land and water use assumptions in Table 4.3-11 in the 2007 General Plan DEIR. Please identify and compare the assumptions for both urban and agricultural use in both sources. Please explain why Table 4.3-11 omits any agricultural water use increases in light of the DEIR's projected increase of 450 acres of agricultural land annually.

AGRICULTURAL CONVERSIONS ARE UNDERSTATED IN THE DEIR: As discussed elsewhere in these comments, the DEIR substantially underestimates future agricultural conversions. Thus, the water demand from new agricultural land use will likely be greater than estimated above based on the DEIR's projection that only 450 acres will be converted annually.

On page 4.9-45, the DEIR uses a 25-year trend to project conversion to vineyard acreage. This severely dilutes recent trends as well as the stated objectives of the wine industry in Monterey County. The DEIR projects an average increase of 450 acres per year. This ignores the most recent trend data for 1996-2006 of conversions of approximately 820 acres per year. DEIR, p. 4.9-63.

⁸ Vineyard and row crop irrigation data is from 1) Kurt Gollmeck, Chief Operating Officer of Scheid Vineyards, Inc. and 2001 President of the Monterey County Vintners and Growers Association, oral presentation to Office of Economic Development Commission Forum, October 25, 2001 and 2) West Yost Associates, 2005. Technical Memo No. 3, pages 9-16, Prepared for the Napa County 2030 Napa Valley Water Resources Study as part of the Napa County General Plan Update, October 19, 2005, cited by the DEIR. Row crop irrigation data is also based on Stop the Salt, Save Our Jobs, A "White Paper" on Pajaro Valley Water Issues, Prepared by the Research Office of the United Farm Workers of America, AFL-CIO, September 1999, Exhibit 9, available at <http://ulva.org/~board/nbr/mrdoc/vineva.6h.saltic.res.white.ppt.no.8387page.404d1-81eyv.8p-16>

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Use of 25-year trend data is unsupported in light of the fact that the most recent 10 years of that data shows an accelerating trend toward vineyard conversions and the fact that vineyard conversion estimates have not been able to keep pace with actual conversions. In 2001, Monterey County Vintners and Growers projected 5000-acre growth in vineyards over 5 years (Monterey County Wine Industry Conceptual Future Plan, April 2001). In 2002, "projections by the industry suggest an increase of about 9,700 acres" within 5 to 10 years (DEIR for GPU3 at page 5.2-56). The 2007 Monterey Crop Report shows total grape acres at 42,764, which is an increase of 1,455 acres over the 2006 total.

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Furthermore, the winery capacity in the AWCP will create substantial incentives for additional grape production. If all of the wineries permitted within the corridor operate at full capacity, they would be able to process grapes harvested from 62,411 acres.⁹ Since the 2007 Monterey Crop Report shows total grape acres at 42,764, winery capacity within the winery corridor alone could accommodate an additional 20,000 acres of wine grapes in Monterey County. The AWCP policies do not prohibit winery development outside the corridor, which could add further capacity and provide additional incentive to convert additional acreage to vineyard.

And there is no reason to assume that 100% of the grapes grown in Monterey County will be processed locally. It has been profitable for growers to export 70% to 80% outside the County for processing, and there is no evidence provided by the DEIR to conclude that it will not remain profitable, especially as out-of-County wineries compete for Monterey County wine grapes. The wineries in the winery corridor will have the capacity to process grapes harvested from 62,411 acres. If the wine grape exports remain profitable, and there is no reason to suppose that they will not, the new winery capacity could create demand for 62,411 acres of new vineyards.¹⁰

These data suggest that acreage conversion to vineyards and other agriculture should be evaluated at a rate of at least 820 acres per year – a conversion rate representative of the most recent 10-year trend, rather than the 450 acres per year the DEIR projects, a figure that is artificially weighted by historic data and which does not

⁹ Neither the DEIR nor the AWCP impose any capacity limits for Full-Scale or Artisan Wineries. The capacity limits assumed in our determination of the full capacity of AWCP wineries is based on the DEIR statement at 3-39 that full scale wineries would produce 2 million cases annually and the DEIR statement at p. 4.3-120 that an artisan winery could produce up to 50,000 cases annually. We calculated capacity as follows: 40 Artisan Wineries @ 50,000 cases = 2,000,000 cases, 10 Full-Scale Wineries @ 2,000,000 cases = 20,000,000 cases, total capacity = 22,000,000 cases. 22 million cases divided by 62.5 cases/ton = 352,000 tons. (Cases per ton source: Monterey County, Monterey County 21st Century General Plan Update Draft Environmental Impact Report, March 27, 2002, p. 5.2-56, Exhibit 3.) 352,000 tons divided by 5.64 tons per acre = 62,411 acres (Tons per acre source: Monterey County Agricultural Commissioner, Monterey County Crop Report 2007, p. 13, Grape Production, Exhibit 4.

¹⁰ This conclusion is supported by comments made by Monterey County Agricultural Commissioner Eric Laurentzen in a Monterey County Herald article dated August 1, 2001. He said, "There is a potential of opening up 100,000 acres of land for vineyards." Monterey County Herald, "All signs point to help for wineries," August 1, 2001, Exhibit 10.

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reflect the policy choices in the 2007 General Plan that create incentives for conversions and open up sloped land for expansion. In light of this, please explain why the DEIR chose a conversion rate of 450 acres per year.

With a conversion rate of 820 acres per year, there would be an additional 18,040 acres of new agricultural land by 2030. Assuming that 2,571 acres of existing land is lost to urban uses, the net increase in agricultural land would be 15,469 acres. We can assume that that 40% is for vineyards requiring 1 acre-foot per year and 60% is for row crops requiring 2 acre-feet per year.¹¹ DEIR, p. 4.9-63 (trend in last 10 years is 40% vineyards). Based on these assumptions, water demand for new agriculture will amount to 24,759 acre-feet per year. Table 4.3-9 should be revised to reflect this demand. Again, acknowledgement of this demand would negate the DEIR's significance conclusions with respect to water supply, overdrafting, and saltwater intrusion.

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In sum, in view of the economic incentives for new agricultural conversions provided by significant deregulation and incentives for new conversions, including Policies OS 3.5 and AG 3.3 and the policies exempting wineries from discretionary permitting, we ask that the County justify the DEIR's assumption that conversion to cultivation will proceed at the languorous pace of 450 acres per year and explain why the DEIR failed to assume that newly converted land would require irrigation. Please also defend the DEIR's un-amended use of the SVWP EIR, a document prepared in 1998 and certified in 2001 under completely different General Plan assumptions and based on inconsistent assumptions about new agricultural uses.

C. Inconsistency In Analysis Of Monterey Peninsula Supply

At page 4.3-1 the DEIR states, "Supply on the Monterey Peninsula will be adequate to meet current demand, assuming that the Cal Am seawater desalination plant is permitted and operational by 2015 as currently expected, but will not be sufficient to meet additional demand up to the 2030 planning horizon without adversely affecting groundwater; thus additional water supply infrastructure will be needed."

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However, at page 4.3-47 the DEIR states, "On January 15, 2008, the State Water Board issued a draft CDO (Order WR-228-00XX-DWR) requiring Cal-AM to stop diverting water from the Carmel River in excess of its legal rights, by reducing its unlawful diversion pursuant to a schedule set forth in the CDO. The draft CDO alleges that since 2000, Cal-AM has illegally diverted at least 7,164 AFY from the Carmel River

¹¹ Vineyard and row crop irrigation data is from 1) Kurt Gollmeck, Chief Operating Officer of Scheid Vineyards, Inc. and 2001 President of the Monterey County Vintners and Growers Association, oral presentation to Office of Economic Development Commission Forum, October 25, 2001 and 2) West Yost Associates, 2005. Technical Memo No. 3, pages 9-16, Prepared for the Napa County 2030 Napa Valley Water Resources Study as part of the Napa County General Plan Update, October 19, 2005, cited by the DEIR. Row crop irrigation data is also based on Stop the Salt, Save Our Jobs, A "White Paper" on Pajaro Valley Water Issues, Prepared by the Research Office of the United Farm Workers of America, AFL-CIO, September 1999, Exhibit 9, available at http://ulva.org/board.php?module=view&h_rsid=res_white&h_no=33&page=4&id=3&v=1&n=16

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and that Cal-Am's unauthorized diversions continue to have adverse effects on the public trust resources on the river."

The State Water Board's pending decision will impact the water supply available for current demand. The DEIR acknowledges that the board included a water demand reduction schedule in its cease and desist order. However, the DEIR did not include any of this information in its analysis. Please provide the water demand reduction schedule.

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Absent this information and analysis, and given that the CDO will affect current demand, please explain the DEIR's conclusion that "supply on the Monterey Peninsula will be adequate to meet current demand."

D. Incomplete Information Regarding Carmel River Basin Demand

The DEIR fails to evaluate the acknowledged substantial increased new water demand from riparian users in the Carmel Valley. The DEIR acknowledges this problem:

"An additional water supply issue in Carmel Valley is the potential unquantified impacts of increased use and demand by riparian users along the Carmel River. No action by the SWRCB or the courts has evaluated the cumulative impacts on the public trust resources by individual well owners since the time of the MPWMD Water Allocation Program EIR (Monterey Peninsula Water Management District 1990). As the allocated water has been exhausted, an increase in claims of riparian rights has been observed. It is unclear whether these claims represent an increased demand on the water resource system and whether environmental impacts are associated with the potential increased demand." DEIR, p. 4.3-13.

If increased claims have been observed, and the allocated water has been exhausted, please explain why there's any question that these riparian claims are increasing water demand in the Carmel River Basin. This new water demand must be estimated and included in the analysis of the Carmel River Basin.

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Until all of the above information is provided for the Carmel River Basin, it is impossible to conclude that the Carmel River Basin will be adequate to support current water use or future demand.

The same comments can be made about the DEIR's analysis of new water demand in the Seaside Basin, a basin whose use and welfare is inextricably linked to the Carmel River Basin. The DEIR makes this clear in its discussion at section 4.3.2.5 Carmel River Conflicts. DEIR, pp. 4.3-46 to 4.3-48.

It is not sufficient to simply acknowledge, as the DEIR does on page 4.3-120 that the Seaside aquifer is over-drafted and "future development there will exacerbate that significant effect. It is also the County's responsibility to mitigate significant impacts to

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the greatest extent possible. Unless potential impacts are quantified and fully analyzed, they cannot be fully mitigated.

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E. DEIR Fails To Provide Meaningful Analysis Of Water Balance

OBLIGATION TO PROVIDE WATER BALANCE: In *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 441 [*"Vineyard Area Citizens"*], the California Supreme Court held that an EIR for a large development project must provide some discussion of total supply and demand in order to evaluate the long-term cumulative impact of development of water supply. Through this discussion, the EIR must show a "likelihood" that water will be available - i.e., an "approximate long-term sufficiency in total supply" in light of foreseeable long term demand. *Id.* Where an EIR cannot show that supply will be sufficient, it must acknowledge the degree of uncertainty involved, discuss the reasonably foreseeable alternatives and disclose the significant foreseeable environmental effects of each alternative, as well as mitigation measures to minimize each adverse impact. *Id.* at 434, 444, 446.

In *Vineyard Area Citizens*, the Supreme Court held that the EIR was invalid because it had failed to demonstrate the sufficiency of long-term water supply. The EIR at issue in *Vineyard Area Citizens* was inadequate because 1) it had provided no discussion of competing cumulative uses except for some inconsistent gross demand figures, 2) it had failed to present data so as to inform the public, providing only scattered data and data buried in appendices or referenced documents, and 3) it had relied on a prior environmental document without clarifying the relationship of the project to that project. *Id.* at 441-443. Ultimately, the Court held that the EIR had failed to provide substantial evidence of an adequate long-term supply:

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"On the factual question of how future surface water supplies will serve this project as well as other projected demand in the area, the project FEIR presents a jumble of seemingly inconsistent figures for future total area demand and surface water supply, with no plainly stated, coherent analysis of how the supply is to meet the demand. *Id.* at 445.

The Supreme Court held in *Vineyard Citizens* that there is no substantial evidence of a long term water supply when there are factual inconsistencies or a lack of clarity with respect to long term demand or estimated supplies for the project and other projects competing for the same water supply. *Id.* at 439. It held that an EIR must reconcile differences between its supply and demand projections and the projections in documents it relies on. *Id.* at 439-440.

The Supreme Court also held that vague and unquantified references to a management technique like conjunctive use do not suffice to provide the requisite degree of certainty as to long term supply. *Id.* at 440. Thus the DEIR must actually quantify expected supply and demand, and, where it relies on management strategies like

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conservation and conjunctive use, it must quantify the expected yields from these strategies.

The principle question in *Vineyard Area Citizens* was the amount of uncertainty that can be tolerated in an EIR for a land use plan. *Id.* at 428. At issue in *Vineyard Area Citizens* was a master plan for a community that would ultimately contain 22,000 residential units. Thus, the *Vineyard Area Citizens* project was being planned at the same level of generality as the 2007 General Plan and it contained more than twice as many residential units as are contemplated by the 2007 General Plan through its 2030 planning horizon. The holding in *Vineyard Area Citizens* clearly required that water demand and supply be quantified and related to cumulative demand from other projects using the same supplies.

The DEIR fails to provide a comprehensive, quantitative water balance analysis for the Salinas Valley Basin, for which it nonetheless concludes that water supplies will be sufficient. Without a quantitative analysis, the DEIR cannot provide the required level of certainty as to the sufficiency of Salinas Valley Basin supplies.

The DEIR also fails to provide a comprehensive, quantitative water balance analysis for the basins for which it concludes there will be a deficit. Without this analysis, the DEIR fails to provide an adequate disclosure of the severity of the impacts.

DEMAND DATA IN TABLE 4.3-9 INVALID: As noted above, the conclusions with respect to groundwater availability from the Salinas Valley without causing saltwater intrusion impacts is not supported by any consideration of impacts to steelhead or the feasibility of providing a distribution system. The demand projections in Table 4.3-9 rely on the prior environmental review for the SVWP, which makes internally inconsistent assumptions about the growth of agricultural water demand. Furthermore, the SVWP assumptions about agricultural water demand are inconsistent with the DEIR's projection for the increase in cultivated agricultural land by 450 acres per year, and this projection is itself substantially understated. Thus, the demand data in Table 4.3-9 are invalid.

TABLE 4.3-9 AND THE DEIR FAIL TO PRESENT EXISTING DEMAND OR TO COMPARE DEMAND TO AVAILABLE SUPPLY: Even if the demand data were valid, Table 4.3-9 does not provide a useful picture of total demand because it omits existing demand and omits any information on existing and future demand from cities and from the unincorporated coastal areas drawing from the same water supplies. Most critically, Table 4.3-9 provides only demand information, failing to provide any information about long term supplies for each basin. There is simply no presentation of the balance between long-term demand and supply that reflects all competing demands from the water supplies at issue. The DEIR must be revised to provide some estimate of the long-term water balance for each affected basin.

TABLE 4.3-6 DOES NOT SUFFICE AS A WATER BALANCE ANALYSIS FOR THE SALINAS VALLEY BASIN: Although Table 4.3-6 purports to provide

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projected 2030 conditions for the Salinas Valley Groundwater Basin in light of projected pumping, this table does not suffice to provide information about long-term sufficiency of supply. Table 4.3-6 is simply a reprint of Table 1-2 in the SVWP EIR, which was based on land use assumptions as of 1997. SVWP EIR, section 1.3, Table 1-2 (identifying source as "MCWRA 1997"). An EIR may only rely on a prior planning document for water supply analysis if the project's demand was actually included in that analysis. *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 434-435. As discussed above, the 1997 land use assumptions are inconsistent with the DEIR's assumptions for cultivated agricultural land, and the DEIR provides no evidence that the 1997 assumptions regarding 2030 urban demand are consistent with the DEIR's assumptions for the 2007 General Plan.

Furthermore, Table 4.3-6 does not actually show a water supply sufficiency and does not even assume that the SVWP would be built. The DEIR fails to restate the Salinas Valley Basin water balance based on the assumption that the SVWP will be built and/or expanded to include additional diversions.

NO WATER BALANCE PRESENTED FOR OTHER BASINS: As noted, the DEIR does attempt to present a water balance for the Salinas Valley Basin, albeit unsuccessfully. However, no table or other clear presentation is provided showing the total projected demands and supply for the other basins.

For example, the discussion of the Carmel River watershed identifies storage capacity, demand in 2006, and a forecast of demand by 2026. DEIR, 4.3-38 to 4.3-39. However, these figures are not related to the demand growth assumptions in Table 4.3-9 and no quantitative conclusions are presented regarding the long term relationship of supply and demand in the DEIR's significance discussion. DEIR, p. 4.3-127-128.

And Table 4.3-9 does not even present a complete picture of the Carmel Valley demand from growth in the unincorporated area. According to the Table 4.3-9, at 2030, new, annual water demand from the Carmel River Basin will be 310 acre-feet – 88 acre-feet for the Carmel Mid-Valley Affordable Housing Overlay, 5 acre-feet for Cachagua, 60 acre-feet for Carmel Valley and 157 acre-feet for the Greater Monterey Peninsula. However, development on existing lots of record and other development outside of Community Areas, Rural Centers and Affordable Housing Overlays is not broken down by water basin, even though the DEIR estimates it will result in new water demand of 1,180 acre-feet – 20% of the new water demand. Some of this demand will occur in the Carmel Valley, but it is impossible to tell how much from Table 4.3-9.

Similarly, the discussion of the Pajaro groundwater basin fails to present a coherent or complete picture of future demand and supply. The DEIR does not relate the estimates of overdrafting by 2040 (DEIR, p. 4.3-41) to the demand from new growth in Table 4.3-9. Nor does the DEIR relate new demand to its discussion of significance or provide a water balance in that discussion. DEIR, pp. 4.3-128 to 4.3-129. Even though the DEIR concludes that water supply may not be sufficient in these basins, there is no reason that the projected deficiencies should not be presented.

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CUMULATIVE DATA NOT PRESENTED: The DEIR also fails to assess the impacts, by water basin, of increased water demand due to urban growth in the county's incorporated cities. The cursory discussion of water supply impacts in the DEIR's cumulative impact section does not quantify demand or supply for any of the affected basins. DEIR, pp. 6-12 to 6-13. With respect to future water demand from cities, the DEIR simply states, "As discussed elsewhere in this EIR, residents of the unincorporated area will make up about 25% of the county's total population in 2030. Therefore, water demand in the cities would be expected to be roughly three times that shown above for the unincorporated areas." DEIR, p. 4.3-116. The DEIR does not actually quantify demand from cities, although using the DEIR's methodology it would amount to 18,369 acre-feet of water – 3 times the 6,123 AFY shown in Table 4.3-9.

Perhaps because the DEIR does not actually use its own projection of growth in city water demand to draw any conclusions regarding water supply sufficiency, the DEIR does not bother to justify its exclusively population-based forecasting methodology. Basing water demand only on population estimates fails to take into account water demand that is driven by industrial and agricultural needs, and fails to take account of the difference in urban residential demand and rural residential demand.

It is entirely unclear whether and how demand from unincorporated coastal areas has been included in the DEIR's analysis.

Not only does the DEIR fail to quantify the demand from growth of incorporated cities and unincorporated coastal areas, but it provides no information about how much new demand each basin will experience resulting from city growth. A meaningful analysis must project demand and supply for each basin, particularly since the DEIR evaluates the significance of water supply impacts, including overdrafting and saltwater intrusion, on a basin-by-basin basis.

Nor does the DEIR relate its methodology for projecting city water demand to the water plans prepared by the incorporated cities. It is likely that more precise estimates of water demand are available from the cities involved. This is critical information which needs to be provided. To the extent that the DEIR's conclusions with respect to future demand and supply differ from these plans, the DEIR should explain those differences.

In sum, the DEIR must be revised to provide a meaningful projection of future water demand from both the unincorporated and the incorporated areas of the County. Please provide information responsive the *Vineyard Area Citizens* mandate that an EIR provide data demonstrating the sufficiency of water supplies where the DEIR claims sufficiency, and demonstrating the magnitude of the deficiencies where the DEIR identifies a shortfall. Please ensure that this information reflects the best available information about demand from cities, coastal areas, and agriculture. Please reconcile the land use assumptions used in any source documents with the land use assumptions in the proposed 2007 General Plan. Please provide this information separately for each groundwater basin or watershed.

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As discussed below, the County improperly defers the development of criteria for "long term sustainable water supplies" in Policy PS 3.3. However, in drawing the conclusions required by *Vineyard Area Citizens* regarding the long term sufficiency or insufficiency of water supplies, the County is required to make some determination *now* about the magnitude of "long term sustainable water supplies" in the various basins. Please make those assumptions explicit and explain their foundation with reference to the best available information.

F. DEIR Fails To Provide Required Certainty Of Water Supply, Particularly For The Portions Of the Project Exempted From Further Permitting And Environmental Review

The Supreme Court held in *Vineyard Area Citizens* that "water supplies must be identified with more specificity at each step as land use planning and water supply planning move forward from general phases to more specific phases." *Id.* at 433-434. This EIR will constitute the terminal environmental review for a host of future projects for which the 2007 General Plan expressly provides that there will be no future CEQA review because only ministerial permits will be required, including most of the wineries and related uses in the AWCP; Routine and Ongoing Agricultural Operations that include creation of thousands of acres of new irrigated farmland; and construction of thousands of residences on lots of record without any further discretionary review. For at least these uses, the County has an obligation to provide greater certainty as to water supply than is required in a program level EIR for which subsequent discretionary review will occur.

This requires that the DEIR actually identify the type, intensity, and location of development that will be permitted without any further discretionary review; determine its water demand; and identify adequate water supplies for this development. Please provide this information for the wineries *and* related uses in the AWCP; Routine and Ongoing Agricultural Operations that include creation of thousands of acres of new irrigated farmland; and construction of thousands of residences on lots of record without any further discretionary review.

G. DEIR Fails to Provide Water Supply Assessment For Project Level Approvals

In addition to the requirements of certainty based on case law, portions of this Project are subject to the statutory requirements to identify a water supply with the detail and certainty specified by the Water Supply Assessment requirements of Water Code sections 10210 *et seq.*

Water Code section 10912(a)(7) defines projects that are subject to the requirement to prepare a water supply analysis as including any project that will demand water equal to 500 dwelling units. The DEIR contemplates more than 500 units of residential development on existing lots of record, for which the DEIR assumes that no additional discretionary review will occur. The DEIR also contemplates water demand

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for wineries and associated uses, including process water for all of the artisan wineries and water for up to 200 residences. Thus, water demand from AWCP projects expressly exempted from future CEQA review will exceed the amount demanded by 500 residences. The DEIR contemplates permitting new cultivation of thousands of acres of land for irrigated agriculture with no discretionary permitting or CEQA review. The DEIR must be revised to provide a Water Supply Assessment for these categories of uses.

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Recognizing that it was the terminal EIR for the AWCP, the DEIR for GPU4 expressly consisted of a program level EIR for the General Plan Update and a project level EIR for the AWCP. Although this DEIR does not acknowledge this, it clearly functions as a project level EIR for AWCP and other activities that are expressly exempted from future CEQA review and discretionary permitting. Thus, a Water Supply Assessment conforming to the requirements of Water Code sections 10910 *et seq.* must be prepared for 1) development on lots of record that are assumed to be exempt from discretionary permitting and CEQA review, 2) development of the AWCP that is expressly exempted from discretionary review and CEQA, and 3) Routine and Ongoing Agricultural Activities that are expressly exempted from discretionary review and CEQA.

H. The DEIR Does Not Adequately Disclose Impacts Of Providing Future Water Supplies

In *Vineyard Area Citizens*, the Supreme Court made it clear that the fundamental requirement is not just that an agency identify water supplies, but that the agency use its best efforts to find out and disclose all that it reasonably can about the *impacts* of providing water supply. *Id.* at 428, 429, 430-431. The Court found that the EIR was inadequate because the agency had failed to disclose impacts to salmonids in the DEIR and had attempted to tier from future environmental reviews. *Id.* at 440-441, 448-449. As discussed above, the DEIR here fails to disclose the effects of increasing Salinas River diversions on steelhead.

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Also as discussed above, the DEIR fails to provide a complete and consistent water balance analysis for each basin based on the best available information about all demand sources and about the size of the long term sustainable supply. Without such an analysis, the DEIR's conclusions in sections WR-6 and WR-7 regarding the most critical impacts of water supply projects, overdraft and saltwater intrusion, lack an adequate foundation.

In section WR-5, which purports to evaluate the impacts of providing new water supply projects, the DEIR identifies some environmental reviews of various projects, but without incorporating them by reference, without formally stating that the DEIR is tiering from them, and without adopting their mitigation measures. See *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 443-444. The DEIR's actual discussions of the impacts of these previously-reviewed projects does not go beyond a cursory recap of the highlights of prior environmental reviews – thus the DEIR fails as an informational disclosure. DEIR, pp. 4.3-135 to 4.3-142.

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With regard to those projects for which no CEQA review has yet been completed, the DEIR attempts to dispense with any new analysis of by referencing *future* environmental reviews. However, the California Supreme Court makes clear that the agency must either disclose the environmental consequences of future supply projects now, or wait until those projects have completed CEQA reviews:

“Instead of itself providing an analytically complete and coherent explanation, the FEIR notes that a full analysis of the planned conjunctive use program must await environmental review of the Water Agency's Zone 40 master plan update, which was pending at the time the FEIR was released. The Board's findings repeat this explanation. To the extent the FEIR attempted, in effect, to tier from a *future* environmental document, we reject its approach as legally improper under CEQA. If the environmental impact analysis the Water Agency expects to perform on its Zone 40 master plan update is important to understanding the long-term water supply for the Sunrise Douglas project, it should be performed in the Sunrise Douglas project FEIR even though that might result in subsequent duplication by the master plan update. If, as Rancho Cordova argues, such duplication would be an impractical waste of resources, the County could instead have deferred analysis and approval of the Sunrise Douglas project until the master plan update analysis was complete, then tiered the project FEIR from the programmatic analysis it performed there. What the County could not do was avoid full discussion of the likely water sources for the Sunrise Douglas project by referring to a not yet complete comprehensive analysis in the Zone 40 master plan update. CEQA's informational purpose ‘is not satisfied by simply stating information will be provided in the future.’ [citation]” *Id.* at 440-441.

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Where no environmental review has yet been certified, the DEIR's “analysis” consists of nothing more than a laundry list of possible areas of impact, with no effort to obtain, evaluate, and disclose available information about the actual impacts. Most of the discussions consist of a single sentence listing generic impacts; many state that “impacts cannot be determined with certainty” and make no effort to disclose any site-specific information at all.

SALINAS VALLEY WATER PROJECT: As discussed above, the DEIR entirely fails to evaluate the effect on steelhead of the increased diversions necessary to support the assumed expansion of the SVWP. The DEIR also fails to incorporate the SVWP EIR by reference or to state that it is formally tiered from that document; thus, the DEIR impermissibly fails to provide a roadmap to the information it intended to convey. *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 443. This failure is particularly problematic given the apparent differences in land use and water demand assumptions, which the DEIR fails to reconcile, as discussed above. The DEIR also fails to incorporate applicable mitigation measures from the SVWP EIR, as is required. *Id.* at 444.

GRANITE RIDGE DISTRIBUTION FACILITIES: Without providing any specifics, the DEIR states that the County and other agencies are “assessing” new

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delivery infrastructure. DEIR, p. 4.3-136. No information is provided about the infrastructure project being assessed, or about the source of water to be supplied. The "impact analysis" consists of a single sentence: "Pipeline construction would result in impacts on traffic, air quality, noise, soils and geology, and biological resources." This entirely generic conclusion conveys no real information about the impacts from such a construction project. And it is clear that there has been no consideration of the ongoing post-construction impacts associated with the use of whatever water supply will be distributed in the new delivery infrastructure.

COASTAL WATER PROJECT (DESALINATION): The DEIR admits that not even a draft EIR has been prepared and then provides a one-sentence, entirely generic list of possible impacts culled from the proponent's environmental assessment. DEIR, p. 4.3-136 to 4.3-137. Even if this generic one-sentence analysis were adequate, and it is not, an EIR may not rely unquestioningly on the applicant's unsupported representations. *Save Our Peninsula Committee v. Monterey County* (2001) 87 Cal. App.4th 99, 121 ("the only evidence that the terrace on the September Ranch property was irrigated pasture was the representation of the applicants themselves, who clearly had a vested interest" in the outcome of the application). The EIR must be revised to provide an independent and meaningful assessment of the effects of this water supply project based on available information.

WATER FOR MONTEREY COUNTY'S REGIONAL WATER SUPPLY PROGRAM: Again, the DEIR admits that no environmental analysis has been completed and then provides a generic one-sentence analysis of the potential impacts, which includes the catch-all disclosure of "other impacts." DEIR, pp. 4.3-136 to 4.3-137. The EIR must be revised to provide an independent and meaningful assessment of the effects of this water supply project based on the best available information.

As discussed above, the WFMCC proposal includes 5,000 AFY in increased diversions from the Salinas River, additional groundwater pumping from the Salinas Valley basin, and use of 5,000 AFY of recycled water. It appears that other commitments for much of this water have already been assumed in the DEIR's analysis of the sufficiency of the Salinas Valley basin. Thus, the DEIR should conclude that the WFMCC is likely to aggravate saltwater intrusion and overdrafting, or vitiate the DEIR's conclusions regarding the sufficiency of the Salinas Valley basin and the significance of overdrafting and saltwater intrusion impacts. This possibility can only be disclosed through a regional water balance analysis and an analysis of likely environmental impacts.

Furthermore, as noted above, the Monterey County Water Resources Agency Act (the enabling legislation for the Agency), prohibits water exports from the Salinas River Basin except to serve Fort Ord:

"Legislative findings: Salinas River groundwater basin extraction and recharge.
The Legislature finds and determines that the Agency is developing a project which will establish a substantial balance between extraction and recharge within

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the Salinas River Groundwater Basin. For the purpose of preserving that balance, no groundwater from that basin may be exported for any use outside the basin, except that use of water from the basin on any part of Fort Ord shall not be deemed such an export. If any export of water from the basin is attempted, the Agency may obtain from the superior court, and the court shall grant, injunctive relief prohibiting that exportation of groundwater." Monterey County Water Resources Agency Act, 1990 Stats. 1159, 1991 Stats. 1130, 1993 Stats. 234, and 1994 Stats. 803, Water code Appendix, Chapter 51, § 21.

Mitigation Measure WR-1 commits the County to supporting a regional solution for the Monterey Peninsula in addition to the Coastal Water Project. According to the WFMCC proposal, most of these additional supplies, other than desalination, will originate within the Salinas River Basin – 5,000 acre-feet per year from Salinas River diversions, 5,000 acre-feet per year from recycled water produced at the MRWPCA Salinas Valley plant and 6,000 acre-feet per year from Salinas Basin Groundwater. A fair argument can be made that all three categories are, in fact, groundwater that must not be exported. Recycled water is originally pumped from groundwater supplies; and surface diversions directly impact the amount of water that is recharged through stream percolation. Please reconcile MCWRA's enabling legislation with a regional solution largely based upon prohibited groundwater transfers. Please discuss the specific and cumulative environmental consequences of amending the transfer prohibition. Please also discuss the administrative, legal, fiscal and environmental consequences of violating the Monterey County Water Resources Agency Act.

PAJARO-SUNNY MESA DESALINIZATION PLANT: Again, the DEIR admits that no environmental analysis has been completed and then provides a generic one-sentence analysis of the potential impacts. DEIR, pp. 4.3-138. The EIR must be revised to provide an independent and meaningful assessment of the effects of this water supply project based on available information.

PVWMA'S BASIN MANAGEMENT PLAN: The DEIR identifies an EIR for the Basin Management Plan, but fails to incorporate it by reference or to state that it is formally tiered from that document. DEIR, pp. 4.3-138 to 4.3-140; see *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 443. The DEIR also fails to incorporate applicable mitigation measures from the EIR, as is required. *Id.* at 444.

COMMUNITY AREA INFRASTRUCTURE: The DEIR states that additional infrastructure is required for the Pajaro, Castroville, and Boronda Community Areas. DEIR, pp. 4.3-140 to 4.3-141. The DEIR states that site-specific and facility-specific information is not available and that the significance of impacts cannot be determined. DEIR, p. 4.3-140. However, it is apparent that information is in fact available about these new facilities. For example, the DEIR states that new wells and tanks are being planned in all three areas. Information about these plans should be provided and the DEIR should use the best available information to disclose the impacts of these projects.

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For example, the DEIR should explain how the plan to replace a well contaminated by saltwater in Castroville can possibly avoid adding to saltwater intrusion.

I. DEIR Improperly Relies On Water-Based Development Ban

Vineyard Area Citizens holds that a development ban may not be used as a substitute for an adequate water supply analysis.

"Finally, where, despite a full discussion, it is impossible to confidently determine that anticipated future water sources will be available, CEQA requires some discussion of possible replacement sources or alternatives to use of the anticipated water, and of the environmental consequences of those contingencies. [citation] The law's informational demands may not be met, in this context, simply by providing that future development will not proceed if the anticipated water supply fails to materialize." *Id.* at 432.

Yet the DEIR implicitly relies on policies that purport to restrict development until water supplies are adequate in drawing its conclusions regarding the significance of impacts in the Carmel and Pajaro watersheds. The DEIR's significance conclusions state that "General Plan policies will constrain development until long-term water supplies are assured." DEIR, p. 4.3-120; *see also* p. 4.3-134. The DEIR concludes that impacts will be significant and unavoidable, *but only because* "[u]ntil then, non-discretionary development on legal lots of record will exacerbate existing water supply problems, and this is considered a significant and unavoidable water supply impact. . . ." DEIR, pp. 4.3-130; *see also* p. 4.3-134 to 4.3-135. The DEIR must be revised to reflect that impacts remain significant and have not been avoided by the General Plan policies or proposed mitigation *regardless* whether development occurs on legal lots of record.

As discussed below, the DEIR fails to provide any reasoned explanation why development on legal lots of record, or any other form of development proposed to be permitted without further discretionary review, should be permitted to occur when it will cause or exacerbate significant impacts.

Furthermore, where a development ban is proposed, the EIR must evaluate the impacts *caused by that ban itself*:

"A provision like WS-1 [ban on development without firm proof of available water supplies] could serve to *supplement* an EIR's discussion of the impacts of exploiting the intended water sources; in that case, however, the EIR, in order adequately to inform decision makers and the public, would then need to discuss the probability that the intended water sources for later phases of development will not eventuate, the *environmental impacts of curtailing the project before completion, and mitigation measures planned to minimize any such significant impacts.*" *Id.* at 444, *emphasis added.*

Here, the proposed limitation of development where water supply is not available would

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likely result in displacing development from areas for which the DEIR projects inadequate water supply to other areas. The DEIR makes no attempt to evaluate the effects from policies that would displace development to other areas. For example, if water supplies do not become available in Pajaro and the Monterey Peninsula, development would be displaced to areas in the Salinas Valley where the DEIR purports to find the water supply to be sufficient. The DEIR must evaluate and disclose the effects of displacing the development projected for the Pajaro and Monterey Peninsula areas in Table 3-8 on resources and conditions in the Salinas Valley, including in particular water resources, biological resources, and traffic conditions.

J. Saltwater Intrusion Analysis Inadequate

The DEIR asserts that seawater intrusion will continue at a rate of 2300 acre-feet per year unless an additional water supply of 14,300 acre-feet are supplied from the SVWP outside the CSIP area. DEIR, p. 4.3-35. This conclusion is based on projections of groundwater pumping contained in the 2001 SVWP EIR, which was in turn based on MCWRA sources from 1997. Compare DEIR, Table 4.3-6, p. 4.3-34 to SVWP EIR, Table 1-2. Thus, on page 4.3-116, the DEIR states, "With implementation of the SVWP and CSIP, the Salinas Valley will have sufficient supplies to 2030, and seawater intrusion will be effectively halted in the Castroville area." And on page 4.3-162, the DEIR states that Seawater intrusion will be controlled in the Salinas valley through the SVWP to 2030."

First, please explain the conclusion that seawater intrusion will be halted in the Castroville area by 2030 when, in fact, seawater intrusion maps developed by MCWRA show that *by 2005* intrusion had already advanced *past* Castroville in both the 180-foot aquifer and the 400-foot aquifer. Monterey County Water Resources Agency, Historic Seawater Intrusion Maps, Pressure 180 foot aquifer and Pressure 400 foot aquifer, 500 Mg/L Chloride Areas, source MCWRA water quality data, Exhibits 7 and 8.¹²

Additionally, please define "effectively halted" and explain how this conclusion was reached. Please do so in light of the evidence provided above that 1) NOAA's 2007 Final Biological Opinion limits the SVWP's surface diversion to 9700 AFY and would therefore not permit additional diversions through the SVWP, and 2) the water demand for expansion of agricultural land discussed above was not assumed by the SVWP EIR, which projected water uses based on 1997 data.

The only certainty seems to be that by 2030 annual seawater intrusion into the Salinas Basin will continue at 2300 AF. Since seawater intrusion would continue, even at a declining rate, throughout the term of the 2007 General Plan, overdraft and seawater intrusion would remain a significant, unmitigated and irreversible impact of development in the Salinas Valley.

¹² Available at <http://www.mcwra.co.monterey.ca.us/SVWP/01swj180.pdf> and <http://www.mcwra.co.monterey.ca.us/SVWP/01swi400.pdf>.

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According to Table 4.3-9, 2030 new water demand in the Salinas Valley under the 2007 General Plan would be only 3,830 acre-feet per year. As discussed above, just increasing winery processing capacity to handle 2007 vineyard acreage will increase water demand in the Salinas Basin by between 562 acre-feet per year and 633 acre-feet per year. With seawater intrusion continuing at 2300 acre-feet per year, this increase in water demand represents at least one quarter of the water needed to halt seawater intrusion. As discussed above, we estimate that new agricultural water demand will be at least 12,215 acre-feet per year based on the DEIR's assumption that 450 acres of agricultural land will be added annually, and will more likely be at least 24,759 acre-feet per year based on the last 10 years of conversion data. If the demand in Table 4.3-9 is increased to include this new agricultural water demand, it is clear that saltwater intrusion will not be halted.

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K. Proposed 2007 General Plan Policies And Mitigation Measures Are Inadequate

The DEIR recites a list of 2007 General Plan policies in support of its conclusions with respect to the significance of impacts to water resources, including impacts related to water supply, secondary impacts from infrastructure development, overdrafting, and saltwater intrusion. DEIR, pp. 4.3-122 to 4.3-126 (WR-4, water supply); 4.3-142 (WR-5, secondary impacts related to infrastructure); 4.3-4.3-149 to 4.3-153 (WR-6, overdrafting), and 4.3-158 to 4.3-162 (WR-7, saltwater intrusion). The DEIR states that these policies will help ensure that new or expanded potable water supplies and facilities would be provided for future growth." DEIR, pp. 4.3-122.

The DEIR also proposes a number of mitigation measures to address water supply and water supply impacts. DEIR, pp. 4.3-130.

As discussed in the detailed comments set out in the table below, the policies and mitigation measures recited do not provide substantial evidence that the water supply in the Salinas Valley basin will be adequate to future needs or that overdrafting and saltwater intrusion would be avoided in the Salinas Valley. Although the DEIR acknowledges that water supply in other basins cannot be said to be adequate, that some impacts related to infrastructure are significant, and that overdrafting and saltwater intrusion will be significant and unavoidable in other basins, the policies do not represent all feasible mitigation for impacts related to the provision of water supply. Nor do the policies support the DEIR's conclusions that impacts related to provision of water supply will be less than significant or that all feasible mitigation measures have been proposed.

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Please address each of the comments in the table below separately, responding to each question or request for information.

In addition to responding to each question or request for information, for each policy or mitigation measure, please explain how it supports findings that significant water supply impacts have been avoided or minimized and/or findings that all feasible mitigation measures have been proposed.

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POLICIES AND MITIGATION MEASURES CITED IN DEIR AS THE BASIS FOR CONCLUDING THAT WATER SUPPLY IMPACTS WILL BE LESS THAN SIGNIFICANT

Policies and Mitigation Cited in WR-4, WR-5, WR-6, WR-7, CUM-4 and CUM-5 Purporting to Avoid, Minimize, or Mitigate Water Supply, Water Supply Infrastructure, Overdrafting, and Salt Water Intrusion Impacts	Comments
POLICIES APPLICABLE COUNTY-WIDE	GENERAL COMMENT: For each policy, please address the identified concerns by revising the policy and/or explaining how, in light of these concerns, the policy can provide a foundation for the DEIR's conclusion that impacts will be avoided, minimized, or mitigated.
PUBLIC SERVICES ELEMENT	
PS-1.1 Adequate Public Facility and Services (APFS) requirements shall: a. Ensure that APFS needed to support new development are available to meet or exceed the level of service of "Infrastructure and Service Standards" (Table PS-1, next page) concurrent with the impacts of such development; b. Encourage development in infill areas where APFS are available, while acknowledging the rights of property owner's to economically viable use of existing legal lots of record throughout the county; and c. Seek to achieve acceptable level of service (LOS) standards through improvements funded by fair share impact fees and planned capital improvements (CIFF).	<ul style="list-style-type: none"> The DEIR states that these policies set forth general standards for the provision of adequate public facilities. DEIR, p. 4.3-122. The only apparent relevance of these policies to the sufficiency of water supplies is the provision in Table PS-1 permitting rural development on public lands, agricultural lands, and rural lands based on "individual wells in areas with a proven long term water supply." Individual wells would also be allowed in Rural Centers, subject only to the requirement that lot size be at least 2.5 acres if both a well and a septic system are proposed. (Table PS-1 simply provides that water for Community Areas shall be provided by public systems.)
PS-1.2 The Adequate Public Facilities and Services (APFS) standards established in Table PS-1, "Infrastructure and Service Standards" shall be used to determine APFS appropriate for new discretionary development.	<ul style="list-style-type: none"> Please identify performance standards for a "proven long term water supply." If the reference to "proven long term water supply" is intended to invoke Policy PS 3.3, please note our comments below with respect to the absence of any performance standards in Policy PS-3.3, which simply postpones identification of "specific criteria for proof of a long term sustainable water supply for new residential or commercial subdivisions."
PS-1.3 No discretionary application for new development shall be approved unless the County finds that APFS for that use exist or will be provided concurrent with the new development.	<ul style="list-style-type: none"> Please also note that Policy PS 3.3 does not apply to non-subdivision development, including residential development on lots of record and agricultural development. If Table PS-1 purports to establish a requirement for "proven long term water supply" independent of Policy PS 3.3, please explain how this standard applies to lots of record and agricultural development. If any such independent requirement for a "proven long term water supply" does not apply to lots of record and agricultural development, please
PS-1.4 New development shall pay its fair share of the cost of providing APFS to serve the development.	
PS-1.5 Improvements shall be installed concurrently with each phase of new development in accordance with an infrastructure phasing plan. An infrastructure phasing plan, if needed, shall be approved in concept at the time of project approval.	
PS-1.6 Only those developments that have or can provide adequate concurrent public services and facilities shall be approved.	

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	<p>explain why not.</p> <ul style="list-style-type: none"> Please explain why Table PS-1 does not require that wells in Rural Centers be subject to the requirement that there be a "proven long term water supply." Please estimate the effect of these policies in protecting water supplies.
PS-2.1 Coordination among and consolidation with those public water service providers drawing from a common water table to prevent overdrawing the water table is encouraged.	<ul style="list-style-type: none"> Policies that "support," "promote," or "encourage" activities and programs do not create any enforceable constraints on development projects. Please explain who is responsible to implement this policy and in what context. Please estimate the effect of this policy in protecting water supplies.
PS-2.2 The Water Resources Agency shall assure adequate monitoring of wells in those areas experiencing rapid growth provided adequate funding mechanisms for monitoring are established.	<ul style="list-style-type: none"> The policy calls for monitoring wells but without specifying what aspect of well performance will be monitored (water supply? water quality? impacts on neighboring wells?), what standards of performance will be required, and what action would be taken if those standards are not met. Please explain how the County proposes to establish funding mechanisms.

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	<ul style="list-style-type: none"> Please explain what action will be taken to achieve the goal of this policy if funding mechanisms are not established.
<p>PS-2.3 New development shall be required to connect to existing water service providers where feasible. Connection to public utilities is preferable to other providers.</p>	<ul style="list-style-type: none"> What difference will this policy make to ensuring that there is an adequate long term supply of water or that impacts from providing water supply are avoided or minimized? How <i>much</i> difference will it make, if any? How will feasibility of connecting to existing providers be determined? Will the determination include technical or economic factors or both? Who will make the feasibility determination and in what context? If the point of the policy is to subject water consumers to fiscal discipline from paying others for water, please explain what the cost difference would be to the consumers who are required to use existing water service providers versus consumers who obtain water from their own wells, taking into account the cost of drilling and maintaining a well and paying for energy. Why is connection to public utilities "preferable"? What difference does this make to water supply and water supply impacts? Stating that connection to public utilities is "preferable" does not create an enforceable mandate. Why not <i>require</i> connection to public utilities if it makes any difference?
<p>PS-2.4 Regulations for installing any new domestic well located in consolidated materials (e.g., hard rock areas) shall be enacted by the County.</p>	<ul style="list-style-type: none"> The policy has no substantive content and formulation of the regulations it calls for is entirely deferred with no performance standards. Please explain how this policy is related to conclusions regarding the sufficiency of long term water supplies – it appears to be related to water quality issues.
<p>PS-2.5 Regulations shall be considered for water quality testing for new individual wells on a single lot of record to identify:</p> <p>a. Water quality testing parameters for a one-time required water quality test for individual wells at the time of well construction.</p> <p>b. A process that allows the required one-time water quality test results to be available to future owners of the well.</p> <p>c. Regulations pursuant to this policy shall not establish criteria that will prevent the use of the well in the development of the property.</p>	<ul style="list-style-type: none"> The policy does not require that regulations actually be enacted, merely "considered." Why not? The policy has no substantive content and formulation of the regulations it calls for is entirely deferred with no performance standards. The policy does not even specify relevant parameters for well testing, much less specify actual performance standards, which would require that the policy identify both parameters and values for those parameters. For example, specifying both the parameter

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<p>d. Agricultural wells shall be exempt from the regulation.</p>	<p>"nitrate content" and the value "45 mg/L." are necessary to providing a performance standard. This policy does neither.</p> <ul style="list-style-type: none"> What is the point of this policy? Who is to be protected by it? If the purpose is simply to provide information to subsequent buyers, then how can the policy have any effect on the sufficiency of the County's water supply? If regulations cannot bar the use of wells, they cannot effectively protect the water supply by preventing overpumping. Why is the policy not applicable to agricultural wells? Please estimate the effect of this policy in protecting groundwater supplies.
<p>PS-2.6 A Hydrologic Resources Constraints and Hazards Database shall be developed and maintained in the County Geographic Information System (GIS). The GIS shall be used to identify areas containing hazards and constraints (see Policy 3.1.2) that could potentially impact the type or level of development allowed in these areas (Policy 08.3.3). Maps maintained as part of the GIS include:</p> <p>a. Impaired water bodies on the State Water Resources Control Board 303d list</p> <p>b. Important Groundwater Recharge Areas</p> <p>c. 100-year Flood Hazards</p> <p>d. Hard rock areas with constrained groundwater</p> <p>e. Areas of septic tank leachfield unsuitability</p>	<ul style="list-style-type: none"> This policy is apparently to be used to identify areas that would require discretionary permits under Policy 08.3.5, although this is not stated here. Please clarify. Policy 3.1.2 calls for developing a "Geologic Constraints and Hazards Database." It is not clear how the "Hydrologic Resources Constraints and Hazards Database" called for under Policy 2.6 differs, particularly since Policy 2.6 references Policy 3.1.2 in connection with identifying areas containing hazards and constraints. No criteria are provided to identify areas containing hazards and constraints, including Hydrologic Resources Constraints and Hazards. Please explain the criteria that will be used to identify "Important Groundwater Recharge Areas." Although Policy 3.1.2 requires mapping impaired water bodies on the State Water Resources Control Board 303d list, there is no indication how that information would be used to constrain development. Nor is there any indication how identification of other Hydrologic Resources Constraints and Hazards would constrain development. The EIR must explain how this policy would be implemented to regulate development. No deadline for completing the database is provided and no interim measures are specified. This policy does not apparently increase water supply or decrease water consumption over baseline conditions. Please estimate the effect of this policy in protecting groundwater

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<p>PS-2.7 As part of an overall conservation strategy and to improve water quality, Area Plans may include incentive programs that encourage owners to voluntarily take cultivated lands on slopes with highly erosive soils out of production.</p>	<p>supplies.</p> <ul style="list-style-type: none"> No criteria for "highly erosive soils" are provided. The 2007 General Plan defines erosive soils, but not highly erosive soils. Please identify the areas in the County with "highly erosive soils," the extent of existing cultivation on those soils, and the expected increases in cultivation of highly erosive soils in the future. Please explain how this policy is consistent with policies permitting development on slopes in excess of 25%. Since slope will increase erosion even if soils are not "highly erosive," please explain why the policy does not also call for incentives to take highly sloped land out of cultivation. This policy has no obvious bearing on the sufficiency of water supply, impacts related to providing water supplies, overdrafting, or saltwater intrusion. Please explain how it is related to these issues. If the relevance of the policy to findings regarding the sufficiency of water supply is the expectation that it would reduce the overall extent of irrigated land in the County, please explain how much land would be retired and how much water would be saved. The policy does not identify or mandate any program. Area Plans may or may not include incentive programs. Policies that "support," "promote," or "encourage" activities and programs do not create any enforceable constraints on development projects. No explanation of the nature of allowable incentives is provided. If incentives require expenditure of County resources, they will not be demonstrably feasible unless the EIR identifies the source of those resources. If incentives are to include development or land use concessions, the concessions should be identified and the secondary environmental effects should be evaluated. Please estimate the effect of this policy in protecting water supplies. 	34
<p>PS-2.8 The County shall require that all projects be designed to maintain or increase the site's pre-development absorption of rainfall (minimize runoff), and to recharge groundwater where appropriate. Implementation would include standards that could regulate impervious surfaces, vary by project type, land use, soils and area characteristics, and provide</p>	<ul style="list-style-type: none"> Please explain whether this policy will apply to "all projects," as its clear language indicates, or just to projects for which the County retains discretionary permitting authority. If it will not apply to all projects, please explain why not. 	
<p>PS-2.9 Protect and manage groundwater as a valuable and limited shared resource. The County shall use discretionary permits to manage construction of impervious surfaces in important groundwater recharge areas. Potential recharge area protection measures at sites in important groundwater recharge areas include, but are not limited to the following:</p> <ol style="list-style-type: none"> Restrict coverage by impervious materials. Limit building or parking footprints. Require construction of detention/retention facilities on large-scale development project sites overlying important groundwater recharge areas as identified by Monterey County Water Resource Agency. Recognize detention/retention facilities on small sites may not be practical, or feasible, and may be difficult to maintain and manage. 	<ul style="list-style-type: none"> Please identify "important groundwater recharge areas." Please note that sections of the County are not susceptible to groundwater recharge due to a clay aquitard. Please explain whether this factor was considered in concluding that this policy would support a finding that water supply impacts would be avoided or minimized. This policy does not increase water supply or decrease water consumption over baseline conditions. Please estimate the effect of this policy in protecting groundwater supplies. Please explain whether this policy will be applied to cultivation of previously uncultivated land. If not, why not? Note that cultivation on slopes, particularly viticulture cultivation that removes armoring rock through deep ripping, can substantially increase runoff. 	
<p>PS-3.1 No new development, except for the first single family dwelling and non-habitable accessory uses on an existing lot of record, for which a</p>	<ul style="list-style-type: none"> "Long-term sustainable water supply" is not defined in GPU5 or in the GPU5 DEIR. 	

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<p>for water impoundments (retention/detention structures), protecting and planting vegetation, use of permeable paving materials, bioswales, water gardens, and cisterns, and other measures to increase runoff retention, protect water quality, and enhance groundwater recharge.</p>	<ul style="list-style-type: none"> In particular, please explain whether this policy will apply to agricultural development, including cultivation of previously uncultivated land. If not, why not? Note that cultivation on slopes, particularly viticulture cultivation that removes armoring rock through deep ripping, can substantially increase runoff. Please explain how this policy will be implemented in practice. Through what system of project review and subsequent monitoring will the County ensure implementation? Will a hydrological study be required for every project? It is unclear how the policy will relate to the "runoff performance standards" that are to be developed under Policy S 3.5 and the drainage requirements under Policy S 3.1. Please clarify. For example, under what circumstances and based on what criteria will the County require that projects increase the site's pre-development absorption of rainfall? This policy does not increase water supply or decrease water consumption over baseline conditions. Please estimate the effect of this policy in protecting groundwater supplies, noting impermeable clay layers prevent surface recharge in many of the areas that overlay saltwater intrusion. 	34
<p>PS-2.9 Protect and manage groundwater as a valuable and limited shared resource. The County shall use discretionary permits to manage construction of impervious surfaces in important groundwater recharge areas. Potential recharge area protection measures at sites in important groundwater recharge areas include, but are not limited to the following:</p> <ol style="list-style-type: none"> Restrict coverage by impervious materials. Limit building or parking footprints. Require construction of detention/retention facilities on large-scale development project sites overlying important groundwater recharge areas as identified by Monterey County Water Resource Agency. Recognize detention/retention facilities on small sites may not be practical, or feasible, and may be difficult to maintain and manage. 	<ul style="list-style-type: none"> Please identify "important groundwater recharge areas." Please note that sections of the County are not susceptible to groundwater recharge due to a clay aquitard. Please explain whether this factor was considered in concluding that this policy would support a finding that water supply impacts would be avoided or minimized. This policy does not increase water supply or decrease water consumption over baseline conditions. Please estimate the effect of this policy in protecting groundwater supplies. Please explain whether this policy will be applied to cultivation of previously uncultivated land. If not, why not? Note that cultivation on slopes, particularly viticulture cultivation that removes armoring rock through deep ripping, can substantially increase runoff. 	
<p>PS-3.1 No new development, except for the first single family dwelling and non-habitable accessory uses on an existing lot of record, for which a</p>	<ul style="list-style-type: none"> "Long-term sustainable water supply" is not defined in GPU5 or in the GPU5 DEIR. 	

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discretionary permit is required shall be approved without proof, based on specific findings and supported by evidence, that there is a long-term, sustainable water supply, both in quality and quantity, to serve the development.

- Achieving or even "improving sustainability" (DEIR, p. 4.3-150) is impossible if the term isn't defined. Please explain what is meant by "long-term sustainable water supply" by identifying standards or criteria for the term.
- The 2007 General Plan Glossary does define "long-term water supply" as "an available supply of water that can be extracted from a basin or hydrogeologic sub-area to service the existing and projected development in that basin or hydrogeologic sub-area for a twenty year period without degrading water quality, damaging the economical extraction of water, or causing significant unavoidable adverse environmental impacts." Please explain how this definition is related to the term "long-term sustainable water supply."
 - Because the Glossary definition of long-term water supply" is applied to either basins or hydrogeologic sub-areas, it would be possible for the County to ignore the fact that most of the County's water basins are composed of interconnected sub-areas which impact one another. Thus, the Glossary definition allows the assessment of impacts to be manipulated to ignore basin-wide effects. Findings could be made of long-term water supply within a sub-area, while at the same time ignoring cumulative impacts on the larger basin. Please explain how this problem will be avoided.
 - The Glossary provides no criteria for determining whether water use will "damage the economical extraction" of water. Please identify these criteria. In the Salinas Basin, new water demand will require expanded water treatment, storage and conveyance facilities. These facilities, like new and deeper wells, will increase the cost of water. Would these increased costs represent "damage to the economical extraction of water?" If not, why not?
 - The DEIR claims at p. 4.3-150 that this policy "encourages efforts to improve sustainability by reducing overdraft." Since a water supply is either sustainable or it is not, the reference to "improving sustainability" suggest that the policy will not in fact result in sustainable water supplies. Please explain whether the reference to "improving sustainability" is intended to countenance the possibility that projects would be approved merely on the

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- basis that they will use less water than existing land use on the site. In this regard, please see our comments on PS 3.2.
- Please explain why this policy will not be applied to the first single family dwelling and non-habitable accessory uses on an existing lot of record.
 - Please explain whether this policy will be applied to agricultural development for which a discretionary permit is required.
 - Please explain why the policy is limited to projects for which a discretionary permit is required.
 - If the County believes that it has no authority to impose a requirement of proof of a long-term sustainable water supply on projects unless there is a discretionary permit, please explain why.
 - If the County believes that it has no authority to impose a requirement of proof of a long-term sustainable water supply on projects unless the project requires a discretionary permit, please explain why the 2007 General Plan proposes to exempt from discretionary permitting a number of activities that will consume substantial water resources, including cultivation of previously uncultivated land, development on slopes, development of lots of record, and most development in the AWCP. In view of acknowledged water supply problems, any decision to forego discretionary permitting that would consequently exempt projects from the requirement to prove that there is an adequate water supply makes no sense.
 - Please explain whether the DEIR's conclusions in section WR4 that water supply impacts in the Pajaro basin and on the Monterey Peninsula will be unavoidably significant (DEIR, p. 4.3-130) is solely attributable to the inapplicability of this policy to development on legal lots of record.
 - Policy PS 3.3 calls for eventual definition of criteria for proof of a long-term sustainable water supply, but the criteria are only applicable to new subdivisions. To the extent that Policy PS 3.1 is applicable to any development other than subdivisions, there are no apparent plans to provide any formal criteria for proof of a long-term sustainable water supply. Please identify the criteria for long-term sustainable water supply applicable

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<p>PS-3.2 In determining whether there is a long-term sustainable water supply, credit may be given for a significant reduction in the historic water use on site. For the purpose of calculating water supply, up to 50% of the average annual water use of 10 of the previous 20 years may be credited toward the net demand of the project.</p>	<p>to development other than subdivisions.</p> <ul style="list-style-type: none"> The policy will not prevent a net increase in water use from new development unless the water-using activity on the site (e.g. agriculture) is not replaced with new water-using activity (e.g., newly cultivated agricultural land) somewhere else in the basin. The DEIR claims agricultural land will be replaced and has remained constant over time. DEIR, p. 4.2-5 to 4.2-7. This policy does not reflect the fact that in the long term the available sustainable water supplies are interconnected and that use of the common pool of water supplies is a zero sum game. Sufficiency of the long term supply cannot be determined on a parcel-by-parcel basis because it depends on aggregate water use by all of those users drawing from a common pool. Privileging a particular set of future users based on the accident that their development site previously used water unsustainably will penalize all other water users drawing from that common pool. Please explain the rationale for this policy. In light of the above comments, please estimate the effect of this policy on water supplies, based on data in the DEIR related to conversion of agricultural land for urban uses. This policy would permit continued unsustainable water use simply on the basis that the site of a proposed development project has historically used water extravagantly. Because those areas are likely to be areas previously used for agriculture, the policy creates an incentive for urbanization of agricultural land – the availability of water. Providing such an incentive is inconsistent with the goals of the Agriculture section of the 2007 General Plan. What data will be required to demonstrate historic water use? What independent audit of applicants' claims will be conducted? Please explain how this policy will be coordinated with Policy PS 3.3.
<p>PS-3.3 Specific criteria for proof of a long term sustainable water supply for new residential or commercial subdivisions shall be developed. Criteria shall include but are not limited to: a. Water quality. b. Production capability. c. Recovery rates. d. Effect on wells in the immediate vicinity.</p>	<ul style="list-style-type: none"> Please explain why this policy is applicable only to subdivisions. In particular, please explain why it is not applicable to cultivation of previously uncultivated land, development of lots of record, and AWCP activities for which no discretionary permit is required. The policy provides no performance standards. The "criteria" listed are not in fact

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<p>e. Existing groundwater conditions. f. Technical, managerial and financial capability of the water purveyor of the water system. g. Cumulative impacts and planned growth in the area. h. Status and surety of planned new water supply projects including design, financing mechanism, and environmental review of the project.</p>	<p>standards but empty parameters for which no values are specified. For example, what will be considered to be acceptable impacts to water quality? What will be considered acceptable cumulative impacts? These are issues that must be addressed now, in the aggregate, based on analysis of expected development and the available water sources if this policy is to meaningfully support the DEIR's significance conclusions.</p> <ul style="list-style-type: none"> It appears that the DEIR's conclusions that there is an adequate water supply in the Salinas Basin and that, but for development of lots of record, there would be an adequate supply in other basins is based on this policy and PS 3.1. To the extent the DEIR relies on these policies to support its significance conclusions, the DEIR has simply postponed the development of any empirical basis for those conclusions. In effect, the DEIR claims that there will be enough water (or that there would be, but for lots of record) because the County will not allow development unless there is enough water, but the County will not actually decide what constitutes enough water until after the General Plan is approved. Because the criteria for long term sustainable water supply have not been stated, there can be no substantial evidence that there is in fact a long term sustainable water supply. Substantial evidence of a long term sustainable water supply would require that the DEIR determine the sustainable yields of the basins and demonstrate that long term total demand will be within that yield – which would require an overall water balance analysis for each basin. As discussed above, the DEIR does not provide this. It appears that none of the "criteria" or parameters identified in the policy actually stands for sustainable yield or would require determination of long term sustainable yield. Please explain which "criteria" would require the determination of the actual long-term sustained yield of each basin and/or hydrogeologic sub-areas. Please explain how in practice the to-be-developed criteria will be applied in determining whether to permit new development. Will each development project be required to provide a hydrological analysis that applies the criteria to demonstrate that
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	<p>there is sufficient water supply? Will the to-be-developed criteria specifically identify in terms of acre-feet per year the actual long-term sustained yield of each basin and/or hydrogeologic sub-areas? If not, will it be up to each project to determine this figure? Will the to-be-developed criteria specifically identify the demand from all other cumulative water users, or will it be up to each project to determine this figure?</p>
<p>PS-3.4 Specific criteria shall be developed for use in the evaluation and approval of adequacy of all new wells. Criteria shall assess both water quality and quantity including, but not limited to: a. Water quality. b. Production capability. c. Recovery rates. d. Effect on wells in the immediate vicinity as required by the Monterey County Water Resource Agency. e. Existing groundwater conditions. f. Technical, managerial, and financial capability of the water purveyor of a water system.</p>	<ul style="list-style-type: none"> • Please address the concerns identified in our comments on Policy PS 3.3, which are applicable to this policy as well. • Will this policy apply to <i>all</i> new wells, including wells for development on legal lots of record? If so, please explain why this policy does not ensure that there will be an adequate water supply for the Monterey Peninsula and the Pajaro basin, areas for which the DEIR concludes that there would be an adequate supply but for development on legal lots of record. • Please explain how this policy will be coordinated with Policy PS 3.3. Will all new wells be required to demonstrate that their use will not interfere with a long term sustainable water supply for all other users in the basin? If not, why not? • The policy appears to restate most of the same "criteria" contained in PS 3.3. Why is it necessary to have a separate policy for new wells and for new subdivisions? • Please explain why there are any differences in the "criteria" under this Policy and the "criteria" listed under Policy PS 3.3. Why does this policy not include as "criteria" the "cumulative impacts and planned growth in the area" and the "status and surety of planned new water supply projects including design, financing mechanism, and environmental review of the project?"
<p>PS-3.5 The County shall require that pump tests or hydrogeologic studies be conducted for new high-capacity wells, including high-capacity urban and agricultural production wells, where there may be a potential to affect existing adjacent domestic or water system wells adversely as determined by the Monterey County Water Resource Agency. In the case of new high-capacity wells for which pump tests or hydrogeologic studies show the potential for significant adverse well interference, the County shall require that the well be relocated or otherwise</p>	<ul style="list-style-type: none"> • Why is the policy limited to effects on existing <i>adjacent</i> domestic or water system wells? • A well may avoid local interference with "adjacent" wells but still contribute to long-term overdrafting and saltwater intrusion. Please explain whether the DEIR relies on this policy in support of its significance conclusions with respect to the sufficiency of water supplies, overdrafting, and saltwater intrusion.
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mitigated to avoid significant well interference.	<ul style="list-style-type: none"> • This policy omits reference to policies AG-3.1 through AG-3.3, dealing with "Routine and Ongoing Agricultural Activities" (ROAA). The list of ROAA has not been finalized, and no timeframe has been given for finalization. Tentatively, however, it proposes irrigation as a routine and ongoing activity. Please explain whether ROAA will be exempt from the requirements of PS-3.5. • Please explain how this policy will be administered. Will the policy require a discretionary permit for all new wells? How and in what context will MCWRA determine whether there may be a potential to affect existing adjacent domestic or water system wells adversely?
<p>PS-3.6 The County and all applicable water management agencies shall not allow the drilling or operation of any new wells in known areas of saltwater intrusion as identified by Monterey County Water Resource Agency until such time as a program has been approved and funded which will minimize or avoid expansion of salt water intrusion into useable groundwater supplies in that area. This policy shall not apply to deepening or replacement of existing wells.</p>	<ul style="list-style-type: none"> • It appears that this policy is intended to avoid or minimize saltwater intrusion. However, basins and/or hydrogeologic sub-areas are interconnected aquifers. Thus, wells inland of saltwater intrusion areas contribute to saltwater intrusion. Water agencies facing saltwater contamination have in the past simply moved production wells inland, drawing the saltwater toward them. Under this policy they may continue to do so. Please explain how this policy could reduce saltwater intrusion. • The policy assumes that a technically feasible program can be approved and funded to avoid expansion of salt water intrusion. Please explain what this program or programs would entail and identify any secondary impacts, taking into account our comments above on the apparent inadequacy of the SVWP to halt saltwater intrusion based on effects on steelhead and failure to account for all water demand, particularly agricultural water demand. To the extent that the DEIR relies on unidentified or infeasible programs as the basis of its conclusions regarding saltwater intrusion, it fails to provide substantial evidence to support those conclusions.
<p>PS-3.7 A determination of a long term sustainable water supply: a. shall not be based on hauled water. b. should be determined on a basin-by-basin basis.</p>	<ul style="list-style-type: none"> • Please see our comments on PS 3.1 through PS 3.5. • Does this policy require that proof of a long term sustainable water supply identify total future water demands in the basin and compare these demands to a long term sustained yield for that basin? If not, why not? • Does "hauled water" include any and all
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	<p>transfers of water from one basin to another? From any hydrogeologic sub-areas to another?</p> <ul style="list-style-type: none"> Does hauled water include pumped groundwater that is transferred for use on land that does not overlie the aquifer but which would drain to the aquifer? For example, does this policy prohibit pumping groundwater from the Salinas groundwater basin for use on adjacent hillside land that does not overlie the aquifer? If not, why not?
PS-3.8 The County shall coordinate and collaborate with all agencies responsible for the management of existing and new water resources.	<ul style="list-style-type: none"> This policy has no substantive enforceable mandate.
PS-3.9 A program to eliminate overdraft of water basins shall be developed as part of the Capital Implementation and Financing Plan (CIFF) for this Plan using a variety of strategies, which may include but is not limited to: a. Water banking; b. Groundwater and aquifer recharge and recovery; c. Desalination; d. Pipelines to new supplies; and e. A variety of conjunctive use techniques. The CIFF shall be reviewed every five (5) years in order to evaluate the effectiveness of meeting the strategies noted in this policy. Areas identified to be at or near overdraft shall be a high priority for funding.	<ul style="list-style-type: none"> The policy assumes that a technically feasible program can be approved and funded to eliminate overdraft. Please explain what this program or programs would entail and identify any secondary impacts, taking into account our comments above on the apparent inadequacy of the SVWP to halt saltwater intrusion based on effects on steelhead and failure to account for all water demand. The Supreme Court held in <i>Vineyard Area Citizens</i> that vague and unquantified references to a management technique like conjunctive use do not suffice to provide the requisite degree of certainty as to long term supply. <i>Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova</i> (2007) 40 Cal.4th 412, 440. Thus the DEIR must actually quantify expected supply and demand, and, where it relies on management strategies like conservation and conjunctive use, it must quantify the expected yields from these strategies To the extent that the DEIR relies on unidentified or infeasible program as the basis of its conclusions regarding overdrafting, it fails to provide substantial evidence to support those conclusions.
PS-3.10 Systems that use grey water and cisterns for multi-family residential and commercial landscaping shall be encouraged, subject to a discretionary permit.	<ul style="list-style-type: none"> Policies that "support," "promote," or "encourage" activities and programs do not create any enforceable constraints on development projects. Please explain why this policy is not made mandatory.
PS-3.11 A tentative subdivision map and/or vesting tentative subdivision map application for either a standard or minor subdivision shall not be approved until: a. The applicant provides evidence of an assured long-term water supply in terms of yield and quality for all lots which are to be created through	<ul style="list-style-type: none"> To what extent does this policy impose any additional constraints that are not already imposed by SB 221? How will this policy be coordinated with Policy PS 3.1 to 3.5? Please explain why this policy is applied only
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	<p>subdivision. A recommendation on the water supply shall be made to the decision making body by the Director of Health Services and the General Manager of the Monterey County Water Resources Agency, or their respective designees.</p> <p>b. The applicant provides proof that the water supply to serve the lots meets both the water quality and quantity standards as set forth in Title 22 of the California Code of Regulations and County water systems and well regulations (Chapters 15.04 and 15.08 of the Monterey County Code, as may be periodically amended), subject to the review and recommendation by the Director of Health Services to the decision making body.</p>
PS-3.12 Maximize agricultural water conservation measures to improve water use efficiency and reduce overall water demand. The County shall establish an ordinance identifying conservation measures that reduce agricultural water demand.	<ul style="list-style-type: none"> The policy provides no performance standards or exemplary measures that could support a finding that impacts are minimized or avoided. The policy calls for an ordinance "identifying" conservation measures. Please explain whether the policy will also require that these measures actually be implemented. If not, why not? If so, please explain how and in what context the County will ensure that the measures are implemented and enforced.
PS-3.13 Maximize urban water conservation measures to improve water use efficiency and reduce overall water demand. The County shall establish an ordinance identifying conservation measures that reduce potable water demand.	<ul style="list-style-type: none"> The policy provides no performance standards or exemplary measures that could support a finding that impacts are minimized or avoided. The policy calls for an ordinance "identifying" conservation measures. Please explain whether the policy will also require that these measures actually be implemented. If not, why not? If so, please explain how and in what context the County will ensure that the measures are implemented and enforced.
PS-3.14 Maximize the use of recycled water as a potable water offset to manage water demands and meet regulatory requirements for wastewater discharge, by employing strategies including, but not limited to, the following: a. Increase the use of treated water where the quality of recycled water is maintained, meets all applicable regulatory standards, is appropriate for the intended use, and re-use will not significantly impact beneficial uses of other water resources. b. Work with the agricultural community to develop new uses for tertiary recycled water and increase the use of tertiary recycled water for irrigation of lands currently being irrigated by groundwater pumping. c. Work with urban water providers to emphasize use of tertiary recycled water for irrigation of parks,	<ul style="list-style-type: none"> The policy provides no performance standards that could support a finding that impacts are minimized or avoided. The policy does not create any enforceable mandate because it only calls for some unspecified agency to "work with" others. Without specifying the agency, the specific programs, the resources to be committed, and the standards to be met, the policy cannot support a finding that impacts will be avoided or minimized. Please estimate the effect of this policy in protecting groundwater supplies, noting that impermeable clay layers prevent surface recharge in many of the areas that overlay saltwater intrusion.
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<p>playfields, schools, golf courses, and other landscape areas to reduce potable water demand.</p> <p>d. Work with urban water providers to convert existing potable water customers to tertiary recycled water as infrastructure and water supply become available.</p> <p>PS-3.15 To ensure accuracy and consistency in the evaluation of water supply availability, Monterey County Health Department, in coordination with the MCWRA, shall develop guidelines and procedures for conducting water supply assessments and determining water availability. Adequate availability and provision of water supply, treatment, and conveyance facilities shall be assured to the satisfaction of the County prior to approval of final subdivision maps or any changes in the 2007 General Plan Land Use or Zoning designations.</p>	<ul style="list-style-type: none"> • Please see our comments on Policies PS 3.1 to 3.5, 3.7, and 3.11. This policy calls for guidelines and procedures, but lacks any substantive content or performance standards. It cannot support a finding that water supply impacts will be avoided or minimized. • Please explain why this policy is limited to approval of subdivisions and changes in land use or zoning. Why does it not apply to other water using land use approvals? • Please explain whether all zoning designation changes made as a result of the adoption of the proposed new land use designations in the 2007 General Plan will be required to demonstrate adequate availability and provision of water supply, treatment, and conveyance facilities. 	34
<p>PS-4.4 Groundwater recharge through the use of reclaimed wastewater, not including primary treated wastewater, in accordance with federal, state, and local laws, regulations and ordinances shall be encouraged.</p>	<ul style="list-style-type: none"> • Policies that "support," "promote," or "encourage" activities and programs do not create any enforceable constraints on development projects. Please explain why this policy is not made mandatory. • Please estimate the effect of this policy in protecting groundwater supplies, noting that impermeable clay layers prevent surface recharge in many of the areas that overlay saltwater intrusion. 	
<p>PS-4.7 Specific criteria for new wastewater treatment facilities and proof of the adequacy of existing facilities to service new development shall be developed as part of the implementation of this Plan. Criteria may include but are not limited to:</p> <p>a. Service area.</p> <p>b. Demand for service.</p> <p>c. Wet weather storage.</p> <p>d. Recycling of treated wastewater.</p> <p>e. Existing groundwater conditions.</p> <p>f. Effect of recharge on existing groundwater.</p> <p>g. Technical, managerial and financial capability of the wastewater treatment provider.</p>	<ul style="list-style-type: none"> • The DEIR cites this policy as evidence that recharge will occur. However, because there are in fact no performance standards in this policy (the "criteria" are in fact possible parameters with no values specified), there is no assurance that the policy will have any effect on recharge. In fact, the "criteria" are not even mandated since the policy provides that the "criteria may include . . . effect on recharge." • Please estimate the effect of this policy in protecting groundwater supplies, noting that impermeable clay layers prevent surface recharge in many of the areas that overlay saltwater intrusion. 	
<p>PS-4.8 Specific criteria for septic disposal systems to serve individual uses where connection to a wastewater treatment facility is not feasible shall be</p>	<ul style="list-style-type: none"> • The DEIR cites this policy as evidence that recharge will occur. However, because there 	

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<p>developed as part of the implementation of this Plan. Criteria may include but are not limited to (consistent with Table PS-1):</p> <p>a. Minimum lot size.</p> <p>b. Location of wells.</p> <p>c. Soils testing.</p> <p>d. Areas for backup and repair of leaching systems.</p> <p>e. Existing groundwater conditions.</p> <p>f. Effect of recharge on existing groundwater.</p> <p>g. Consideration of alternatives systems (e.g. mound system, enhanced treatment systems)</p>	<p>are in fact no performance standards in this policy (the "criteria" are in fact possible parameters with no values specified), there is no assurance that the policy will have any effect on recharge. In fact, the "criteria" are not even mandated since the policy provides that the "criteria may include . . . effect on recharge."</p> <ul style="list-style-type: none"> • Please estimate the effect of this policy in protecting groundwater supplies, noting that impermeable clay layers prevent surface recharge in many of the areas that overlay saltwater intrusion. 	
SAFETY ELEMENT		
<p>S-3.5 Runoff Performance Standards that result in an array of site planning and design techniques to reduce storm flows plus capture and recharge runoff shall be developed and implemented, where appropriate, as determined by the Monterey County Water Resources Agency.</p>	<ul style="list-style-type: none"> • This policy explicitly defers formulation of a performance standard to be used for future mitigation of development impacts, so it necessarily fails to include a performance standard. • If this policy would permit a runoff performance standard weaker than requiring that "post-development, off-site peak flow drainage from the area being developed shall not be greater than pre-development peak flow drainage," then it conflicts with Policy S 3.1. If it would permit more stringent runoff standards, then that should be clarified. • If the intent of this policy is to require not just the development of runoff performance standards but also the development of "an array of site planning and design techniques to reduce storm flows plus capture and recharge runoff," then the policy lacks any performance standards for those or exemplary measures for those "site planning and design techniques." • This policy does not increase water supply or decrease water consumption over baseline conditions. Please estimate its effect on protecting existing water supplies and/or avoiding or minimizing water supply impacts. 	34
MITIGATION MEASURES		
<p>Mitigation for 2030 findings:</p> <p><i>"The following measure is intended to reduce impacts on the Monterey Peninsula during the 2030 planning horizon to below a level of significance. However, for the reasons discussed above, there are no feasible measures that would reduce the impacts of development on existing lots of record in the North County and the Pajaro River below a level of</i></p>	<ul style="list-style-type: none"> • Please explain why the County does not propose to disallow development of existing lots of record, or to condition it on sufficient water supplies, if that development would result in significant unmitigated impacts. Please explain how many residential units will be developed on existing lots of record in each basin and how much water the County expects 	

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<p>significance.</p> <p>WR-1: Support a Regional Solution for the Monterey Peninsula in addition to the Coastal Water Project</p> <p>The County will revise the draft 2007 General Plan to include the following new policy:</p> <p>PS-3.16. The County will participate in the Water for Monterey County Coalition, or similar regional group, for the purpose of identifying and supporting a variety of new water supply projects, water management programs, and multiple agency agreements that will provide additional domestic water supplies for the Monterey Peninsula and Sesside basin, while continuing to protect the Salinas and Pajaro River groundwater basins from saltwater intrusion. The County's general objective, while recognizing that timeframes will be dependent upon the dynamics of the regional group, will be to complete the cooperative planning of these water supply alternatives within five years of adoption of the General Plan and to implement the selected alternatives within five years after that time." DEIR, p. 4.3-130.</p>	<p>that development to consume.</p> <ul style="list-style-type: none"> If development of existing legal lots of record cannot for some reason be avoided or appropriately conditioned, please explain why the County does not propose to address this "unavoidable" water consumption by conditioning or barring <i>other</i> water consuming development over which the County does have discretion. For example, please explain why Policies PS 3.1 through PS 3.7, which purport to require that discretionary development be conditioned on an adequate water supply, would not take account of the expected water demands from lots of record. After all, Policy PS 3.3(f) requires that cumulative impacts and planned growth be considered in determining whether there is an adequate long term sustainable water supply. The DEIR's significance conclusions for the Monterey Peninsula and the Pajaro Valley assert that water supply would be sufficient but for development of lots of record, but that this development will result in significant impacts. DEIR, p. 4.3-130 to 4.3-131. The DEIR also states that "2007 General Plan policies will constrain other development until long-term water supplies are assured." DEIR, p. 4.3-130. The implication of these claims is that until long term supplies are secured that are sufficient to serve all expected development on legal lots of record, no other discretionary development will be permitted. Please confirm that this is the case or explain why not. PS 3.16 simply postpones the identification of essential water supply programs to support planned development on the Monterey Peninsula and postpones the identification and mitigation of impacts from providing that water supply. As comments above demonstrate, the regional group's (WFMCC's) current proposal is inconsistent with the proposed expansion of the SVWP on which the DEIR relies for its significance conclusion for the Salinas Valley basin. Furthermore, the DEIR admits that the County does not even support the regional solution currently proposed by the group. DEIR, p. 4.3-130. <i>Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova</i> (2007) 40 Cal.4th 412, 434 provides as follows: "If the
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<p>Mitigation for Buildout findings:</p> <p>WR-2: Initiate Planning for Additional Supplies to the Salinas Valley</p> <p>The County will revise the draft 2007 General Plan to include the following new policies:</p> <p>PS-3.17. The County will pursue expansion of the SVWP by initiating investigations of the capacity for the Salinas River water storage and</p>	<p>uncertainties inherent in long-term land use and water planning make it impossible to confidently identify the future water sources, an EIR may satisfy CEQA if it acknowledges the degree of uncertainty involved, discusses the reasonably foreseeable alternatives-including alternative water sources and the option of curtailing the development if sufficient water is not available for later phases-and discloses the significant foreseeable environmental effects of each alternative, as well as mitigation measures to minimize each adverse impact. (§ 21100, subd. (b).) In approving a project based on an EIR that takes this approach, however, the agency would also have to make, as appropriate to the circumstances, any findings CEQA requires regarding incorporated mitigation measures, infeasibility of mitigation, and overriding benefits of the project (§ 21081) as to each alternative prong of the analysis." See also <i>id.</i> at 444, 446.</p> <ul style="list-style-type: none"> Here, the DEIR admits that it has not identified adequate water supply for the Monterey Peninsula. Nonetheless, the DEIR proposes to find water supply impacts attributable to development on the Monterey Peninsula, other than development of lots of record, less than significant by virtue of the County's participation in a regional planning group. This does not meet the <i>Vineyard Area Citizens</i> mandate to identify alternatives, disclose impacts, and propose mitigation. Since the County has not even identified the water supply programs that might be adopted, it cannot reasonably conclude that impacts will be less than significant. (Nor, without weighing the actual environmental costs significant unavoidable impacts could the County adopt a statement of overriding considerations.) Regarding PS 3.17, this mitigation is only identified as necessary with respect to Buildout conditions. However, any mitigation calling for the expansion of the SVWP should be listed as essential to support the finding of significance through 2030, not just through buildout, because the DEIR and the SVWP both state that expansion will be required to address saltwater intrusion conditions that will be in place by 2030. DEIR, p. 4.3-35; SVWP EIR, § 3.2.4 (9,700 AFY delivery will only
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wastewater treatment facility, 200 square foot library, and a 10-acre site for a potential elementary school site with athletic fields.

e. Neighborhood Commercial (approximately 90,000 sq. ft.) including mixed use development, to help provide jobs within the project.

f. Development on slopes exceeding 25% and ridgeline development.

g. Up to 1,147 residential units for various income levels ranging from 0.9 units/acre to 20 units/acre.

h. A minimum of 32% inclusionary/workforce levels including but not limited to senior living facilities.

i. Agriculture buffers ranging from 30 feet to 100 feet.

j. Vehicular access from the west via Harrison Road and from the east via San Juan Grade Road.

k. A dedicated easement to accommodate the realignment of the Highway 101 future Prunedale Bypass.

A Community Plan is not required for development of the Butterfly Village STA. The Butterfly Village STA shall be entitled to the exemptions in the General Plan provided for Community Areas and for areas for which a community Plan or Specific Plan has been adopted. However, the areas adjoining the Butterfly Village STA shall not be entitled to rely upon *LU-2.12(d)* and *OS-9.2*. Except as provided for in this General Plan, development shall be guided by the principles and standards contained in Chapters 3-8 of the document entitled "Rancho San Juan Specific Plan" dated November 7, 2005, which are otherwise consistent with the Butterfly Village STA and the Butterfly Village Land Use Plan (*Figure LU7*). (APNs: 113-271-014-000, 113-212-043-000, 113-212-044-000, 113-212-004-000, 113-212-003-000, 113-212-055-000, 113-212-056-000, 113-212-057-000 and 113-212-058-000)

GS-1.8 The land near the town of Spreckels designated as industrial may also be developed partially or wholly as agriculturally related commercial uses provided said agriculturally-related development complies with the following conditions:

a. A comprehensive development plan as a planned general commercial project shall be prepared.

b. Development shall be designed to protect and, where feasible, enhance the riparian corridor along the Salinas River.

c. Proposed development would not deteriorate water quality in the Salinas River or area ground water.

d. Walnut trees along Spreckels Boulevard shall be preserved.

e. Development will be compatible with the

- The policy provides no performance standards for protection and enhancement of the riparian corridor or for protection of water quality.
- The "feasibility" qualification of the obligation to protect the riparian corridor is not explained (technically feasible? economically feasible?) and renders the policy essentially unenforceable.
- Please estimate the effect of this policy on ensuring adequate water supply and explain how it will avoid or minimize water supply impacts.

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agricultural activities on the adjoining parcel.

GIS-5.1 Portions of Gabilan Creek shall be evaluated for a linear park as defined by the County's Parkland Classification System at such time when the County can support another regional park. Until such time, Gabilan Creek shall be:

a. Maintained in a natural riparian state;

b. Kept in a free-flow state devoid of dams;

c. Allowed its natural flood capacity through required setbacks conforming to the 100 year flood plain; and

d. Kept free from urban encroachment by residential development through required dedication of land in the floodplain corridor.

- Please estimate the effect of this policy on ensuring adequate water supply and explain how it will avoid or minimize water supply impacts.

CENTRAL SALINAS AREA PLAN

CSV-1.1 Special Treatment Area Paraiso Hot Springs. The Paraiso Hot Springs properties shall be designated a Special Treatment Area. Recreation and visitor serving land uses for the Paraiso Hot Springs Special Treatment Area may be permitted in accordance with a general development plan and other discretionary approvals such as subdivision maps, use permits and design approvals. The Special Treatment Area may include such uses as a lodge, individual cottages, a visitor center, recreational vehicle accommodations, restaurant, shops, stables, tennis courts, aquaculture, mineral water bottling, hiking trails, vineyards, and orchards. The plan shall address fire safety, access, sewage treatment, water quality, water quantity, drainage, and soil stability issues. (APN: 418-361-004, 418-361-009, 418-361-021, 418-361-022)

- This policy permits development as long as some future plan "addresses" water supply. There are no performance standards or exemplary measures that would support a finding that the policy meaningfully contributes to avoidance or minimization of impacts.
- Please estimate the effect of this policy on ensuring adequate water supply and explain how it will avoid or minimize water supply impacts.

CSV-1.2 All recreation and visitor-serving commercial land uses shall require a use permit. Said uses on sites greater than 10 acres shall require a comprehensive development plan that addresses hydrology, water quantity and quality, sewage disposal, fire safety, access, drainage, soils, and geology.

- This policy permits development as long as some future plan "addresses" water supply. There are no performance standards or exemplary measures that would support a finding that the policy meaningfully contributes to avoidance or minimization of impacts.
- Please estimate the effect of this policy on ensuring adequate water supply and explain how it will avoid or minimize water supply impacts.

CSV-5.1 Development shall be designed to maintain groundwater recharge capabilities on the property. To protect and maintain areas for groundwater recharge, preservation of riparian habitats, and flood flow capacity, the main channels of the Arroyo Seco River and the Salinas River shall not be encroached on by development.

- This policy does not increase water supply or decrease water consumption over baseline conditions. Please estimate the effect of this policy on ensuring adequate water supply and explain how it will avoid or minimize water supply impacts.

CSV-5.2 Recreation and visitor-serving commercial

- There is no definition in GPU5 or its DEIR of

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<p>uses shall only be allowed if it can be proven that:</p> <p>a. areas identified by the Water Resources Agency as prime-groundwater recharge areas can be preserved and protected from sources of pollution as determined by the Director of Environmental Health and the Water Resources Agency;</p> <p>b. proposed development can be phased to ensure that existing groundwater supplies are not committed beyond their safe, long-term yields where such yields can be determined.</p> <p>c. floodways associated with the main channels of either the Arroyo Seco River or the Salinas River will not be encroached on by development because of the necessity to protect and maintain these areas for groundwater recharge, preservation of riparian habitats, and flood flow capacity as determined by the Water Resources Agency.</p> <p>d. the proposed development meets both water quality and quantity standards expressed in Title 22 of the California Code of Regulations and <i>Title 15.04</i> of the Monterey County Code as determined by the Director of Environmental Health;</p> <p>e. the proposed development meets the minimum standards of the Regional Water Quality Control Basin Plan when septic systems are proposed and also will not adversely affect groundwater quality, as determined by the Director of Environmental Health; and</p> <p>f. the proposed development will not generate levels of runoff which will either cause erosion or adversely affect surface water resources as determined by the Water Resources Agency.</p>	<p>"prime groundwater recharge capability." Please explain this phrase.</p> <ul style="list-style-type: none"> • Preservation of existing recharge areas does not increase water supply or decrease water consumption over baseline conditions. Please estimate its effect on water supplies and water supply impacts. • Please explain how section "b" of the policy will be coordinated with Policies PS 3.1 through 3.7, which purport to condition development on proof of a "long-term sustainable water supply." • Please explain whether there is any difference between proof of a "long-term sustainable water supply" and ensuring "that existing groundwater supplies are not committed beyond their safe, long-term yields where such yields can be determined." • Please explain how and whether Policies PS 3.1 through 3.7 would be applied in the Central Salinas valley where safe, long-term yields cannot be determined. • Preservation of recharge areas does not increase water supplies or decrease consumption over baseline conditions. Please estimate the effect of section "c" this policy on water supply and water supply impacts. • Please explain whether and how this policy will be applied to recreation and visitor-serving commercial use projects in the Winery Corridor that do not require discretionary permits. If not, why not? If not, how will the impacts this policy is intended to avoid be addressed for recreation and visitor-serving commercial use projects in the Winery Corridor that do not require discretionary permits? • Please explain why this policy is limited to recreation and visitor-serving commercial uses. Why is this policy not applied to residential projects and to cultivation of previously cultivated land?
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<p>CSV-5.3 The Spence/Potter Road area, including the Special Treatment Area described in <i>Policy CSV-1.3</i> is designated a study area for alternative land uses to support the agricultural industry. Prior to new development, other than those consistent with the underlying land use designation, in the Spence/Potter Road study area, the following must be completed:</p> <p>a. A cumulative impact analysis of industrial build-out of the study area, including road capacity, highway access, drainage, and viewshed impacts</p>	
	<ul style="list-style-type: none"> • Prevention of increased runoff does not increase water supplies or decrease consumption over baseline conditions. Please estimate the effect of this policy on water supply and water supply impacts

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<p>from Highway 101;</p> <p>b. Recommended changes to the Special Treatment Area boundaries or allowable uses within the Special Treatment Area, as necessary, to address the impacts identified;</p> <p>c. A drainage management plan to mitigate runoff to adjoining farmlands for the entire study area;</p> <p>d. Amendments to the General Plan, as necessary, and ordinance amendments to address revised landscaping and screening standards; and</p> <p>e. An implementation plan to fund and construct the identified infrastructure improvements.</p> <p>The studies and plans identified in this policy may be paid for by the County or interested property owners.</p>	
CARMEL VALLEY MASTER PLAN	
<p>CV-5.1 Pumping from the Carmel River aquifer shall be managed in a manner consistent with the Carmel River Management Program. All beneficial uses of the total water resources of the Carmel River and its tributaries shall be considered and provided for in planning decisions.</p>	<ul style="list-style-type: none"> • The DEIR does not discuss the Carmel River Management Program. Please explain the program. • Please explain how this policy will be implemented in practice.
<p>CV-5.2 Water projects designed to address future growth in the Carmel Valley may be supported.</p>	<ul style="list-style-type: none"> • This policy has no enforceable mandate.
<p>CV-5.3 Development shall incorporate designs with water reclamation, conservation, and new source production in order to:</p> <p>a. maintain the ecological and economic environment;</p> <p>b. maintain the rural character; and</p> <p>c. create additional water for the area where possible including, but not limited to, on-site stormwater retention and infiltration basins.</p>	<ul style="list-style-type: none"> • Please explain whether the possibility of creating additional water will be determined with reference to technical or economic feasibility or both. Please estimate how much additional water this policy will create.
<p>CV-5.4 The County shall establish regulations for Carmel Valley that limit development to vacant lots of record and already approved projects, unless additional supplies are identified. Reclaimed water may be used as an additional water source to replace domestic water supply in landscape irrigation and other approved uses provided the project shows conclusively that it would not create any adverse environmental impacts such as groundwater degradation.</p>	<ul style="list-style-type: none"> • Please explain why the County does not prevent development on lots of record unless sufficient water is available. For example, please explain why the County does not 1) condition issuance of building permits on demonstration of sufficient water supply, 2) re-designate allowable land uses to bar development without adequate proof of long term sustainable water supply, or 3) condition issuance of well permits for lots of record on demonstration of an adequate long term water supply. • Please explain why the County does not seek adjudication of the Carmel Valley aquifer in order to ensure that development of lots of record does not cause significant impacts.
<p>CV-5.5 Parts of the Carmel Valley aquifer are susceptible to contamination from development in areas not served by public wastewater systems.</p>	<ul style="list-style-type: none"> • This policy would not increase supplies or reduce demand compared to baseline conditions. Please estimate the effect this
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<p>Development projects that include an on-site septic system shall provide geologic and soils surveys that assess if conditions could preclude or restrict the possibility of satisfactorily locating such a system where it would not pose a threat of contamination to the aquifer. New development shall be carefully reviewed for proper siting and design of on-site sewage disposal systems in accordance with the standards of the Carmel Valley Wastewater Study.</p>	<p>policy has on water supplies and water supply impacts.</p>
<p>CV-5.6 Containment structures or other measures shall be required to control the runoff of pollutants from commercial areas or other sites where chemical storage or accidental chemical spillage is possible.</p>	<ul style="list-style-type: none"> This policy would not increase supplies or reduce demand compared to baseline conditions. Please estimate the effect this policy has on water supplies and water supply impacts.
<p>CACHAGUA AREA PLAN</p>	
<p>CACH-3.5 Mining or commercial timber, or other resource production operations that include methods to screen areas, vehicle access, impacts on roadways, noise impacts, measures to control on site and off site drainage and reclamation plans for mined or quarried areas may be considered in the Planning Area. Impacts on watersheds, local roads, flora and fauna shall be mitigated.</p>	<ul style="list-style-type: none"> This policy would not increase supplies or reduce demand compared to baseline conditions. Please estimate the effect this policy has on water supplies and water supply impacts. No performance standards for mitigation of watershed impacts are provided.
<p>CACH-5.1 The Planning Area should not be deprived of water reasonably required for the beneficial needs of its inhabitants. Groundwater shall not be exported to points outside the Planning Area boundaries.</p>	<ul style="list-style-type: none"> This policy would not increase supplies or reduce demand compared to baseline conditions. Please estimate the effect this policy has on water supplies and water supply impacts. Please explain whether and how this policy adds any constraints on development not already included in Policy PS 3.7.
<p>SOUTH COUNTY AREA PLAN</p>	
<p>SC-5.1 New development shall not diminish the groundwater recharge capabilities in the South County Planning Area where the following resources have been identified: a. Valuable natural groundwater recharge areas, or b. Artificial groundwater recharge projects. Areas that are highly susceptible to water quality degradation because of either high water tables or rapid percolation rates shall require more strict enforcement of this policy. Agricultural land uses in such areas should be maintained to preserve groundwater quality.</p>	<ul style="list-style-type: none"> This policy would not increase supplies or reduce demand compared to baseline conditions. Please estimate the effect this policy has on water supplies and water supply impacts. This policy implies that some new development <i>would</i> be allowed to diminish recharge capabilities. Please reconcile this with Policies PS 2.8, which appears to require that <i>all</i> new development maintain or increase recharge. Please explain whether this policy will be applied to cultivation of previously uncultivated land. If not, why not? Note that cultivation on slopes, particularly viticulture cultivation that removes armoring rock through deep ripping, can substantially

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<p>SC-5.3 New development may not encroach on the main channels and associated floodways of the Nacimiento, San Antonio, and Salinas Rivers in order to conserve groundwater recharge, preserve riparian habitats, and protect flood flow capacity.</p>	<p>increase runoff.</p> <ul style="list-style-type: none"> This policy does not increase water supply or decrease water consumption over baseline conditions. Please estimate the effect of this policy on ensuring adequate water supply and explain how it will avoid or minimize water supply impacts.
<p>FORT ORD MASTER PLAN</p>	
<p>Hydrology and Water Quality Policy A-1: At the project approval stage, the County shall require new development to demonstrate that all measures will be taken to ensure that runoff is minimized and infiltration maximized in groundwater recharge areas.</p>	<ul style="list-style-type: none"> Please explain how this policy is different in effect than Policy PS 2.8, which appears to require that all new development maintain or increase recharge. If this policy is more stringent, please explain why it should not be adopted County-wide.
<p>Hydrology and Water Quality Policy A-2: To avoid adversely affecting groundwater recharge of surface water users in downstream areas, the County shall ensure that land use and drainage facilities on newly developed lands do not decrease the magnitude and duration of flows less than the mean annual flow in creeks downstream of the development sites.</p>	<ul style="list-style-type: none"> Please explain how this policy is different in effect than Policy PS 2.8, which appears to require that all new development maintain or increase recharge. If this policy is more stringent, please explain why it should not be adopted County-wide.
<p>Hydrology and Water Quality Policy B-1: The County shall ensure additional water to critically deficient areas.</p>	<ul style="list-style-type: none"> Please identify the critically deficient areas and explain how this policy will be implemented.
<p>Hydrology and Water Quality Policy B-2: The County shall condition approval of development plans on verification of an assured long-term water supply for the projects.</p>	<ul style="list-style-type: none"> Please explain how this policy is different in effect than Policies PS 3.1 through 3.7, which purport to require that all new development demonstrate a long-term sustainable water supply. If this policy is more stringent, please explain why it should not be adopted County-wide.
<p>Hydrology and Water Quality Policy C-1: The County shall comply with all mandated water quality programs and establish local water quality programs as needed.</p>	<ul style="list-style-type: none"> Please estimate the effect of this policy on water supply and water supply impacts.
<p>Hydrology and Water Quality Policy C-3: The MCWRA and the County shall cooperate with the MCWRA and the MPWMD to mitigate further seawater intrusion, based on the Salinas Valley Basin Management Plan.</p>	<ul style="list-style-type: none"> This policy does not apparently add any enforceable mandate since it does not commit the County to a definite course of action.
<p>Program C-3.5: The County shall carry out all actions necessary to ensure that the installation of water supply wells comply with the State of California Water Well Standards and well standards established by the Monterey County Health Department.</p>	<ul style="list-style-type: none"> Please estimate the effect of this policy on water supply and water supply impacts.
<p>Program C-3.6: The County shall carry out all actions necessary to ensure that the distribution and storage of potable and non-potable water comply</p>	<ul style="list-style-type: none"> Please estimate the effect of this policy on water supply and water supply impacts.

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with the State Health Department regulations through Title 22.

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L. Cumulative Impact Analysis Is Inadequate; and No Mitigation Is Proposed for Cumulative Impacts

As noted above, the DEIR fails to provide an adequate water balance analysis: it fails to quantify projected County water use and supply by basin, and if fails to project water use by other users of the same supplies, in particular, the incorporated cities within the County. Nonetheless, despite the absence of any quantitative basis for the conclusion, the DEIR concludes that County water use will make a considerable contribution to a cumulatively significant water supply impact. DEIR, p. 6-13. The DEIR fails to clarify whether this impact will occur by 2030 or only upon buildout, and whether it will occur in all basins. The DEIR also fails to explain whether the finding of cumulative significance in CUM-4 "Water Supply" is intended to reflect a finding that overdrafting and salt water intrusion impacts will be significant.

Please clarify the basis for this conclusion by providing a water balance analysis that compares all projected water uses, including projected city use, to projected water supplies by basin. Please explain whether the cumulatively considerable conclusion applies to all basins, including the Salinas River basin. Please explain whether the impact will occur by 2030 or only later. Please explain whether the finding of cumulative significance includes a finding that overdrafting and salt water intrusion will be cumulatively significant.

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Despite the finding that impacts will be cumulatively considerable, the DEIR proposes no additional mitigation. CEQA requires that all feasible mitigation be proposed when impacts are found to be significant.

In particular, the DEIR must propose all feasible mitigation for cumulative impacts to the Salinas river basin. This is particularly critical because the DEIR concluded (albeit erroneously) that water supply impacts attributable to development in the unincorporated areas of the County within the Salinas Valley basin would be less than significant and, accordingly, proposed no mitigation to address water supply impacts in the Salinas River basin. Feasible mitigation for impacts in this basin are available, including restrictions on conversion of land for agricultural use, mandatory conservation measures, and limitations on all forms of development (including development of lots of record) without proof of adequate long term sustainable water supply.

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V. TRAFFIC ISSUES

A. Assumptions For Scenarios Evaluated Are Not Clearly Stated

The DEIR's traffic analyses include eight cases that purport to evaluate impacts under various planning horizons (2030 conditions and 2092 buildout conditions) and roadway network assumptions (with and without the roadways assumed to be built through the TAMC impact fee and the proposed County impact fee) for both project-specific and cumulative impacts.

The DEIR's methodology section identifies various analysis scenarios. These differ with respect to three variables: *land use assumptions* (current land use, current land use plus growth only in the unincorporated County, current land use plus growth in both the unincorporated areas and cities); *planning horizon* (2008, 2032, 2092); and *transportation network* (existing 2008 network, 2008 network plus the roadways assumed to be built through the TAMC impact fee and the proposed County impact fee). Although the narrative discussion identifies only "five analysis scenarios" (DEIR, p. 4.6-19), Table 4.6-10 actually sets out six scenarios. Some of these scenarios are also apparently used for the air quality analysis, although, as discussed in comments on air quality, the DEIR fails to state the assumptions reflected in the air quality "scenarios" and "conditions" as well. See Tables 4.7-3, 4.7-5, 4.7-6. The DEIR should clarify the relationship between the five analysis scenarios set out on pp. 4.6-19 to 20, the six scenarios identified in Table 4.6-10, and the scenarios set out in the air quality analysis in Tables 4.7-3, 4.7-5, and 4.7-6.

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More problematically, the DEIR's actual traffic impact analyses include not 5 or 6 but 8 purportedly distinct scenarios: TRAN 1A, 1B, 2A, 2B, 3A, 3B, 4A, and 4B. Unfortunately the text of the DEIR does not clearly set out the land use assumptions, the planning horizon, and the network assumptions for each of these scenarios. It is possible to discern some of the assumptions for TRAN 1B, 2B, 3B, and 4B (the "B scenarios") based on comparisons of the scenario descriptions and impact analyses, but the DEIR should be revised to clearly state these assumptions.

Neither the land use assumptions nor the roadway network assumptions are stated for TRAN 1A, 2A, 3A, and 4A (the "A scenarios"). While it is possible to discern some of the assumptions, the DEIR should be revised to clearly state these assumptions.

The table below sets out the apparent assumptions in the eight scenarios evaluated and summarizes the DEIR's conclusions regarding the significance of impacts. Please clarify whether this table accurately reflects the assumptions used in the traffic analyses and supply the missing information.

Scenario Number	Scenario Name	Planning Horizon	Land Use Assumptions	Network	Evaluates Impacts on	Finding
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Scenario Number	Scenario Name	Planning Horizon	Land Use Assumptions	Network	Evaluates Impacts on	Finding
1A	Existing plus Project Development to 2030 – Project-Specific Impacts of the Project	2030	Not specified – apparently assumes growth in unincorporated area of County but no growth in Cities, which would be consistent with scenario 1B	Not specified	“roadway or intersection operations in the immediate proximity of the development”	Less Than Significant based on Policies C1.3 and 1.4
1B	Existing plus Project Development to 2030 – County and Regional Roadway LOS Impacts	2030	This is the “project level analysis required by CEQA” and so it considers only growth in the unincorporated County (p. 4.6-38)	Not specified, but may assume 2008 network	Specific major County and Regional Roadways operating at D or below will drop one LOS level, DEIR states that 2 [sic, 4] Regional Roadway Segments operating at D or below will drop one LOS level, but Table 4.6-15 shows that 4 will.	Significant and Unavoidable. 6 County segments operating at D or below will drop one LOS level, but Table 4.6-15 shows that 4 will.
2A	Project Specific Impacts of the Development under 2030 Cumulative plus Project Conditions	2030	Not specified, but apparently assumes growth to 2030 in unincorporated County and Cities	Not specified	Purportedly evaluates both “project-specific impacts” that are “exclusively attributable to the development” and “impacts to the public roadway system in the immediate vicinity of the development site [that] are cumulative with other development in the area” (p. 4.6-57)	Less Than Significant, based on same policies cited in TRAN 1A

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Scenario Number	Scenario Name	Planning Horizon	Land Use Assumptions	Network	Evaluates Impacts on	Finding
2B	County and Regional Roadway LOS Impacts (2030 Cumulative plus Project)	2030	“Development and land use allowed under the 2007 General Plan cumulatively with development in incorporated Cities and adjacent counties” (p. 4.6-68)	Not specified, but may have assumed 2008 network plus the roadways assumed to be built through the TAMC impact fee and the proposed County impact fee	Specific major County and Regional Roadways	Significant and Unavoidable. Cumulative development to 2030 will increase the number of County roadway segments operating below LOS D by 17, from 17 to 34, and will cause 2 new LOS deficiencies to County roads in Carmel Valley. (p. 4.6-59.) Cumulative development to 2030 will increase the number of Regional roadway segments operating at deficient LOS by 23, from 47 to 70. (p. 4.6-64.) Four external segments will be cumulatively impacted. (p. 4.6-67.) DEIR finds that impacts will be SUI due to funding shortfall and that the rate of development growth will outpace project completion of planned roadway improvements. (p. 4.6-68 to 69.) Note that CVMP fully mitigates impacts in CV except for one segment where it is concluded that

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Scenario Number	Scenario Name	Planning Horizon	Land Use Assumptions	Network	Evaluates Impacts on	Finding
						there may not be community consensus or funding to correct an existing deficiency.
3A	Project-specific Impacts of the Development under Existing plus Project Buildout	2092	Not specified, but apparently assumes buildout as of 2092 in unincorporated County but not any growth in Cities, based on distinction between 3A/B cases and 4A/B cases	Not specified	Apparently evaluates both "project-specific impacts" that are "exclusively attributable to the development" and "impacts to the public roadway system in the immediate vicinity of the development site [that] are cumulative with other development in the area" (p. 4.6-79)	Less Than Significant, based on policies C1.4 and C1.3
3B	County and Regional Roadway LOS Impacts (Existing plus Project Buildout)	2092	Not specified, but apparently assumes buildout as of 2092 in unincorporated County but not any growth in Cities, based on distinction between 3A/B scenarios and 4A/B scenarios	Not specified, but may have assumed 2008 network plus the roadways assumed to be built through the TAMC impact fee and the proposed County impact fee	Specific major County and Regional Roadways	Significant and Unavoidable. Through 2092, buildout traffic impacts to County roadways results in 16 additional LOS deficiencies plus 2 additional deficiencies in CV. (p. 4.6-80). It causes 10 additional LOS deficiencies to regional roadways. (p. 4.6-83.) It causes 4 additional LOS deficiencies in external

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Scenario Number	Scenario Name	Planning Horizon	Land Use Assumptions	Network	Evaluates Impacts on	Finding
						roadways. (p. 4.6-86.) Although the DEIR states that mitigation for TRAN 2B is applicable, no additional mitigation is proposed and the impact is found SUI.
4A	Project-Specific Impacts of the Development under Buildout Cumulative plus Project Conditions	2092	Apparently assumes cumulative growth in County and Cities	Not specified	Not specified. Apparently evaluates the same impacts as in 2A and 3A	Less Than Significant, based on unspecified General Plan policies, presumably C1.3 and C1.4
4B	County and Regional Roadway LOS Impacts (Buildout Cumulative plus Project)	2092	"forecast year 2092 conditions with full implementation of the allowed uses in the 2007 General Plan and projected growth in incorporated cities through the year 2092" (p. 4.6-93)	Not specified, but may have assumed 2008 network plus the roadways assumed to be built through the TAMC impact fee and the proposed County impact fee	Specific major County and Regional Roadways	Significant and Unavoidable. Results in 25 additional LOS deficiencies on County roads. (p. 4.6-95.) Results in 20 additional LOS deficiencies to County roads in CV. (p. 4.6-98.) Results in unspecified number of LOS deficiencies on regional segments—all segments are at LOS F in table 4.6-25, which is not discussed in the text. (p. 4.6-98 to 99). Results in 7 external segment LOS deficiencies. (p. 4.6-100.) Finds that impact remains SUI

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Scenario Number	Scenario Name	Planning Horizon	Land Use Assumptions	Network	Evaluates Impacts on	Finding
						because of funding shortfall despite development fees. (p. 4.6-102.)

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B. No Evaluation Of The Project's Impacts Based Only On Planned County Roadway Improvements

Table 4.6-10, p. 4.6-21, sets out land use and transportation network assumptions for each scenario evaluated. The Existing plus Project 2030 scenario does not modify the existing network to include either the TAMC or proposed County projects, whereas the Cumulative 2030 scenario includes both the TAMC and proposed County projects.

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Thus, it appears that there is no scenario that evaluates the impacts of development in the unincorporated County allowed under the 2007 GP and assuming only the proposed County roadway network improvements. The DEIR states that scenario 1B constitutes the "project level analysis required by CEQA" and so it considers only growth in the unincorporated County. DEIR, p. 4.6-38. Since the proposed County roadway improvements are the only set of improvements actually under County control, and, as discussed below, funding for all of the proposed TAMC improvements is speculative at best, one essential scenario should have assumed growth in the unincorporated areas to 2030 *and* assumed only the proposed County roadway improvements.

C. Ambiguity In Use Of Terms "Cumulative" And "Project Specific"

There is an ambiguity in the DEIR's use of the terms "Project-specific" and "cumulative" in its discussions of the eight traffic scenarios it evaluates. Because this ambiguity must be understood to evaluate the DEIR's claims regarding the significance of traffic impacts, we discuss it here.

Typically, the term "project-specific" describes an impact analysis that considers only the effects of the project at issue and the term "cumulative" describes an impact analysis that considers the effects of the project at issue together with other past, present, and foreseeable future projects. However, the DEIR uses the term "project" to refer to both the pending decision whether to adopt the 2007 General Plan *and* to future individual development projects that might be build consistent with the 2007 General Plan. Thus, even though the DEIR's non-quantitative traffic analysis scenarios TRAN 1A, 2A, 3A, AND 4A (the "A" scenarios) are termed "project-specific" they actually

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purport to evaluate both the project-specific and cumulative effects of future individual development projects.

First, note that the "B" scenarios distinguish "cumulative" and "project level" impacts based on whether future development in incorporated Cities and adjacent counties is assumed. In its "B" scenarios, all of which quantitatively evaluate impacts to a set of major County and Regional roadways, the DEIR evaluates two scenarios that assume *only* the development allowed in the unincorporated County, with no growth assumed in the cities and adjacent counties (1B – to 2030, and 3B – to 2092), and it evaluates two "cumulative impact" scenarios that assume growth in *both* the County and in incorporated cities and adjacent counties (2B – to 2030, and 4B – to 2092). The DEIR explains that the 1B scenario is the "project level analysis required by CEQA" and thus it considers only the growth in the unincorporated County. DEIR, p. 4.6-38. It appears that the 3B scenario is also a "project level" analysis. Thus, in the context of the "B" scenarios, the "project" is the adoption of the 2007 general plan, not the development of any specific development project.

The "A" scenarios purport to evaluate the "project-specific" impacts from future individual development projects that are permitted by the 2007 General Plan. In the context of the "A" scenarios, the term "project" refers to those future individual development projects, *and* to the Project that consists of the currently pending decision whether to adopt the 2007 General Plan itself. Thus, the DEIR uses the term "project-specific" to describe all of the "A" scenarios, even though the DEIR's analysis and conclusions for each of these scenarios actually purports to consider both the individual or "direct" impacts of future development projects *and* those project's contributions to cumulatively significant impacts – impacts that will be considered, and for which mitigation will be required when these individual development projects are approved in the future.

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For example, the DEIR states that scenario 2A, "Project Specific Impacts of the Development under 2030 Cumulative plus Project Conditions," evaluates both "project-specific impacts" that are "exclusively attributable to the development" *and* "impacts to the public roadway system in the immediate vicinity of the development site [that] are cumulative with other development in the area." DEIR, p. 4.6-57. Similarly, the DEIR states that scenario 3A, "Project-specific Impacts of the Development under Existing plus Project Buildout," also evaluates both "project-specific impacts" that are "exclusively attributable to the development" *and* "impacts to the public roadway system in the immediate vicinity of the development site [that] are cumulative with other development in the area." DEIR, p. 4.6-79.

Thus, the discussion of scenario 2A uses the term "cumulative" to refer both to the fact that development in incorporated Cities is assumed, *and* to refer to the fact that the impacts that are at evaluated include "impacts to the public roadway system in the immediate vicinity of the development site [that] are cumulative with other development in the area."

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Conversely, the discussion of scenario 3A uses the term "project-specific" to refer both to the fact that development in the incorporated cities and adjacent counties is not assumed *and* to distinguish "project-specific impacts" that are "exclusively attributable to the development" from "impacts to the public roadway system in the immediate vicinity of the development site [that] are cumulative with other development in the area."

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D. Evaluation Of Tran 1a, 2a, 3a, And 4a Fails To Identify The Extent Of Areas For Which Impacts Are Found To Be Less Than Significant

The DEIR's discussion of impacts at TRAN 1A, 2A, 3A, and 4A concludes that "project-specific deficiencies in roadway or intersection operations in the immediate proximity of the development" (DEIR, pp. 4.6-31) will be fully mitigated, primarily through Policies C1.3 and 1.4. However, the DEIR's conclusion that localized impacts will be fully mitigated is so vague as to be meaningless because neither the DEIR nor the General Plan define the critical terms that refer to the geographic *scope* of the impacts that are purportedly avoided or mitigated through General Plan policies. These terms include "project-specific deficiencies in roadway or intersection operations in the immediate proximity of the development" (DEIR, p. 6.6-31), "project-specific localized development impacts" (DEIR, p. 6.6-31), and "tier 1" impacts (DEIR, p. 3.6-29 and 30).

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Contrary to the DEIR's claim at p. 4.6-29 and 30, the three "tiers" of roadway level of service impacts were not "described earlier." There is no earlier description of the tiers of impacts in the transportation section.¹³ The only hint at the meaning of Tier 1 is provided in the DEIR's discussion of significance criteria. The DEIR explains that LOS is determined with reference to the V/C ratio based on ADT rather than peak hour volumes in its evaluation of some, but not all, impacts. It states that "[t]his measure is applied to two of the three tiers of impacts described earlier; Tier 2: county roads and Tier 3: regional roads and major roads in incorporated cities. This measure is not applied to the first tier of impacts-direct impacts-which are impacts specific to individual developments related to access and localized impacts." DEIR, p. 4.6-29. This contextual definition is no help because the scope of "localized impacts" remains unclear.

It appears that Tiers 2 and 3 may refer to impacts to *types of roadways*, whereas Tier 1 refers to impacts that are *within some unspecified distance* of an individual development project. If that is in fact the way these terms are used, then there is a fundamental ambiguity with respect to impacts on County roads, regional roads, and major roads in incorporated cities that happen to be within the "localized area" included in a particular individual project's Tier 1 area. Are these impacts Tier 1 or Tier 2 and 3 impacts? Are the County roads included in Tier 2 just those major County roads that are quantitatively evaluated in the DEIR's "B" scenarios, or are all County roads included in Tier 2? The DEIR must be revised to explain what geographic area and what roads are

¹³ The term "Tier 3" is used in Policy C1.11, referring to mitigation of regional transportation impacts, but neither the DEIR nor the GP actually define what roadways are included in Tiers 1, 2, and 3 or, if Tier 3 refers to a certain geographic scope around an individual project, what the extent of that scope is.

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included in the localized areas for which the DEIR concludes in the "A" scenarios that impacts will be less than significant.

A meaningful definition of the geographic scope of the "localized area" would be the study area required for a project traffic analysis under ITE's procedures. ITE, Transportation Impact Analyses for Site Development, 2006, Table 2-3, Suggested Study Area Limits for Transportation Impact Analyses, p. 10, Exhibit 11. For example, under ITE's recommended procedure, a traffic study for a project generating 200 to 500 peak hour trips would consider all signalized intersections within 0.5 miles and all major unsignalized intersections and access drives within 0.25 miles.

Referencing ITE's study area definition as the basis of the DEIR's claims that general plan policies will mitigate "localized" traffic impacts would be consistent with the implication in the DEIR's discussion of the "A" scenarios that future project-specific CEQA reviews will identify individual and cumulative impacts and require mitigation.

This definition is also required if the DEIR purports to present a complete analysis of *all* future traffic impacts. The DEIR's approach to traffic impact analysis whereby it quantitatively evaluates impacts to a specific set of major roadways and then qualitatively evaluates impacts to all other unspecified roadways would not be complete unless the roadways subject to the qualitative analysis included all of the roadways potentially affected by future development. The ITE procedure for identifying facilities subject to a traffic study is intended to ensure that all relevant impacts are evaluated.

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However, if the DEIR were to use the ITE traffic study criterion as the geographic scope of the localized impacts evaluated in the "A" scenarios, then, as discussed below, its significance conclusion would have to be revised because 1) the DEIR admits that impacts to many specific County and regional roadways evaluated under the "B" scenarios, which will be included in the ITE study area for at least some projects, cannot feasibly be mitigated, and 2) no policies actually ensure that cumulative impacts to all other facilities will be mitigated.

If the DEIR is not revised to define the "localized" area evaluated in the "A" scenarios with reference to the ITE study area, then it must be revised to provide some explanation of the geographic scope implicit in its claim that general plan policies will ensure that localized impacts will not be significant.

E. DEIR's Conclusion Of No Significant Impact In TRAN 1A, 2A, 3A, and 4A Is Invalid Because The Localized Areas Contain The Roadways Found To Suffer Degraded LOS In The DEIR's Evaluation Of TRAN 1B, 2B, 3B, And 4B

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The geographic scope of "localized impacts" for many future development projects would include portions of the roadways evaluated in the "B" scenarios and found to suffer significant unmitigated impacts. Thus, the conclusion in TRAN 1A, 2A, 3A, and 4A is not valid for projects whose scope includes those roadways because the

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DEIR admits in its analysis of TRAN 1B, 2B, 3B, and 4B that impacts to these roadways will remain significant and unavoidable. The DEIR admits in its discussion of the "B" scenarios that numerous impacts to County and Regional roadways cannot be mitigated, primarily due to lack of available funding. DEIR, pp. 4.6-44 to 45, 69, 87 to 88, 103. If the "localized area" is defined so narrowly as to exclude all County and regional roadways, then the conclusion in the "A scenarios" is essentially nothing more than the trivial requirement that future projects provide driveway access. Presumably the DEIR is making a broader claim than that.

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The DEIR must be revised to provide a meaningful definition of so-called Tier 1 or localized impacts. Since the area included in any meaningful definition would contain County or regional roadways for which the DEIR finds any significant unmitigated impacts under the "B" scenarios, the significance conclusion must be revised to find that there will in fact be significant unmitigated impacts.

F. DEIR's Conclusion Under TRAN 1A, 2A, 3A, And 4A That Localized Impacts Will Be Fully Mitigated Is Unfounded Because The Policies Recited As The Basis For The Conclusion Do Not Support The Conclusion

The DEIR's discussion of impacts in the "A" scenarios concludes that "project-specific deficiencies in roadway or intersection operations in the immediate proximity of the development" (DEIR, pp. 4.6-31) will be fully mitigated through Circulation Policies C1.3 and 1.4 and Land Use Policy 1.4.¹⁴ DEIR, pp. 4.6-31 to 33, 57 to 58, 78 to 79, and 93 to 94. The DEIR's discussion of impacts in the "A" scenarios concludes that "project-specific deficiencies in roadway or intersection operations in the immediate proximity of the development" (DEIR, pp. 4.6-31) will be fully mitigated through Policies C1.3 and 1.4. DEIR, pp. 4.6-31 to 33, 57 to 58, 78 to 79, and 93 to 94. The DEIR states that these impacts include "impacts to the public roadway system in the immediate vicinity of the development site [that] are cumulative with other development in the area." DEIR, pp. 4.6-57 and 79.

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There is no substantial evidence that Policies C 1.3 and C 1.4 will ensure that cumulative impacts are mitigated. In fact, as set forth in the discussion below, it is evident that Policy C1.3 and C1.4 would permit unmitigated cumulative impacts.

¹⁴ Reference is also made to policies C2.1, 2.2, and 2.7. DEIR, p. 4.6-32. These policies are limited in scope, applying to concentrated commodity movements (C1.1), protecting transportation facilities from encroachment (C2.2) and requiring new development to be located with access to transportation (C2.7). These Policies do not require mitigation of prospective impacts to roadways. Similarly, the referenced Policies C3.5, 4.3, 4.5, and 4.9, requiring accommodation of pedestrians, bicycles, and transit, do not require mitigation of prospective impacts to roadways, even if they may somewhat attenuate those impacts. DEIR, p. 4.6-32. The reference to Policy LU 1.7 is also somewhat oblique: this Policy calls for encouragement of clustering residential development onto portions of a given piece of property most suitable for development where infrastructure exists or can be provided. This Policy does not require but merely encourages clustering, and it does not require future development to mitigate transportation impacts. Significantly, while these policies are recited in the discussion of TRAN 1A, none of these policies are mentioned in the discussions of TRAN 2A, 3A, and 4A, which mention only Policies C1.3 and 1.4.

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Policy C1.3 provides that projects that "are found to result in reducing a County road below LOS D," or the applicable LOS per Policy C1.1, will be required to be phased so that LOS D is maintained concurrent with development. The implication on a casual reading is that development will be barred until there is an assurance that acceptable LOS would be maintained concurrently. This reading is also suggested by the reference to Policy LU 1.4, which states that "growth areas shall be designated only where an adequate level of services and facilities such as . . . transportation . . . exists or can be assured concurrent with growth and development." However, a closer reading of Policy C1.3 and 1.4 demonstrates that their language would 1) permit development that makes cumulatively considerable contributions to unacceptable LOS as long as LOS were not pushed from LOS D to E or E to F by that project alone, and 2) permit development to go forward on the basis of fair share payments even though those payments would not in fact result in acceptable LOS.

1. Mitigation of all cumulatively considerable contributions to significant impacts is not required by Policy C1.3 because the policy can be construed to require phasing only when LOS is pushed from D to E or E to F and because Policy C1.3 does not address cumulative impacts

Policy C1.3 can be construed to require phasing development projects only when the project at issue is the straw that breaks the camel's back by pushing LOS from D to E or from E to F. This construction is evident from the impact analyses at TRAN 1B, 2B, 3B, and 4B which treat an impact as significant only if it pushes LOS from D to E or from E to F. Under this approach, where LOS is already at F, the DEIR treats impacts as less than significant by definition. This approach also treats substantial degradation of V/C ratios as insignificant where the existing LOS is at D or E but does not degrade to the next level.

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The DEIR's significance criteria is ambiguous in this regard, stating that a significant impact occurs if the project will "add any traffic to a County roadway or State Highway that operates below LOS D without the project and the project worsens the LOS based on the measure of performance." DEIR, pp. 4.6-29 to 30. The construction of the phrase "degraded further" in Policy C1.1b is similarly ambiguous. Policy C1.1b states that "County roads operating at LOS D or below at the time of adopting this General Plan shall not be allowed to be degraded further except in Community Areas where a lower LOS may be approved through the Community Plan process."

The DEIR must be revised to clarify whether, in these contexts, "degraded further" means driven from D to E or from E to F, or whether a considerable contribution to an increase in the V/C ratio that did not itself result in a change from D to E or E to F would be considered to be "further degradation?" If "degraded further" does include a cumulatively considerable contribution short of a change from D to E or E to F, then the DEIR must be revised to clarify how much degradation in LOS would be considered cumulatively considerable contribution.

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Under the “final straw” reading of “further degraded” that is permitted by the existing wording of the general plan policies, Policy C1.3 would permit approval of projects that make cumulatively considerable contributions to degraded intersections without any assurance of mitigation. Individual projects could be serially approved based on project-level CEQA analyses that show that the LOS is not pushed downward a full LOS level (i.e., from D to E or from E to F) until finally some project does have that result. While the County could conceivably cease all discretionary approvals affecting the roadway at that point, external growth and ministerial permitting would likely result in the eventual unmitigated degradation of the LOS to the next level. Furthermore, it would be irrational to require mitigation of cumulative impacts only from the last straw project.

Furthermore, Policy C1.3 does not itself address cumulative impacts. Its phasing requirement applies only to “projects that are found to result in reducing a County road below LOS D.” Only Policy C1.4 explicitly addresses cumulative impacts. If Policy C1.3 is intended to address cumulative impacts, the EIR must explain how its language will be so construed.

Thus, Policy C1.3 should be rewritten and clarified to require phasing all of those projects (i.e., conditioning project approval on the actual construction of mitigating facilities) that make any cumulatively considerable contributions to significant traffic impacts. This requires that the County rewrite the policy and define a cumulatively considerable contribution so as to ensure that unmitigated impacts do not eventually result in degraded LOS without any project being required to address the impact. An appropriate definition would be *any* increase in the V/C ratio of a facility that is already at LOS D.

The fact that, as written, C1.3 cannot be readily construed to require phasing projects with cumulatively considerable impacts means that C1.3 cannot be the basis of a conclusion that cumulative impacts will be mitigated on either the major County and Regional roadways evaluated in the “B” scenarios (which the DEIR admits will have unmitigated impacts) *or* the other unspecified County and city roadways affected by future individual development projects purportedly evaluated in the “A” scenarios.

2. Policy C1.4 permits projects to proceed on the basis of fair share payments toward mitigation of cumulative impacts even though the DEIR admits that cumulative impacts to numerous specific roadways cannot feasibly be mitigated by these payments

Policy C1.4 provides that “direct on-site and off-site circulation improvements that mitigate project impacts shall be constructed concurrently,” but permits new development merely to make fair share payments toward off-site improvements that “mitigate cumulative impacts,” pursuant to Policies C1.8 and C1.11. Policy C1.4 does *not* assure that cumulative impacts to those specific County and regional roadways specifically evaluated in the DEIR’s “B” scenarios will be mitigated. As noted above, the DEIR admits in its discussion of the “B” scenarios that numerous

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impacts to County and Regional roadways cannot be mitigated, primarily due to lack of available funding.¹⁵ DEIR, pp. 4.6-44 to 45, 69, 87 to 88, 103. Thus, Policy C1.4 cannot be the basis of a conclusion that cumulative impacts will be mitigated on the major County and Regional roadways evaluated in the “B” scenarios, which the DEIR admits will suffer unmitigated impacts from future development that cannot feasibly be mitigated.

3. Policy C1.4 permits projects to proceed on the basis of fair share payments toward mitigation of cumulative impacts even though the DEIR provides no substantial evidence that cumulative impacts to these unidentified roadways will be mitigated

The DEIR’s conclusion in the “A” scenarios that all cumulative impacts will be mitigated for a set of unspecified roadways cannot be supported on the basis of Policy C1.4 either, even if the claim is limited to roadways other than those that were specifically evaluated in the DEIR’s “B” scenarios and found to suffer unmitigated impacts. There are numerous county roadways, arterial and smaller, that were not included in the set of roadways evaluated under the “B” scenarios, and these roadways will be affected by cumulative future development. Policy C1.4 states

“Direct on-site and direct off-site circulation improvements that mitigate project impacts shall be constructed concurrently with new development. Off-site circulation improvements which mitigate cumulative impacts either shall be constructed concurrently with new development, or a fair share payment pursuant to Policies C-1.8 and C-1.11 shall be made.”

Presumably the terms “direct on-site” and “direct off-site circulation improvements” are intended to reference improvements that are necessary to mitigate a future project’s impacts that are individually significant. With regard to *cumulative* impacts (as opposed to “direct” or individually significant impacts), Policy C 1.4 is disjunctive: mitigation is supposed to occur through 1) some unspecified mechanism whereby “off-site circulation improvements which mitigate cumulative impacts either shall be constructed concurrently with new development,” or 2) “a fair share payments pursuant to Policies C-1.8 and C-1.11.” The inability of these two disjunctive prongs of Policy C1.4 to mitigate all cumulative impacts is addressed in two parts immediately below.

First, Policies C-1.8 and C-1.11 pertain to the proposed County Traffic Impact Fee Policy and the adopted TAMC Regional Traffic Impact Fee, both of which are programs that are targeted to support a defined set of roadway improvements. See 2008 General Plan Update Errata/Addendum, Sep. 3, 2008, Table C-1, 2008 Regional Development Impact Fee – Project List; DEIR, p. 4.6-24, Table 4.6-12, TAMC Regional Traffic Impact Fee Program Projects. As discussed above, the DEIR admits in its analysis of the “B” scenarios that, despite the assumed construction of these

¹⁵ Although TRAN 1B and 3B evaluate “project-specific” impacts to these roadways, the “project” referred to is the approval of the 2007 General Plan, and the development impacts evaluated include the essentially cumulative impact of all development that occurs in the unincorporated area of the County.

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improvements through these impact fee programs, significant unmitigated impacts will remain. DEIR, pp. 4.6-44 to 45, 69, 87 to 88, 103.

The language of Policy C 1.8 does not even apparently apply to development projects within the unincorporated County, since the first sentence of the Policy states that "[d]evelopment proposed *in cities and surrounding jurisdictions* shall be carefully reviewed to assess the proposed development's impact on the County's circulation system." 2008 General Plan Update Errata/Addendum, Sep. 3, 2008. Thus, Policy C1.8 appears to be intended to ensure that the County take steps to see that development outside the County's jurisdiction be reviewed so as to require extra-territorial development to mitigate impacts on County facilities. It is unclear how this relates, if at all, to the proposed¹⁶ County Traffic Impact fee program since it is unlikely that development projects outside the County's jurisdiction could be required to make contributions to a County impact fee program. At any rate, assuming that projects do make fair share contributions to the proposed County Traffic Impact fee program identified in Policy C1.8, those contributions would only fund a specific set of improvements. Therefore, this program cannot be the basis of the DEIR's conclusion that cumulative impacts to *all* of the unidentified facilities that the "A" scenarios purport to address will be mitigated.

The language of Policy C1.11 cited by Policy C1.4 is apparently restricted to the mitigation of so-called "Tier 3 impacts" (although that language is not defined in the General Plan) through construction of the specific facilities designated through the TAMC Countywide Traffic Impact Fee Program. Again, this mitigation is limited to a specific set of facilities to which TAMC proposes to dedicate its proceeds (and, which require substantial amounts of additional funding that has yet to be identified, as discussed below). Thus, neither Policy C 1.8 nor C 1.11 would ensure concurrent mitigation of cumulative impacts to 1) unidentified facilities not included on the specific list of roadway improvement projects for which these fee programs were designed, or 2) the identified facilities that *are* included on the specific list of projects but to which the DEIR nonetheless concludes that impacts will remain significant and unavoidable.

Second, while Policy C-1.4's first prong states that "off-site circulation improvements which mitigate cumulative impacts either *shall be constructed concurrently with new development . . .*", there are no programs or implementation measures that would ensure that cumulative impacts to the unidentified roadway facilities *not* included on the TAMC or County impact fee project list are actually mitigated through concurrent construction paid for by fair share fees, or otherwise. Policy C 1.4 simply does not identify any mechanism that would actually be put in place through the General Plan that would ensure that this occurred. *Murietta Valley Unifed School District v. County of Riverside* (1991) 228 Cal.App.3d 1212 requires that a general plan actually contain appropriate financing mechanisms or other arrangements that implement

¹⁶ The September 3, 2008 Errata/Addendum revises the text of Policy C1.8 to state that the "County . . . has adopted a County Traffic Impact fee." It is unclear whether the County has in fact adopted the Traffic Impact fee since the Errata continues to refer to "Proposed Transportation Facilities" to be funded by a County Traffic Impact Fee. The EIR must clarify the status of this program.

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policies mandating the provision of facilities. As noted, neither the County's proposed Traffic Impact Fee program nor TAMC's Regional Traffic Impact Fee program address all of the unidentified County roadways purportedly evaluated in the DEIR's "A" scenarios, so these programs do not qualify as the essential implementing mechanism.

Furthermore, the previously proposed language in Policy C 1.8 calling for *ad hoc* fees pending adoption of a County Traffic Impact Fee program was eliminated in the September 3, 2008 Errata/Addendum to the General Plan; thus, even if there were some evidence that *ad hoc* exactions of fair share payments could mitigate cumulative impacts, this provision has been excised. See 2008 General Plan Update Errata/Addendum, Sept. 3, 2008, revised Policy C-1.8. And, as discussed below, there are no *other* policies that will ensure that all cumulative impacts are addressed.

4. No other policies will ensure that cumulative impacts are mitigated before development occurs

a. Policy C1.1 does not ensure that cumulative impacts are mitigated before development occurs

Policy C1.1, allowing Community Plans, Area Plans, and Land Use Plans to re-designate a LOS lower than D, is not identified by the DEIR as the basis of its conclusion in the "A" scenarios that the impacts, including cumulative impacts to roadways in the vicinity of specific future projects, will be less than significant. If the DEIR's conclusion does rest on the assumption that cumulative impacts can be "mitigated" by adopting a lower LOS, the County has an obligation to disclose this. A "policy" of simply lowering the announced LOS standard whenever it cannot be met does not meet the Planning and Zoning law's requirement that a circulation element support the land use element. And an EIR whose conclusions rest on the undisclosed intention to define away impacts by *ad hoc* reclassification of the acceptable LOS for a set of unidentified but affected facilities would not meet CEQA's good faith disclosure requirements.

b. Policy C1.2 does not ensure that cumulative impacts are mitigated before development occurs

Policy C1.2, requiring achievement of LOS standards through adoption of as yet unspecified Capital Improvement and Financing Plans ("CIFP"), is also not identified by the DEIR as the basis of its conclusion that the impacts under the "A" scenarios are less than significant. Even if it were cited, it would not suffice. Policy C1.2 does not require that acceptable LOS be achieved *until 2027*. The DEIR states that the General Plan's planning horizon is 20 years. DEIR, p. 3-8. Thus, as written, Policy C1.2 permits deficient LOS for the duration of the General Plan's planning horizon, which, as discussed below, is fundamentally inconsistent with the correlation requirement under Government Code Section 65302(b). And Policy C1.2 does not explain what the consequence of failing to meet the LOS standard would be, *e.g.*, it does *not* require phasing development until an adequate LOS is achieved.

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c. The “APFS” policies cannot ensure that cumulative impacts are mitigated before development occurs

Conceivably, the DEIR’s conclusions in the “A” scenarios intended to reference the undefined and speculative Capital Improvement and Financing Plan (“CIFP”) process by reciting Land Use Policy 1.4, which provides that “growth areas shall be designated only where an adequate level of services and facilities such as . . . transportation . . . exists or can be assured concurrent with growth and development.” Policy LU 1.4 may in turn conceivably be intended to invoke Public Service Policies PS1.1 through 1.6, which purport to require that no new discretionary development be allowed unless Adequate Public Facilities and Services (“APFS”) requirements are met. See e.g., PS1.3. If this is the basis of the DEIR’s conclusions with respect to the significance of cumulative impacts in the “A” scenarios, the DEIR must be revised to say so.

However, even if the APFS Policies were cited as the basis of the DEIR’s conclusion in the “A” scenarios (and they were not), these policies would not support the DEIR’s finding that cumulative impacts of individual development projects will be avoided by concurrent construction of improvements for the following reasons, which are discussed more fully in the sections immediately below:

- There will be enormous administrative and financial burdens associated with implementation of CIFPs as the CIFP idea is sketched in Policies C1.2 and PS 1.1 to 1.6 – burdens which the DEIR has not made a good faith effort to disclose;
- Although the APFS requirements include addressing *existing* LOS deficiencies, there are no policies that would require this before 2027;
- Policies permitting exceptions to the LOS D standard are incomplete, inconsistent, and uncontrolled, and, if relied upon, would render the General Plan LOS standard meaningless; and
- Like Policy C1.2, Policies PS1.1 through 1.6 fail CEQA’s requirements for payment of impact fees as mitigation: there are in fact no funded and adopted CIFPs in place, the necessary improvements are not identified, the proposed benefit areas are not specified, there is no evidence that funding necessary capital improvements is feasible and substantial evidence to the contrary, and there is no provision for interim measures pending completion of the CIFPs.

Thus, the undefined CIFP program does not provide a basis to conclude that future cumulative impacts in the area of individual development projects will be mitigated.

- i. *Administrative burden of completing CIFPs is not disclosed and will lead to development moratorium or violation of policies requiring CIFPs*

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It is not clear how many CIFPs will be required, what areas they will cover, and whether they will overlap. It *appears* that the CIFPs referenced in C1.2 may be the same CIFPs that are required under PS 1.1, but this is not at all clear. For example, the 20 year planning horizon for attaining acceptable LOS under the CIFPs required by Policy C1.2 is not compatible with the requirement that APFS standards be met concurrent with new development. This inconsistency must be explained.

Policy C1.2 states that CIFPs may cover a benefit area consisting of a Planning Area, a Community Area, or the County as a whole. Note 4 to Table PS-1 mentions Rural Centers as well, so it appears that CIFPs are required for Rural Centers. See also DEIR, p. 3-44. A CIFP will be required for the AWCP. GP, p. AWCP-19; DEIR, p. 4.6-116 to 117. The scheme for meeting APFS requirements in PS 1.1-1.6 contemplates that a CIFP be in place before any development occurs that may create LOS deficiencies. Thus, there could be as many as 23 CIFPs required to be developed (or perhaps as few as one impossibly comprehensive County-wide CIFP). Twenty-three CIFPs would be required if there were one County-wide CIFP and also a CIFP for each of the 8 Area Plans, the Carmel Valley Master Plan, the AWCP, each of the 5 Community Areas, and each of the 7 rural centers.

If the CIFPs referenced by Policies PS1.1 through 1.6 and AWCP section 4.5 are the same CIFPs referenced by Policy C1.2, it should be noted that Policy C1.2 requires that *all* of these plans be developed within 18 months, but it does not say who will be responsible for preparing these CIFPs. For example, it is not evident that development proponents are standing by ready to shoulder this burden. The coordinated development of this many plans within 18 months is a formidable administrative task – for either the County or development proponents.

Preparation of a CIFP would require identification and costing of necessary improvements, which in turn would require traffic studies, which in turn would require a specific proposal for future development.

CEQA analysis would be required before the County committed itself to construction of a specific set of improvements through the adoption of a CIFP, because the construction of those improvements would potentially cause environmental impacts. While this CEQA analysis might be undertaken in connection with the CEQA analysis required for adoption of plans for Community Areas or Rural Centers, plans for all of these development areas are unlikely to be proposed or completed within the next 18 months. Because there are presumably no current plans to revise the Area Plans after adoption of the 2007 General Plan, independent CEQA analysis would be required for CIFPs for which the benefit area is a Planning Area.

The DEIR states that “development of Rural Centers is supposed to be a secondary priority after the development of Community Plans for the Community Areas,” so it is unclear how and why the 18 month deadline would have to be met for the rural center CIFPs. DEIR, p. 3-43.

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Policy C1.2 and Policies PS1.1 to 1.6 must be clarified to explain 1) whether the CIPP's identified in Policy C1.2 are the same as those identified in Policies PS1.1 to 1.6, 2) how many CIPPs will be required, 3) whether and how they will overlap, 4) who will pay for their development, 5) how they will be completed timely, 6) whether CEQA analysis for CIPPs will be undertaken separately or in conjunction with plans for Community Areas and Rural Centers, and 7) why and when CIPPs will be required for Rural Centers.

In view of the substantial magnitude of the administrative task of preparing adequate CIPPs (independent of the task of obtaining funding), and in view of the lack of clarity about the CIPP process itself, it is unreasonable for the DEIR to conclude that future development will proceed unimpeded by this administrative burden.

Thus, the DEIR should acknowledge that the administrative process to complete CIPPs will constitute a development moratorium, and should explain how that process could be achieved within 18 months, particularly in view of the enormous delay in adoption of TAMC's Regional traffic impact fee and the County's own proposed traffic impact fee. If development is to be permitted in Community Areas and Rural Centers despite the absence of a CIPP, the General Plan should clarify under what conditions this would be permitted and how that would be consistent with Policies C1.2 and PS 1.1 through 1.6.

ii. Existing LOS deficiencies must be corrected

Policies PS1.1 through 1.6 require that no new development be allowed unless APFS requirements are met. See e.g., PS1-3. Policy PS1.1 states that APFS requirements shall "ensure that APFS needed to support new development are available" concurrent with the impacts of development and shall "seek to achieve acceptable level of service (LOS) standards through improvements funded by fair share impact fees and planned capital improvements (CIPP)." Thus, a CIPP must be in place that ensures correction of existing LOS deficiencies and prevents future cumulative impacts before any new development can be permitted in the CIPP's benefit area. This conclusion is reinforced by the reference to CIPPs in Policy C1.2 that are apparently intended to correct existing LOS deficiencies.

This conclusion is also reinforced by CEQA definition of cumulative impacts, which are caused by past and present development, not just foreseeable future development. CEQA Guidelines, § 15355(b). The General Plan and DEIR should make it clear that any delay in preparation of the required CIPPs and any delay in correction of existing LOS deficiencies will result in a development moratorium. In view of the 20 year period allowed by Policy C1.2 to achieve acceptable LOS, it appears that the enforcement of the APFS requirement may effectively bar development for a substantial period of time.

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If the County does not intend to correct existing LOS deficiencies before permitting additional development, then it must clearly explain under what circumstances this development will be permitted. As discussed immediately below, the proposed General Plan Policies do not do this.

iii. Exception to requirement to meet LOS D where LOS is already below D must be clarified

Policy C1.3 provides that projects that "are found to result in reducing a County road below LOS D," or the applicable LOS per Policy C1.1, will be required to be phased so that LOS D is maintained concurrent with development. Policy C1.3 provides two exceptions, one of which is apparently intended to permit development to go forward even though existing LOS degradations have not been rectified. The language of the Policy must be clarified, and the DEIR must be revised to explain to what extent its conclusions that cumulative impacts will be mitigated rest on this exception.

Under its first exception, Policy C1.3 provides that if LOS is already below D and the roadway has been identified as a top priority in the CIPP, then Policy C1.4 (calling for fair share payments toward mitigation of cumulative impacts) applies. Based on this language, if the LOS is below D and 1) there is no CIPP (e.g., before a CIPP is developed) or 2) the CIPP has not identified the road as a top priority, then development will have to be phased, i.e., not permitted, until LOS meets LOS D. In effect, the policy would bar most development where the existing LOS is below D until a CIPP makes improvement of the affected facility a top priority. If this is the case, the EIR must so state.

If it is not the case, then the EIR should explain under what circumstances development would be permitted before there is a CIPP or if a CIPP has not identified the affected facility as a top priority.

Policy C1.3 apparently qualifies the requirement that LOS D be achieved with the phrase "or the applicable LOS per Policy C-1.1," which allows a lower LOS to be designated in Community Areas or through Area Plans and "Land Use Plans." If Policy C1.3 does not require meeting LOS D and only requires meeting the applicable LOS per Policy C1.1, then the DEIR must disclose whether the conclusion in TRAN 1A, 2A, 3A, and 4A that there will be no LOS impacts depends on the assumption that LOS will be permitted to degrade below LOS D through Policy C1.1. If the DEIR's conclusion in the "A" scenarios does depend on wholesale re-designation of LOS standards, the LOS designations in the General Plan are essentially meaningless since they are infinitely malleable and the DEIR's analysis amounts to the claim that new development can meet LOS standards because the County can change them whenever it wants to for whatever reason it chooses. And if the County plans wholesale re-designation of LOS standards, then it is entirely unclear why Policy C1.2 permits a 20-year period to achieve acceptable LOS.

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As discussed above, if the DEIR's conclusion does depend on the assumption that LOS standards will be relaxed, then the DEIR must disclose where LOS designations will be relaxed and what constraints will be imposed on such re-designations. Policy C1.1 references entirely unspecified "benefits" that must be cited to justify re-designation of LOS standards for Area Plans, but it imposes no "benefit" requirement on re-designations by Community Plans or "Land Use Plans." "Benefit" requirements for re-designations of LOS standards must be explained and meaningfully constrained. For example, the DEIR must explain whether the "benefits" test would include considerations unrelated to transportation.

Furthermore, the term "Land Use Plan" is not defined. This term should be dropped, because it apparently would permit *ad hoc* re-designation of LOS standards by developers' plans for specific projects. Only Community Plans and Area Plans – plans that are less likely to be driven by individual developers' interests – should be allowed to specify lower LOS standards. Otherwise, the LOS designations will be meaningless in practice since they could be evaded by any and all individual development projects.

The County must clarify what "top priority" means in the context of Policies C1.3 and 1.4. The term is entirely undefined and obviously presents a substantial loophole to allow development to aggravate existing LOS deficiencies on the basis of an entirely unconstrained act of announcing good intentions. A reasonable construction of "top priority" would require that a CIFP include a planned, approved, and fully funded improvement project that is scheduled for completion by the time the development project is completed that would ensure 1) that existing deficiencies in the LOS are corrected and 2) cumulatively considerable contributions to reductions in V/C ratios are avoided. Any construction of "top priority" short of this would not ensure that cumulative impacts are avoided, and the DEIR's conclusion that cumulative impacts are avoided in the "A" scenarios would lack any foundation. Merely designating an improvement as a "top priority" without such a requirement is meaningless.

Under its second exception, Policy C1.3 excepts a list of projects including "first single family dwelling," second units, and non-discretionary use for commercially designated properties. The DEIR and General Plan must clarify whether this policy excepts only a single unit development of a "first single family dwelling" on a single lot of record, or whether it excepts a residential subdivision containing multiple "first single family dwellings?" Do non-discretionary uses in commercially designated properties include ministerial winery permits? If so, these uses have the potential to generate substantial traffic, which will not be mitigated. This must be disclosed.

iv. Funding not identified or likely to be available for CIFPs

When impact fees are proposed as mitigation, the record must contain evidence that the necessary infrastructure improvements will actually be constructed when needed. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 728; *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1189. An agency must provide substantial evidence that the impact fees will be used to implement

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a "reasonable, enforceable plan or program." *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1189.

Because the CIFPs have not been developed, because there is substantial uncertainty as to their requirements, and because there is no evidence that the CIFPs can be developed timely, much less funded timely, it is clear that there is no enforceable plan or program.

Furthermore, there is substantial evidence that funding for the CIFPs is not and will not be available. The 2007 General Plan does not identify funding sources. Instead, it states that "[m]eeting transportation needs in an era of limited funding presents a significant challenge" 2007 GP, p. Circ-1. It discusses the need to link circulation strategies to growth and land use plans and then goes on to say that "[d]eveloping and implementing funding solutions are also necessary." 2007 GP, p. Circ-2. Acknowledging the need to develop a plan is not a plan.

The 2007 General Plan mentions development impact fees in Policies C1-2(d) (unspecified TIF), C1.4 (unspecified "fair share payments"), C1.8 (proposed county TIF), and C1.11 (TAMC TIF). However, as discussed above, the TAMC and proposed County fees are admittedly insufficient to mitigate future impacts, even to the limited set of roadways to which their proceeds will be devoted.

The only policies that address funding other than development impact fees are vague policies to "support and encourage" TAMC's efforts to find funding (Policy C1.6), to seek funding from "TAMC and other available resources" (Policy C1-7), to use "all available public and private sources" of funding (Policy C1.9). Plans to beg for funds from other agencies have been specifically found to be an inadequate foundation for a circulation element. *Concerned Citizens of Calaveras County v. Calaveras County Board of Supervisors* (1985) 166 Cal.App.3d 90, 103.

Payment of impact fees for improvements that are infeasible does not constitute the necessary commitment to mitigation: where the cost of highway improvements necessary to mitigate impacts are clearly beyond the means of the local jurisdiction, it cannot be reasonably argued that mitigation is feasible. *Napa Citizens v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 364. The record must show how the balance of necessary funds over and above development impact fees would be obtained so that the agency has substantial evidence in support of its expectation that needed improvements will be built. *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1189; see also *Endangered habitats League v. County of Orange* (2005) 131 Cal.App. 4th 777, 785 (regardless of reasonableness of developer's contribution, a fee program is insufficient mitigation where agency will not have sufficient funds).

Nor does the DEIR identify an adequate source of funding for the improvements necessary to address future cumulative impacts. Indeed, as discussed below, neither the 2007 General Plan nor the DEIR even identify all of the improvements that would have

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to be funded in order to attain adequate LOS. The DEIR's admission that funding is not available to address the impacts to the specific facilities evaluated in the "B" scenarios is substantial evidence that there will not be sufficient funding to address all of the other cumulative impacts purportedly evaluated in the "A" scenarios. Indeed, the DEIR *admits* that the rate of growth will outpace construction of new transportation facilities. DEIR, p. 4.6-44 to 45.

Experience demonstrates that funding will not be available to maintain roads, correct existing LOS deficiencies, and complete the funding of planned improvements. For example, development impact fees represent only \$328 million of the \$1.18 billion required for the projects identified in TAMC's Regional Impact Fee Nexus Study Update, Kimberly Horne, Regional Impact Fee Nexus Study Update, March 26, 2008, p. iii to iv. The balance of funding, corresponding to the contributions of existing and out-of-county traffic, must come from other sources, which the Nexus Study does not identify. TAMC's current investment plan calls for \$1.8 billion in spending, but is critically dependent on raising \$1 billion from a 25-year 1/2 cent sales tax, a measure that has repeatedly been defeated by the voters, most recently in November 2008. TAMC, Investment Plan for transportation Sales Taxes in Monterey County, available at <http://www.tamcmonterey.org/programs/plaueip.html>. The TAMC investment plan also depends on obtaining \$410 million in matching state and federal funding – which will not be available without the sales tax passage. Thus, the funding that is necessary actually to complete the identified improvements remains speculative.

If TAMC has been unable to identify complete funding for a *partial set* of the necessary regional improvements despite its efforts over many years, it would be pure speculation to assume that the County will be able to obtain funding for an undefined set of improvements through a CIFP mechanism that has yet to be planned, much less adopted.

The DEIR does not contain any substantial evidence that the County's own proposed limited traffic impact fee program identified in the revised Policy C1.8 is itself a feasible means to construct the proposed improvements. As noted, this program purports to address only a limited set of improvements to certain County roads. Although the revised Policy C1.8 states that the County's traffic impact fee program has been adopted, there is no evidence that it has in fact been adopted. LandWatch requested information about this program and was advised by County staff that 1) the County Impact Fee is still being developed; 2) the list of roadways identified in GPU5 and the DEIR are the draft candidates; and 3) the program will probably be taken to the Board of Supervisors after GPU5 is adopted. If the County fee program has been adopted, or even developed past the draft stage, the DEIR must be revised to include information about its approval status, its sources of funding, the adequacy of that funding, the specific roadway improvement projects to be constructed, the timing of those improvements, and responsibility for implementation. Without this information, there is no evidence that this program is feasible.

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Even if this proposed County program were fully funded, these improvements would not mitigate all of the impacts identified under the "B" scenarios, much less all of the impacts to unspecified roadways purportedly addressed under the "A" scenarios. There is simply no available information about funding for improvements necessary to mitigate cumulative impacts to all of the unspecified roadways purportedly evaluated in the "A" scenarios. In view of the evidence that even limited roadway improvements are beyond to financial capability of the County, it is entirely unreasonable to assume that the vaguely sketched CIFP process will be adequately funded. The DEIR must be revised to acknowledge this fact, and to acknowledge that there is no substantial evidence that cumulative impacts in "localized areas" will be less than significant.

G. Lack of Full Analysis

The DEIR purports to provide a full quantitative analysis and specific proposed mitigation of impacts to Carmel Valley Master Plan and to the area included in the AWCP, but fails to do so for all other areas of the County. This level of analysis should have been provided for other areas instead of the incomplete qualitative analysis under the "A" scenarios. There is no justification for ignoring the details of roadway impacts in other areas of the County, particularly in areas where the location and level of future development intensity is substantially constrained.

H. Inadequate First Tier Cumulative Analysis

CEQA permits future project-level EIR's to tier from a cumulative impact analysis in the first tier, and partially exempts a project consistent with a general plan from cumulative impact analysis. The DEIR's "A" scenario impact analysis purports to find that future cumulative impacts to roadways proximate to a project will not be cumulatively considerable, but it contains no assumptions about localized cumulative conditions and no analysis of specific roadway segments. Without such information, the conclusion in the "A" scenarios does not fulfill CEQA's requirements for an adequate first tier cumulative impact analysis that could permit future projects to dispense with cumulative impact review of localized impacts. In fact, there is no real content to this "analysis" since it is not based on anything more than a recitation of policies without applying them to any facts or assumptions.

The DEIR should be revised to provide detailed quantitative analysis of cumulative impacts to all roadways for which future impacts can reasonably be predicted based on the 2007 General Plan's constraints on the intensity and location of development. Where specific quantitative analysis is not provided, the DEIR must be revised to acknowledge that future projects will not be able to "tier" from the 2007 General Plan DEIR's cumulative impact analysis.

I. Failure to Propose All Feasible Mitigation

For the reasons set out above, the DEIR's conclusion that general plan policies will avoid all cumulative impacts from future development projects in localized areas

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evaluated under the "A" scenarios is not based on substantial evidence. Furthermore, the DEIR admits that future development will cause significant unmitigated impacts to the County and regional roadways evaluated in the "B" scenarios. DEIR, pp. 4.6-44 to 45, 69, 87 to 88, 103.

Accordingly, the DEIR must be revised to propose all feasible mitigation to address cumulative impacts. In light of the apparent inability of the County to fund future roadway improvements, the key mitigation must be an enforceable ban on future development projects that make a considerable contribution to a significant cumulative impact until there is an adopted, funded program that will result in the construction of necessary improvements prior to occupancy of the project. The policies in the 2007 General Plan do not accomplish this.

J. Significance Criteria For Transportation Impacts Not Specified

The discussion of significance criteria states that the measure of significance for Tier 2 and 3 impacts is LOS, determined by the V/C ratio using ADT rather than peak hour traffic. DEIR, p. 4.6-29. It states that "this measure is not applied to Tier 1 impacts" and it makes clear that it employs the VC ADT method only because the DEIR is a program level or first tier EIR.

From this discussion, it is not clear what criteria are assumed by the DEIR in its evaluation of the impacts purportedly evaluated under the "A" scenarios. Because there are no actual quantitative analyses of Tier 1 impacts, this cannot be determined from context. Furthermore, neither the DEIR nor the 2007 General Plan state what significance criteria will be used in evaluating future projects and in devising future CIFPs to attain acceptable LOS. Conceivably, future projects might be evaluated with reference to V/C ratios (ADT or peak hour), signal delay, or density.

The DEIR and the 2007 General Plan must be revised to identify the significance criteria the County will use for CIFPs and future project level traffic analyses.

K. Circulation Plan Inadequacies Under Planning and Zoning Law

1. Lack of correlation

Government Code Section 65302(b) requires that the circulation element identify "the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan." The consistency doctrine also requires that a General Plan be internally consistent. Gov. Code, § 65300.5. The statutory requirement that the circulation element correlate with the land use element of a general plan (Gov. Code, § 65302(b)) effectively requires the circulation element to set forth service standards as well as proposals to address changes in roadway demand caused by changes in land use. *Concerned Citizens of Calaveras County v. Calaveras County Board of Supervisors* (1985) 166 Cal.App.3d 90, 100.

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Specifically, growth must not impair circulation standards. *Id.* at 99-103. In *Concerned Citizens of Calaveras County* the court held that achieving the mandatory correlation of the circulation and land use elements required that a county actually identify funding sources and a real plan to address deficient levels of service before allowing additional growth. *Id.* at 103.

Goal C-1 and Policy C1.2 do not require that acceptable LOS be achieved until 2027, which is admittedly the end of the 2007 General Plan's planning horizon. On its face, this policy fails to make the necessary commitment to correlating the circulation and land use elements.

Furthermore, neither the DEIR nor the 2007 General Plan (through Figure 6 in the 2007 General Plan, Highways and Roads, or otherwise) identifies the improvements that would be necessary to mitigate all cumulative impacts of future development projects and meet an acceptable level of service. In *TwainHarte Homeowners Assn. v. County of Tuolumne* (1982) 138 Cal.App.3d 664, 701-702, the Court held that a circulation element was invalid because "the circulation element does not attempt to describe or discuss the changes or increases in demands on the various roadways or transportation facilities of the County as a result of changes in uses of land which will or may result from implementation of the decision system and the general plan." The Court noted that "it seems apparent from a review of the general plan, the supporting MEIR, and the MEIR documentation that there is no way to determine whether in fact the circulation element is correlated with the proposed land use element." *Id.* And that is the case here too, because the circulation element simply does not propose an adequate roadway system or a plan to get one.

As discussed above, the roadway network assumed in the DEIR's "B" scenarios are admittedly inadequate to attain LOS standards. No additional improvements are even identified, much less proposed, that would attain LOS standards. No specific roadways were evaluated and no specific improvements were proposed in the DEIR's "A" scenarios. Thus the 2007 General Plan simply fails to identify "the general location and extent of existing and proposed major thoroughfares, [and] transportation routes" that would support and be correlated with the proposed land use.

And, as discussed above, neither the General Plan nor the DEIR identify a sufficient funding source for those limited improvements that are identified, much less the unidentified improvements that will be necessary to attain adequate LOS in the future.

2. Incomplete and inconsistent policies

The 2007 General Plan fails to put forth coherent and consistent circulation policies. The discussion above identifies the following deficiencies:

- Policies C1.3 and C1.4 do not clearly require phasing development projects unless the project is the straw that breaks the camel's back, pushing LOS

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from D to E or E to F. The policy will not support the goal of acceptable LOS unless they are rewritten to require phasing when a project makes a considerable contribution to any LOS deficiency.

- If Policy C1.3 is intended to require phasing projects that make considerable contributions to cumulative impacts, it must be revised to say so. If it is not revised, then it does not support the goal of acceptable LOS.
- Cumulative impacts in Policy C1.4 (and C1.3, if revised) must be defined so that a project that makes a considerable contribution to a degraded LOS must be phased. This requires that the County rewrite the policy and define a cumulatively considerable contribution so as to ensure that unmitigated impacts do not eventually result in degraded LOS without any project being required to address the impact. An appropriate definition would be *any* increase in the V/C ratio of a facility that is already at LOS D.
- The term “degraded further” in Policy C1.1(b) must be defined to include any increase in the V/C ratio of a facility that is already at LOS D.
- Policy C1.4 must be revised to identify a specific mechanism whereby “off-site circulation improvements which mitigate cumulative impacts either shall be constructed concurrently with new development” for those cumulative impacts that will not be completely mitigated by the proposed County TIF and the TAMC TIF.
- The language of Policy C1.8 must be revised so that the proposed County TIF is clearly applicable to projects in the unincorporated area, not just development proposed in cities and surrounding jurisdictions.
- If policy C1.8 is intended to apply to development in cities and surrounding jurisdictions, then the General Plan must explain the basis of the County’s jurisdiction to impose its development impact fees.
- The language of Policy C1.4 is apparently restricted to the mitigation of so-called “Tier 3 impacts. The policy must provide a definition of Tier 3.
- The General Plan does not explain the relation of the CIFPs required under Policy C1.2 and Policies PS 1.1 to 1.6. The requirement that the CIFPs identified under C1.2 be developed within 18 months is infeasible and inconsistent with the APFS scheme under PS 1.1 through 1.6, which implies that CIFPs will be prepared only when new development is actually proposed, and is inconsistent with the low planning priority for Rural Centers.

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- The deferral of the implementation plan to meet LOS standards through unspecified CIFPs, including the identification of necessary changes to the circulation system, renders the 2007 General Plan incomplete and internally inconsistent. *Murrieta Valley Unified School Dist. v. County of Riverside* (1991) 228 Cal.App.3d 1212, 1236-1238 (Government Code Section 65300.5 requirement for internal consistency violated when general plan lacks implementation measure that would actually ensure coordination of school facility provision with development). The administrative process for developing the CIFP scheme under Policy C1.2 and Policies PS 1.1 to 1.6 is insufficiently defined. Policy C1.2 and Policies PS1.1 to 1.6 must be clarified to explain 1) whether the CIFP’s identified in Policy C1.2 are the same as those identified in Policies PS1.1 to 1.6, 2) how many CIFPs will be required, 3) whether and how they will overlap, 4) who will pay for their development, 5) how they will be completed timely, 6) whether CEQA analysis for CIFPs will be undertaken separately or in conjunction with plans for Community Areas and Rural Centers, and 7) why and when CIFPs will be required for Rural Centers.
- A policy to address existing LOS deficiencies caused by past development, development currently in the entitlement process but not subject to the 2007 General Plan, and development for which no further entitlements are required must be developed that identifies actual funding sources. Development impact fees cannot be used for this purpose due to nexus and proportionality requirements.
- The exceptions to requirement to meet LOS D where LOS is already below D must be clarified as discussed above.
 - Policy C1.4 must explain under what circumstances development would be permitted before there is a CIFP or if a CIFP has not identified the affected facility as a top priority. . . .
 - “Benefit” requirements for re-designations of LOS standards must be required whenever LOS is re-designated.
 - Benefit requirements must be explained and meaningfully constrained.
 - “Land Use Plans” should be defined so as to preclude ad hoc re-designation of LOS standards for individual development projects, or eliminated from Policy C1.1.
 - The term “top priority” in the context of Policies C1.3 and 1.4 must be defined to require that a CIFP include a planned, approved, and fully funded improvement project that is scheduled for completion by the time the development project is completed that would ensure 1) that existing deficiencies in the LOS are corrected and 2) cumulatively considerable contributions to reductions in V/C ratios are avoided.

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- Policy C1.3's exceptions for a "first single family dwelling" should be clarified to make it clear that it applies only to a single unit development of a on a single lot of record and that non-discretionary uses in commercially designated properties do not include ministerial winery permits.
- The basis for determining LOS standards must be identified, e.g., whether measures are to be based on V/C ratio, density, or delay, and whether measures are to be based on peak hour or ADT.

In addition, the following problems must be addressed:

- Policy C1.1b is identified as an exception to the basic requirement that LOS D be maintained. It provides that an existing LOS below D may not be "degraded further," except for "County roads . . . in Community Areas," which may be further degraded through the Community Plan process. There is substantial ambiguity in the use of the word "except" in the basic statement of policy (LOS D shall apply "except as follows") and within the following language of Policy C1.1b (where LOS is already below D it shall not be degraded further "except in community Areas where..."). This ambiguous language which might be argued to mean that there are two exceptions to the LOS D standard: 1) if the existing LOS is already degraded below LOS D and 2) if a lower LOS is designated through the Community Plan process. The policy must be clarified to make it clear that the only exceptions to requiring LOS D are situations in which Community Plans or Area Plans designate a lower LOS. If the intent of the General Plan were to accept all existing LOS designations that are lower than LOS D as acceptable, then Policy C1.2 calling for attainment of acceptable LOS by 2027 would make no sense, since all roadways would already be, by fiat, at an acceptable LOS. Since Policies C1.1(a) and (c) make clear that Community Plans, Area Plans, and "Land Use Plans" may designate an acceptable LOS below LOS D, Policy C1.1b is unnecessary. The requirement that existing LOS below D should not be "further degraded" should be restated as a separate policy, not an exception to the basic requirement that LOS D be maintained.
- Table PS-1 note 4 states that an LOS standard may be less than D for "rural roads directly serving Community Centers and Rural Centers," referencing Policy C 1.1. It also provides that Community Area development may proceed even if the LOS on "adjacent rural roads" is lower than D. Based on note 4 to Table PS-1, it is not clear whether the General Plan will allow LOS below D for any County road or just 1) rural roads directly serving Community Centers and Rural Centers and/or "rural roads" that are "adjacent" to Community Centers. The language of note 4 and Policy C1.1 must be clarified to identify just which roads may be redesignated and whether they must be "in" Community Areas (per Policy C1.1(a)),

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"adjacent" to Community Centers (per note 4 to Table PS-1), or "directly serving Community Centers and Rural Centers (per note 4 to Table PS-1)." The term "rural road" must be clarified as well since it is also stated as a limiting condition. The language of Policy C1.1 makes no reference to Rural Centers in its specification of areas for which lower LOS designations are permitted, so the reference in Table PS-1 note 4 to Rural Centers should be eliminated as inconsistent.

- The language of Policy C1.1 must be clarified to ensure that it applies only to County roads under the County jurisdiction since the County has no authority to reduce LOS standards for regional roadways not under its jurisdiction.
- Policy C1.2 must be clarified to require that existing deficiencies below LOS D be addressed by CIFPs unless a lower LOS is designated through Policy C1.1. (See comment above re Policy C1.1(b) explaining that Policy C1.1(b) cannot be construed to except such roadways from the LOS D standard as long as they are not further degraded.)
- PS1.1 through 1.6 requires that no new development be allowed unless APFS requirements are met. See e.g., PS1-3. Policy PS1.1 states that APFS requirements shall "ensure that APFS needed to support new development are available" concurrent with the impacts of development and shall "seek to achieve acceptable level of service (LOS) standards through improvements funded by fair share impact fees and planned capital improvements (CIFP)." Thus, it appears that a CIFP must be in place that ensures correction of existing LOS deficiencies before any new development can be permitted in the CIFP's benefit area. If this is not the case, then the reference to CIFPs in Policy PS1.1(c) makes no sense. If it is the case, then the General Plan should make it clear that the delay in preparation of the required CIFPs will result in a development moratorium. If development is to be permitted in Community Areas despite the absence of a CIFP, the General Plan should clarify under what conditions this would be permitted and how that would be consistent with Policy C1.2.
- Policy C1.4 provides that "direct on-site and off-site circulation improvements that mitigate project impacts shall be constructed concurrently," but permits new development merely to make fair share payments toward off-site improvements that "mitigate cumulative impacts," pursuant to Policies C1.8 and C1.11. Policy C1.4 must provide an unambiguous set of criteria for determining which impacts are "direct" and therefore must be mitigated by concurrent construction and which impacts are "cumulative" and therefore eligible for mere fair-share payments. "Direct impacts" should be considered to be all impacts to intersections and roadway segments which ITE requires to be included in a traffic study

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where the project's traffic by itself results in a degradation of LOS standards.

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L. Basis for Identification of External Roadways Incomplete

The basis of the DEIR's selection of roadways external to the County for analysis not clear because the disjunctive sentence purporting to explain this is not finished. DEIR, p. 4.6-10 ("These external regional roadways were selected because they either represent extent of AMBAG model [or what?]). The DEIR must be revised to explain this.

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M. No Significance Conclusion Or Mitigation Proposed For Impacts Of AWCP Under Existing Plus Project Conditions

The DEIR fails to provide a significance conclusion for traffic impacts associated with the AWCP under the Existing plus Project conditions. DEIR, p. 4.6-110 to 113. Table 4.6-27 indicates that there will be unacceptable LOS on Reservation Road/River Road/ Ft. Romie Road/Arroyos Seco Road between Las Palmas Road and Las Palmas Parkway (LOS D going to LOS F) and on County road G14 between US-101 and San Lucas road (LOS D going to LOS F). Despite this, no significant impact is identified and no mitigation is proposed. It appears that the DEIR text is simply incomplete.

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The DEIR must be revised to acknowledge the significance of both impacts and to propose adequate mitigation. Note that the proposed Mitigation Measure TRAN-5A for impacts under 2030 Cumulative plus Project Conditions does not address the impact at Reservation Road/River Road/ Ft. Romie Road/Arroyos Seco Road between Las Palmas Road and Las Palmas Parkway.

N. Mitigation Of AWCP Impacts Inadequate

The DEIR states that mitigation for impacts caused by the AWCP in the 2030 Cumulative plus Project conditions and the Existing plus Project Buildout of the General Plan is to be improvements funded through 1) project-specific mitigation for individual projects, and 2) funding improvements through CIPP for AWCP. DEIR, p. 4.6-116, 119-120. However, because most of the AWCP projects will not require CEQA review, project-specific mitigation for those projects will not be required. And as discussed above, there is no evidence that a CIPP program will in fact mitigate cumulative impacts because the CIPP does not exist and cannot likely be funded

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Section 3.3 of the AWCP exempts the following uses from CEQA review: artisan wineries, tasting rooms, visitor-serving uses, and food service facilities. See also DEIR, pp. 3-40 to 3-41. The DEIR's finding that AWCP projects may have a significant impact on roadways and that mitigation measures may be required, calls into question the CEQA exemptions proposed in AWCP Section 3.3.

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To the extent that the 2007 General Plan proposes to permit most of the AWCP projects without CEQA review, this DEIR constitutes the first and final tier of environmental review for those projects. Thus, it is critical that the DEIR meet CEQA's requirements for the sufficiency of impact fees as mitigation. This requires that the DEIR provide evidence that the necessary infrastructure improvements will actually be constructed when needed by identifying a "reasonable, enforceable plan or program" and showing that the necessary funds will be available. *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1189; *see also Endangered Habitats League v. County of Orange* (2005) 131 Cal.App. 4th 777, 785.

The 2007 General Plan's discussion of the Financing Plan for the AWCP CIPP acknowledges that benefit areas have yet to be defined, improvements have yet to be identified and costed, funding sources and mechanisms have yet to be identified, and a schedule for completion of improvements has yet to be adopted. 2007 GP, pp. AWCP-19 to 20. References to a CIPP plan that has not yet been developed will not suffice, particularly when, as discussed above, there is substantial uncertainty as to the administrative structure and feasibility of funding the CIPP program.

The DEIR itself states with respect to the necessary improvements to mitigate AWCP traffic impacts that there are various triggers that would result in implementation of improvements:

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"These improvements would be implemented when:

1. A proposed development's project-specific assessment identifies a direct impact to the facility in terms of either LOS or safety.
2. A proposed development gains access from an intersection within the segment.
3. A corridor-wide nexus study prepared for the required Capital Improvement and Financing Plan identifies the level of development that can occur before triggering the improvements." DEIR, p. 4.6-116.

There appears to be no bases for these claims in the 2007 General Plan's discussion of the AWCP or its Circulation policies. If there are, the DEIR should identify them.

More fundamentally, these triggers that the DEIR suggests would result in timely mitigation are not a sufficient basis to conclude that impacts will be mitigated for the following reasons:

- As noted, most projects in the AWCP will not require CEQA review and so will not have occasion to generate a "project-specific assessment [that] identifies a direct impact." Furthermore, nothing in this language would address cumulative as opposed to "direct" impacts.

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- A project without a CEQA assessment and that does not gain access on the segment (i.e., does not have a driveway on the segment) may nonetheless cause, or make cumulatively considerable contributions to impacts.
- There are no policies that would require a project that does gain access from an intersection within the segment to ensure that improvements are timely implemented.
- Unmitigated impacts may occur if development occurs before the nexus study is complete; nothing in the AWCP requires that a nexus study be completed at any particular time.
- A project may make an unmitigated considerable contribution to a cumulatively significant impact because there is nothing in any identified policy that requires that improvements be constructed before reaching some specified "development level that can occur before triggering improvements." As discussed above, the circulation policies are written so as to require only the "last straw" project that pushes LOS from D to E or from E to F to be phased until improvements are provided. Under these policies traffic conditions may be permitted to deteriorate until LOS deficiencies cannot be rectified by fair share payments made by the straw that breaks the camel's back.

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The DEIR must be revised to propose a specific, enforceable program of mitigation for impacts in the AWCP. If the proposed mitigation depends of fair share payments, then the DEIR must meet CEQA's requirement for payment of impact fees as mitigation.

O. Inconsistency And Uncertainty of Proposed Improvements

The proposed improvements to County roads to be funded by the proposed County traffic impact fee are not consistently identified. Table 4.6-13 includes widening Espinosa Road. DEIR, p. 4.6-26. This improvement is not identified on Table C-2 of the Errata/Addendum. The DEIR must be revised to clarify this inconsistency. If the quantitative traffic analyses in the "B" scenarios evaluated in the DEIR incorrectly assume this improvement, they must be revised.

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This inconsistency points out the fundamental defect in predicating the quantitative traffic analysis on a network of roadway improvements that have not in fact been adopted and for which funding has not been identified. Instead of assuming the existence of the roadway improvements that may or may not be adopted by the County and assuming the funding of TAMC and County improvements for which adequate funding has yet to be identified, the traffic analysis should evaluate impacts based on a network that is reasonably certain to be in place. This analysis should be used to identify all of the necessary improvements, which should then be required as mitigation measures before additional development is permitted.

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P. Transit Policy Conflicts Not Acknowledged

The DEIR finds that the 2007 General Plan would not conflict with the provision of alternative transportation since the Plan would concentrate development in Community Areas, Rural Centers and Affordable Housing Opportunity overlays. DEIR, pp. 4.6-53, 4.6-77, and 4.6-107. The analysis assumes that these areas can readily be served by alternative modes of transportation. It fails to account for communities such as Pajaro and the seven rural centers dispersed throughout the county at densities and locations that are not readily serviced by public transit (over 1,000 units). Furthermore, the 2007 General Plan allows for subdivisions outside any of the areas described above as well as sprawl development of over 2,000 units in the planning areas, not to mention the potential development of over 2,000 units dispersed throughout coastal areas.

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The DEIR must be revised to acknowledge that the inability to support these areas with transit will constitute a conflict with policies supporting transit. This is a significant impact and an inconsistency between the land use and circulation elements.

Q. AWCP Safety Issues

The DEIR fails to address safety issues related to the conflict between agricultural vehicles which use County roads and visitors to wine tasting facilities. Slow moving and wide-load agricultural vehicles on narrow roads are intrinsically inconsistent with such visitors.

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R. Maintenance Impacts

The DEIR does not address the impact of new development on deteriorating roads and highways. The County has a deferred maintenance cost of \$800 million. At current annual expenditures and with proposed development, the roadways will continue to degrade increasing safety hazards and more and more potholes.

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S. Inexplicable Improvements In LOS

On page 4.6-27, the DEIR indicates that a minimum growth rate of 0.1% has been used on State Highways to ensure that traffic volumes do not decrease. However, the DEIR does not specify whether such an adjustment has been made to other roadways. Examination of LOS tables within each scenario indicates that traffic conditions are projected to improve on many segments in the future, which is generally inconsistent with projected population increases. For example, there are 11 segments in Table 4.6-14 that operate better in 2030 with project traffic than under existing conditions. There are 15 segments in Table 4.6-15 that get better, and 9 in Table 4.6-16. While a few of these may be caused by road improvements, there is no reason to suggest that this is caused by changes in traffic patterns that will occur "...in the future caused by the redistribution of jobs and housing." DEIR, pp. 4.6-33 to 34. Each of the other scenarios show some

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segments operating better in the future than they do today, but there are more in the 2030 plus project scenario than in any other.

Please explain for each roadway segment for which the traffic analysis projects improvement whether the improvement is due to changes in the roadway network, or whether it is due to some other factor. If the other factor is a purported redistribution of jobs and housing, please explain specifically where those changes will occur.

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While a better jobs-to-housing balance *may* result in less congestion, it is not obvious that jobs in particular locations will be filled by residents from that location. Accordingly, please explain how the traffic model assigns particular job opportunities to particular housing units.

T. Truck Traffic Understated After 2030

Truck trips do not increase proportionally as they should throughout the years. Page 4.6-4 indicates there were 10,800 daily truck trips in 1995 that increased to 12,800 in 2006, an increase of 11% (about 1% per year). Page 4.6-39 assumes an increase of 6,000 trucks from 2006 to 2030, an increase of 48% (about 2% per year). Page 4.6-87 assumes a 20% growth in truck traffic over 62 years from 2030 to buildout in 2092, an increase of 0.33% per year. With one truck equivalent to several cars (on the order of 3 to 5), there appears to have been a substantial understatement of the congestion effects of truck trips in the years after 2030.

U. AWCP Weekend Traffic Assumptions Not Justified

It is not clear why the DEIR uses Napa's Highway 29 to predict AWCP weekend traffic. DEIR, p. 4.6-109. The methodology section states that the traffic forecast applies the ratio of weekday to weekend traffic in Napa to the AMBAG model's weekday forecasts for roads within the AWCP. First, it is unclear whether and how the AMBAG model was updated to reflect the weekday traffic from the AWCP. Since the model was based on AMBAG's 2004 forecasts and the AWCP land use was not planned at that time, it would be surprising if the AMBAG model included weekday traffic from 50 wineries. Please explain whether and how the AMBAG was updated to reflect weekday winery traffic.

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Even if the AMBAG model was manually updated to include weekday traffic from 50 wineries and all other development projected in the 2007 General Plan, there is still no *a priori* reason to assume that the relation between weekday and weekend traffic in a fully developed winery community like Napa predicts the relation between weekday traffic in Monterey's winery corridor and future weekend traffic in that corridor. For this prediction to be justified, the DEIR must supply information about the mix of non-winery related traffic, likely visitor origins, and density of wineries. Please also explain how the weekday/weekend ratio assumed compares to the ratio along the Silverado Trail in Napa, with the wineries in Paso Robles, in Temecula, or at other locations.

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VI. AGRICULTURAL ISSUES

The 2007 General Plan DEIR concludes that loss of important farmland will be a significant unavoidable impact. AG-1, DEIR, p. 4.2-11 to 4.2-21. It concludes that conversion of farmland to non-agricultural use will be significant and unavoidable. AG-3, DEIR, p. 4.2-25 to 4.2-28. It concludes that the 2007 General Plan will make a considerable contribution to the loss of farmland, which is a significant cumulative impact. CUM-1, DEIR, p. 6-9 to 6-10.

The DEIR distinguishes Impact AG-1 and AG-3. AG-1 is the loss of farmland through the 2007 General Plan's direct re-designation of land for urban uses, which the DEIR identifies as 2,571 acres. DEIR, p. 4.2-11. Impact AG-3 is the future conversion of farmland due to indirect economic pressure. As distinguished from the conversions at issue in Impact AG-1, these future conversions would require a General Plan amendment to change the land use designation.

AS WRITTEN, POLICY AG-1.12 DOES NOT APPLY TO IMPACT AG-1: In connection with its discussion of Impact AG-1, loss of important farmland, the DEIR admits that 2,571 acres will be lost to urban development based on direct land use re-designations. DEIR, p. 4.2-11. The DEIR then recites a list of policies that it claims will "minimize adverse effects on conversion to the maximum extent practicable." DEIR, pp. 4.2-12. One of the policies recited is AG 1.12, which "requires the County to establish a program to mitigate the loss of Important Farmland when a proposed change of land use designation would result in the loss of Important Farmland (as mapped by the California Department of Conservation), including annexation of agricultural land to an incorporated area." DEIR, p. 4.2-13, emphasis added. As written, Policy AG 1.12 would not avoid, minimize, or compensate for Impact AG-1: none of the 2,571 acres at issue in AG-1 would require a change of land use designation because all of these acres are designated for non-agricultural use by the 2007 General Plan itself. Please explain why this policy is listed as a means of avoiding, minimizing or compensation for Impact AG-1.

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IF MITIGATION FOR FUTURE LAND USE CHANGES IS FEASIBLE, THEN IT SHOULD BE APPLIED TO THE CURRENTLY PROPOSED LAND USE CHANGES: The DEIR provides no reason that the to-be-devised mitigation program under Policy AG 1.12 cannot be applied to the agricultural lands at issue in impact AG-1. There is none. Although the to-be-devised program is entirely unspecified, such a program might require, for example, conservation easements to protect other farmland or designation of permanent buffers. These measures could be imposed on the 2,571 acres of re-designated land at issue in Impact AG-1 as a condition of any actual change in use through future development. The DEIR should be revised to require this since it is feasible mitigation.

POLICY AG 1.12 MUST BE REVISED: Policy AG 1.12 lacks both performance specifications and meaningful exemplary measures. The policy mentions "ratios, payment of fees, or some other mechanism," but does not explain what a "ratio" might

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be, much less provide an actual value for that ratio. Nor are values provided for fee payments. The proposed reliance on *ad hoc* mitigation approved by the Board of Supervisors pending completion of the Policy AG 1.12 mitigation program constitutes an entirely standardless deferral of mitigation – the 2007 General Plan does not even hint at the types of mechanisms or standards that might be required in the interim. Indeed, the DEIR itself admits that policy AG 1.12 is essentially meaningless because the program has not been specified:

“The requirements of the prospective mitigation program to be developed under Policy 1.12 to protect remaining Important Farmland permanently would partially reduce the significance of this impact. However, *because the requirements are yet to be determined, the effectiveness of that program cannot be known at this time.*” DEIR, p. 4.2-18, emphasis added.

The DEIR cannot conclude that all feasible mitigation has been identified when this policy has no actual content. No reason is provided for the deferral of the development of the requirements for this program. The DEIR must be revised to propose meaningful mitigation; if the mitigation must be deferred then performance standards must be specified and a reason for deferral must be articulated.

Furthermore, the exemption from Policy AG 1.12 of Community Center Plans and Rural Center Plans that include any kind of mitigation programs makes no sense. As written, Policy AG 1.12 would permit an entirely toothless mitigation policy to be devised for a Community Center Plan or Rural Center Plan as an alternative to whatever program the County eventually devises.

AGRICULTURAL BUFFERS SHOULD BE PERMANENT: As the DEIR admits, the buffer policy in 1982 General Plan (Policy 30.0.2) was more stringent because it requires permanent buffers. DEIR, p. 5-10. However, the 2007 General Plan Policy AG 1.2 no longer requires that buffers be permanent. CEQA requires that an agency explain and provide substantial evidence to justify its decision to omit previously adopted mitigation measures. *Napa Citizens v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 364. Since permanent buffers self-evidently provide better protection of agricultural land, the County must justify relaxing this requirement.

OTHER POLICIES CITED ARE INADEQUATE: The DEIR cites various Policies from the Agricultural Element as evidence that all feasible mitigation has been proposed. Many of these policies lack substantive performance standards and exemplary measures, are unenforceable, or are so vague as to provide no real assurance that agricultural land will be protected.

Policy AG 1.2 regarding buffers purports to identify “criteria” for buffers, but the factors listed are not standards. They are merely parameters for which the policy specifies no values. For example, the policy states that factors such as drainage and crop types shall be “considered,” but, as written, the Policy provides no actual standards that would create an enforceable obligation to provide a particular buffer.

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Policy AG 1.3 barring subdivision of Important Farmland excepts subdivisions in Community Plan and Rural Center areas as long as there is an entirely unspecified “alternative farmland preservation strategy.” As written, an entirely toothless alternative strategy could be adopted, which would avoid any meaningful control on subdivision of Important Farmland. The County must provide clear, enforceable standards for the “alternative farmland preservation strategy.”

Policy AG 1.4 calls for “encouraging” large lot agricultural zoning and making agriculture a “top priority.” This policy does not create any enforceable obligation for the County or for future developers.

Policy AG 1.5 calls for a future ordinance to provide tax and economic incentives for farming. No performance standards or exemplary measures are identified and no enforceable obligation is created.

Policy AG 1.7 “encourages” clustering of agricultural housing. It should be revised to *require* this.

Policy AG 2.3 permits conversion of farmland for agricultural processing facilities for products grown *outside* the County. While limited processing facilities to accommodate local farm production may encourage retention of land in agricultural use, the conversion of farmland to process produce grown outside the County can have no beneficial effect on viability of local agriculture. Please explain why this provision has been added.

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VII. AIR QUALITY ISSUES

Attached as Exhibit 12 are comments on the DEIR's air quality analysis provided by Autumn Wind Associates, Inc. Our comments below summarize some of these comments and make additional points. Please respond to both sets of comments separately.

A. Failure to Document Assumptions and Methodology

The DEIR's analysis of consistency with the Air Quality Management Plan is based on Table 4.7-3, purporting to list projected population and VMT growth in Monterey County. DEIR, p. 4.7-15. Its analysis of criteria pollutant emissions is based on emission calculations using the EMFAC 2007 model. DEIR, p. 4.7-22. The DEIR states that "Appendix A describes the methodology and model inputs for existing year, future year, and buildout of the 2007 General Plan."

LandWatch requested documentation of these sources. John Farrow, letter to Carl Holm, September 18, 2008. In its request, LandWatch pointed out that Appendix A does not contain a description of the "methodology and model inputs for existing year, future year, and buildout of the 2007 General Plan" and requested this information. Land Watch specifically requested the following information:

1. The source document identified at Table 4.7-3, Projected population and VMT Growth in Monterey County (Kimberly-Horn (2008)).
2. "Appendix A" referenced at page 4.7-22, which "describes the methodology and model inputs" for the criteria pollutant emissions calculations. In this regard, please note that the DEIR table of Contents identifies Appendix A as the Notice of Preparation. Thus, there must be either an error in designation or two Appendices A.
3. The source document used to prepare Table 4.7-5, Criteria Pollutant Emissions from Mobile Sources. Note that the "Appendix A" requested above, describing "the methodology and model inputs" for the criteria pollutant emissions calculations, may or may not contain the EMFAC or URBEMIS model runs themselves. Please produce the output from the model runs used to calculate criteria pollutants.

On October 3, 2008 the County acknowledged that the reference to Appendix A was an error. Wendy Strimling, letter to John Farrow, Oct. 3, 2008. Ms. Strimling's October 3 letter explained that there is no source document supporting Table 4.7-3 and that it was prepared by Kimley-Horn and Associates. She explained that Table 4.7-3's population and employment projections were based on Section 4.6.3.1 and 4.6.3.2 of the DEIR (the sections describing the methodology and analysis scenarios for the traffic analyses), and that Vehicle Miles Traveled (VMT) for each scenario was developed using the AMBAG travel demand forecasting model.

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As discussed above, LandWatch objects to the refusal to make the AMBAG model available. Comments above demonstrate that the demographic data provided in the DEIR is not consistent with the purported AMBAG sources. Comments above also point out that the DEIR fails to clearly state the assumptions reflected in the traffic and air quality "scenarios" and "conditions," including the assumptions in Tables 4.7-3, 4.7-5, 4.7-6 in the air quality section. The DEIR must clarify the relationship between the five traffic analysis scenarios set out on pp. 4.6-19 to 20, the six traffic analysis scenarios identified in Table 4.6-10, and the scenarios set out in the air quality analysis in Tables 4.7-3, 4.7-5, and 4.7-6.

On October 7, the County provided documents purporting to respond to LandWatch's second and third requests, the requests for the methodology and model inputs used for criteria pollutant emissions calculations and the calculations themselves. Wendy Strimling, letter to John Farrow, Oct. 7, 2008. The County provided a document captioned "Air Quality Technical Information – Criteria Pollutant Modeling," a similar document related to Carbon Monoxide modeling, and two printouts from EMFAC 2007. Although the County updated the DEIR's reference list and extended the comment deadline, it did not correct the "typo" in the DEIR referring to Appendix A or provide the technical information to the rest of the public.

The document captioned "Air Quality Technical Information – Criteria Pollutant Modeling" contains a Table 1 that provides the same yearly VMT data as is contained in Table 4.7-6, but the document does not provide any explanation of the actual assumptions used to develop the scenarios. One of the datum is the clearly absurd representation that the project will result in only an annual increase of vehicle miles of only 369,679 miles. As Autumn Wind points out in the attached comments, this figure implies that each of the 36,166 new residents of the County will average only 10 vehicle miles per year. As discussed below, it is apparent that the Tables 4.7-6 projecting changes in criteria pollutants contain significant errors. However, the County's failure to provide documentation of the traffic and air quality analysis assumptions makes it difficult or impossible for the public to determine what the DEIR might have meant to claim.

As Autumn Wind points out, the document captioned "Air Quality Technical Information – Criteria Pollutant Modeling" and the employment, population, and housing data by Traffic Analysis Zone data provided by the County does not permit the public to trace the DEIR's analytic route from the General Plan land use designations and policies to demographic assumptions by TAZ, from that TAZ data to vehicle miles traveled, and from VMT to criteria emissions. Autumn Wind also demonstrates based on the data that was made available that the modeling for criteria pollutants was far too simplistic in its approach.

B. Inconsistency With 2008 Air Quality Management Plan

The DEIR concludes that the Project is consistent with the "Clean Air Plan" on the basis of finding that the projected 2030 countywide population in Table 4.7-3 of

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602,790 is no larger than the population assumed in the Clean Air Plan. DEIR, p. 4.7-16. As Autumn Wind demonstrates, the 515,549 population for 2030 assumed in the MBUAPCD 2008 Air Quality Management Plan is in fact smaller than that projected in the DEIR. Thus, on its face, the Project is inconsistent with the 2008 Air Quality Management Plan.

The DEIR's consistency determination is apparently based on the sterile and circular argument that the AMBAG 2004 population assumptions used by the DEIR are the same as the assumptions used in preparing the previous Air Quality Management Plan. Notes to Table 4.6-11, which was the source for table 4.7-3, state that "Existing plus Project 2030 and Cumulative 2030 land uses were *adjusted* to match the published AMBAG 2004 Population, Employment and Housing Unit forecasts." DEIR, p. 4.6-22, emphasis added. "Adjusting" the purportedly Project-specific population data in Tables 4.6-11 and 4.7-3 to make them consistent with AMBAG data renders the consistency finding nothing more than the empty observation that the DEIR has *assumed* consistency by adjusting the population data to make it consistent. There is no evidence that this consistency finding actually reflects any consideration of the effects of the 2007 General Plan on growth in the County.

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LandWatch again asks that the County explain how it projects the effects of the 2007 General Plan on population growth. In particular, LandWatch requests that the County reconcile the purportedly bottom-up projections of growth in each Area Plan, Community Area, Rural Center, and Affordable Housing Overlay (See DEIR, Table 3-8) with AMBAG projections and with the proposed development constraints in the 2007 General Plan. The DEIR must be revised to base its consistency analysis on the actual effects of the 2007 General Plan on growth reflected in land use constraints, not on the sterile observation that the Project is consistent because the DEIR uses consistent assumptions.

C. Mobile Source Emissions of Criteria Pollutants

Impact AQ3 is captioned as "Net Change in ozone Precursor (ROG and NOx) and Particulate matter. (Significant and Unavoidable.)" DEIR, p. 4.7-21. It is difficult to determine what impact is being evaluated and what conclusion is reached. The discussion centers on two sources of ozone precursors, mobile sources and winery sources. The DEIR concludes with respect to impact AQ3 that that emissions from wineries will result in a significant impact. For mobile sources, the DEIR makes conflicting claims: in some places it asserts that mobile source emissions will increase and in other places it claims they will decrease:

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- The DEIR states at page 4.7-22: "As Table 4.7-6 indicates, implementation of the 2007 General Plan would result in *net decreases* in ROG, Nox, CO, and PM2.5 emissions, while PM10 emissions would increase."

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- The DEIR states at page 4.7-26: "Implementation of the 2007 General Plan *would result in increased emissions of criteria pollutants and VOCs.* Implementation of the 2007 General Plan would result in increased mobile and area source emissions due to increased vehicle trips and VMT, and increased development."
- But then the DEIR states at pp. 4.7-26: "As indicated in Table 4.7-5, 2030 conditions (2030 With Project - 2000 conditions) would result in a *net decrease in ROG, Nox, CO, PM2.5, and PM10 emissions.* . . . Decreases in emissions rates are sufficient to offset the increases in VMT seen between 2000 and 2030 project conditions, resulting in the decreased ROG, Nox, CO, PM2.5, and PM10 emissions observed in Table 4.7-5."¹⁷
- The DEIR concludes at page 4.7-28: "In summary, implementation of the 2007 General Plan *would result in a decrease in ROG, Nox, CO, PM2.5, and PM10 emissions.*"

These conflicting claims must be resolved in a revised and recirculated DEIR.

It appears that the basis of the conclusion that mobile source criteria pollutants will not create a significant impact is the row in Table 4.7-6 captioned "2030 Project Increase (2030 With Project - 2000)." However, as noted above, because the DEIR did not supply Appendix A and neither the DEIR nor the information subsequently provided by the County contain any clear explanation of the demographic assumptions for the air quality scenarios, it is difficult to identify the precise basis for the DEIR's various and conflicting claims regarding the effect of the project on criteria pollutants.

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The DEIR's claim that implementation of the 2007 General Plan would result in decrease in emissions is not coherent. The proper baseline for evaluation of a new county general plan is existing conditions on the ground, not hypothetical conditions reflecting build-out under existing land use designations. *Environmental Planning and Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 354. Given that the baseline for analysis must be existing conditions, it is difficult to understand how the unincorporated area of the County could grow by 10,015 or 13,438 new residential units by 2030 (depending whether the analysis is based on Table 3-8 or Table 4.6-11) and still result in a decrease in emissions compared to existing conditions without those 10,015 or 13,438 new units. As Autumn Wind points out, *any* increase in VMT attributable to growth in the County must result in increased emissions (unless the General Plan itself causes all incremental VMT to be produced by zero emission vehicles, which it does not).

¹⁷ Note that the references here may actually be to Table 4.7-6, not Table 4.7-5, but that is unclear too. Table 4.7-5 does not contain a row captioned "2030 With Project - 2000 conditions." However, Table 4.7-6 contains a row captioned "2030 Project Increase (2030 With Project - 2000 conditions)." As discussed below, Table 4.7-6 contains a fundamental error in calculating the purported contribution of the project to baseline conditions.

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As Autumn Wind indicates, the DEIR's repeated observation that increases in VMT will be offset by decreases in emissions rates (DEIR, pp. 4.7-22, 4.7-26) are irrelevant and misleading. Even if vehicle emission rates are projected to decline, that decline is entirely unrelated to the 2007 General Plan, and the increases in VMT due to new growth will still contribute *some* level of additional emissions over the baseline existing conditions. The Project could result in a decrease in emissions *only if VMT were actually reduced*, but the DEIR does not claim that VMT will be reduced. As long as VMT attributable to growth permitted under the general plan, emissions will increase by some amount over the baseline. This amount must be disclosed and compared to a significance threshold. Without this, the DEIR's analysis of criteria pollutants is meaningless.

Furthermore, the DEIR's Table 4.7-6, which is the source of the DEIR's claim that emissions will decrease, appears to contain or reflect some fundamental math error. The row captioned "2030 Project Increase (2030 With Project - 2000)" was calculated by subtracting the data in Table 4.7-5 for "2000" from the data in Table 4.7-5 for "2030 With Project." It appears that either 1) the "2000" data includes emissions from incorporated cities, which should not be subtracted from emissions from unincorporated areas only; or 2) the "2030 with Project" data in Table 4.7-5 does not include baseline emissions from existing development because it is *already* expressed as a net increase attributable to growth in the unincorporated area, in which case it makes no sense to subtract baseline 2000 data from it again. At any rate, it is simply not credible that emissions attributable to growth in the unincorporated area under the 2007 General Plan could be a negative number as is stated in Table 4.7-6.

Additional inconsistencies are apparent in the discussion of Table 4.7-6 and the data itself. First, Table 4.7-6 shows that yearly VMT for the row captioned "2030 Project Increase (2030 With Project - 2000)" will be 369,679 miles. This is the same number identified in Table 1 of the document provided to LandWatch captioned "Air Quality Technical Information - Criteria Pollutant Modeling." This comes to about 36 miles per year for each of the 10,015 new residential units identified in Table 3-8. This is not a credible figure. Second, even though the 369,679 mile increase in VMT is not a credible figure, it is a positive number, and therefore is inconsistent with the negative numbers given for emissions in the remainder of the row captioned "2030 Project Increase (2030 With Project - 2000)." Third, the DEIR states that "As Table 4.7-6 indicates, implementation of the 2007 General Plan would result in net decreases in ROG, NOX, CO, and PM2.5 emissions, while PM10 emissions would increase." DEIR, p. 4.7-22. There is no line on Table 4.7-6 (or Table 4.7-5) in which PM10 emissions have a different sign than other emissions. Fourth, it appears that the "2030 Cumulative Buildout" condition in Table 4.7-5 should have been labeled "Cumulative Buildout" since the data in this row are the same as the data with that caption in Table 4.7-6.

These inconsistencies must be explained and corrected. More importantly, the DEIR must be revised and recirculated to evaluate the project's actual increase in criteria emissions.

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D. Construction Impacts Not Mitigated

Autumn Wind demonstrates that the DEIR unacceptably fails to quantitatively evaluate construction emissions or to support its qualitative claim that these emissions are less than significant after mitigation. Proposed mitigation for construction PM10 is either unrelated to construction (MM AQ-3) or may actually weaken air quality protections (MMAQ1 and 2). The DEIR's qualitative evaluation of construction PM10 emissions is based on the recitation of proposed policies. The DEIR purports to find impacts less than significant after adding the requirement that projects comply with the air district's PM10 requirements - but that requirement was already included in the list of proposed policies the DEIR purports to have considered in finding that PM10 impacts would be significant. The DEIR also claims that the winery corridor air quality impacts will be mitigated by air quality policies included in three Area Plan - after stating that these Area Plans do not contain air quality policies. This sloppy and formulaic discussion vividly demonstrates that the qualitative discussion of construction PM10 is simply vacuous.

The DEIR failed even to consider construction emissions of ozone precursors (ROG, NOx), based on their inclusion in the regional emission budget. If this were sufficient reason not to evaluate an emission class, no air quality discussion would be required at all, since virtually all categories of emissions are included in regional emission budgets.

CEQA requires that the DEIR present a substantive analysis of all potentially significant emissions.

E. Diesel Particulate Matter Health Risks Not Adequately Evaluated Or Mitigated

Autumn Wind explains that the DEIR's rationale for failing to evaluate the health risks from diesel particulate matter ("DPM") is flawed. The fact that exposure durations may be less than 70 years is irrelevant in view of OEHHA's determination that this modeling parameter is appropriate. The other rationale offered by the DEIR - that exposure will be minimal due to the types of proposed projects - is simply not coherent. The DEIR's failure of analysis cannot excuse future projects from analysis of this risk.

Autumn Wind also demonstrates that the qualitative analysis of regional DPM exposure is not adequate and that the proposed mitigation will not render impacts less than significant. The DEIR must be revised to provide a meaningful discussion and adequate mitigation.

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VIII. BIOLOGICAL RESOURCES ISSUES

Enclosed as Exhibit 13 are comments provided by TRA Environmental Sciences, Inc. As TRA Environmental summarizes its comments:

- The DEIR does not provide substantive analysis of impacts to biological resources based on correlating the expected location and intensity of development and the affected resources. Most of the impact analyses consist of recitations of lists of policies from the 2007 General Plan without any meaningful discussion linking those policies to impact avoidance, minimization, or compensation. Many of the policies lack any substantive content, e.g., lack any performance standards or examples of the content of implementing programs. Many of the policies defer the formulation of mitigation without deadlines for completion or interim measures. No reasons are given for these deferrals. Many of the policies lack any enforceable mandate. We have provided detailed comments on most of the policies cited as the basis for the DEIR's impact analyses.
- Mitigation measures that are proposed to supplement the 2007 General Plan policies suffer from the same defects as the policies themselves.
- Substantial new agricultural cultivation, especially vineyard development, is projected in the County, but the DEIR fails to describe this activity accurately. The description of winery corridor is inconsistent and incomplete. Because these activities will have significant effects on biological resources, they must be accurately described.
- Impacts to movement corridors and habitat fragmentation were not adequately evaluated because the DEIR did not develop or consider available empirical information about important conservation areas, movement corridors, and habitat linkages.
- Mitigation of habitat fragmentation and interruption of movement corridors and habitat linkages is inadequate. The mitigation of these landscape-scale impacts must be formulated in a first-tier EIR, not postponed to future project-level CEQA reviews, particularly since much of the development activity that will affect these resources is to be exempted from future CEQA review.
- The DEIR failed to evaluate steelhead impacts from increased diversions from the Salinas River, continued operation of the Nacimiento and San Antonio Dams to support growth, and sedimentation.
- Although the DEIR acknowledges that growth will make a considerable contribution to cumulatively significant impacts, it proposes no mitigation to address this.

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We ask that the County respond to the comments by TRA Environmental Sciences, Inc., in full.

Thank you for the opportunity to submit these comments.

Yours sincerely,

M. R. WOLFE & ASSOCIATES, P.C.



John H. Furrow

JHF:ms
Enclosures

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EXHIBIT 1

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Enclosure

BIOLOGICAL OPINION

ACTION AGENCY: U.S Army Corps of Engineers, San Francisco District
ACTION: Monterey County Water Resources Agency, Salinas Valley Water Project in Monterey County, California.
CONSULTATION CONDUCTED BY: National Marine Fisheries Service, Southwest Region
FILE NUMBER: SWR/2003/2080
(Admin. No.: 151422SWR2003SR8711)
DATE ISSUED: _____

I. INTRODUCTION

Section 7 of the Endangered Species Act (ESA) of 1973, as amended, requires Federal agencies to insure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of threatened or endangered species or destroy or adversely modify critical habitat. The section 7 regulations define "jeopardize the continued existence of" as "to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, number, or distribution of that species." The regulatory definition of critical habitat has been invalidated by Federal courts. This biological opinion does not rely on the regulatory definition of "destruction or adverse modification" of critical habitat at 50 CFR §402.02. Instead, we have relied upon the statutory provisions of the ESA to complete the following analysis with respect to critical habitat (NMFS 2005a).

The National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) is conducting a formal consultation with the U.S. Army Corps of Engineers (Corps) on the issuance of a permit to the Monterey County Water Resources Agency (MCWRA). MCWRA proposes to control seawater intrusion, improve the efficiency of water delivery in the Salinas Valley for agriculture and urban uses and improve steelhead habitat through the construction of the Salinas River Diversion Facility (SRDF), modification of the spillway at Nacimiento Dam, and changes to the operation of Nacimiento and San Antonio dams. This diversion facility and operational changes, collectively, are known as the Salinas Valley Water Project (SVWP). The SVWP may adversely affect South-Central California Coast (SCCC) steelhead (*Oncorhynchus mykiss*) protected as threatened under the ESA and its designated

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critical habitat, and, therefore, requires a formal consultation pursuant to section 7(a)(2) of the ESA.

Our task in this consultation is to provide a determination regarding jeopardy and adverse modification relative to the proposed action. This biological opinion also provides the analysis supporting our determination.

MCWRA water management activities in the Salinas basin are extensive and potentially have many impacts to steelhead and their habitat. It is, therefore, important, in light of our analysis, to be clear about what we are, and are not, consulting on. In this biological opinion, we analyze the effects of both the proposed construction/operation of the SRDF and Nacimiento Spillway modification and those changes in flow releases from the Nacimiento and San Antonio dams that would not otherwise occur without the operation of the SRDF. This includes any change in flows along the Salinas River mainstem as well as changes in flows to the Salinas River Lagoon.

We are not analyzing ongoing dam operations and maintenance as a part of the proposed action because they are neither indirect effects nor interrelated or interdependent actions to the proposed action. Most dam operations and maintenance are a part of the environmental baseline to which the effects of the proposed action will be added. As a result, the Incidental Take Statement for this opinion does not exempt any incidental take resulting from those baseline operations. This includes the bulk of the flow released from the Nacimiento and San Antonio dams. One exception is modified operations of these reservoirs to meet the purposes of the proposed action. Those modified operations are considered interrelated with the Corps' proposed action and are considered in the Effects of the Proposed Action section of this opinion.

In this document, we present our analysis and conclusions in the conventional format for biological opinions as described in the Endangered Species Consultation Handbook (U.S. Fish and Wildlife Service and NMFS 1998). It begins with a review of the consultation history and a description of the project. Following that is Status of the Species and Critical Habitat, Environmental Baseline, and Effects of the Proposed Action sections which provide our analysis of the project. The opinion concludes with NMFS' determination regarding the impacts of this proposed project on species survival and recovery, and the value of critical habitat. An Incidental Take Statement follows, which defines the amount or extent of harm to the species and/or their habitat. It also provides terms and conditions to minimize the take.

The Status of the Species and Critical Habitat Section portrays the condition of the species (and their habitat, including critical habitat) relative to the species' probability of survival and recovery and the conservation value of critical habitat by describing how the species is surviving and recovering given its life history strategy and the condition of its environment. The Environmental Baseline describes and analyzes the current and expected future condition of the species and its habitat, including critical habitat, in the action area. The Effects of the Proposed Action section describes and analyzes the effects of the proposed project on habitat, including critical habitat Primary Constituent Elements (PCEs) of critical habitat, given the species' and critical habitat's baseline condition, the exposure of critical habitat and steelhead to the physical, chemical, and biotic changes in the environment as a result of the proposed action, and the expected response of steelhead and critical habitat to these changes. Once the effects are

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described, we assess the ramifications of the effects to critical habitat and listed species in the action area on the conservation value of critical habitat and the survival and recovery of the species at the Distinct Population Segment (DPS) scale given their status and the environmental baseline.

The issues NMFS is obliged to address in this opinion are wide-ranging, complex, and often not referenced in scientific literature. We base many of our conclusions on explicit assumptions informed by the available evidence. By this, we mean to make a reasonable effort to compile the best scientific and commercial empirical evidence related to the analysis and to then apply general and specific information on salmonid biology from the published literature to make inferences and establish our conclusions.

Second, when we address uncertainty in our analyses we apply that portion of section 7(a)(2) which dictates that Action Agencies are to "insure" that their actions are not likely to jeopardize the continued existence of listed species or adversely modify designated critical habitat. In other words, Action Agencies are charged with avoiding Type II errors (*i.e.*, concluding that there was no effect when, in fact, there was an effect). At times this can create a lack of understanding of section 7 determinations within the scientific community, which often focuses on minimizing the potential for Type I errors (*i.e.*, concluding that there was an effect when, in fact, there was no effect); however, it is important to recognize that we have different purposes.

The need to minimize the potential for Type II errors results in providing the benefit of the doubt to the species. This approach is supported by the 1979 Congressional Record created when Congress amended the ESA to allow the Services to develop their biological opinions using the best information currently available or that can be developed during the consultation and concluded that the language "continues to give the benefit of the doubt to the species, and it would continue to place the burden on the action agency to demonstrate to the consulting agency that its action will not violate Section 7(a)(2)" (H.R. Conference Report No. 697, 96th Congress, 2d Session 12, 1979).

II. CONSULTATION HISTORY

MCWRA applied to the Corps for permits for two projects in the Salinas River; the Salinas River Mouth Breaching Program and the SVWP, in 2000 and 2002, respectively. NMFS recommended to the Corps and MCWRA to batch the two projects together as one consultation to simplify the analysis of impacts to listed species. The Corps agreed to combine the two consultations, although the Corps would still issue separate permits: one for the Breaching Program and one for the SVWP. At a meeting on April 1, 2005, MCWRA agreed to that plan. In the course of completing the biological opinion for the SVWP, the issue of batching this project with the river mouth breaching program was revisited. On March 28, 2006, NMFS decided to expedite completion of the consultation for the SVWP by separating the consultations for the SVWP and the lagoon breaching activities. This is reasonable because lagoon management and breaching activities have always been identified as a separate action from the SVWP, and the two actions were originally batched solely as a matter of convenience.

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The following is a timeline history of the SVWP consultation:

NMFS received the Corps' letter requesting initiation of section 7 consultation for the MCWRA's SVWP on June 4, 2002.

Prior to receiving the request for consultation, NMFS commented on two versions of the Draft Environmental Impact Report, by letters dated December 17, 1998, and September 6, 2001. These comment letters identified NMFS' concerns regarding potential effects of the project on threatened steelhead.

The biological assessment (BA) for SVWP was received on June 6, 2002. In a letter dated July 26, 2002, NMFS informed the Corps that MCWRA had requested a meeting to discuss and review the BA, and that after meeting and reviewing the BA, NMFS would determine if additional information would be needed to initiate section 7 consultation. NMFS and MCWRA's consultants met on September 18, 2002, October 3, 2002, and December 20, 2002, to discuss the proposed project and evaluate the completeness of the BA. Based on these meetings and review of the BA, NMFS determined the BA was incomplete. In a letter to the Corps dated January 24, 2003, NMFS requested additional information to support section 7 consultation for SVWP. The request sought: 1) information on streamflow regimes under four water management scenarios related to SVWP, 2) a formal response to proposed modifications for smolt outmigration, 3) a clarification of proposed water diversion rates, 4) a description of condition and availability of spawning and rearing habitat in Nacimiento and San Antonio rivers below the existing dams, 5) a description of current water conservation measures in the Salinas Valley, 6) a description of water quality in the Salinas River and action area, and 7) an assessment of potential predation by pinnipeds resulting from implementation of SVWP. NMFS' January 24, 2003, letter also defined the scope of the consultation to include all operations of the Nacimiento and San Antonio dams. MCWRA and NMFS met on February 5, 2003, to discuss this information request. MCWRA provided the information requested in the NMFS January 24, 2003, letter throughout 2003 and 2004.

In a meeting on June 2, 2003, NMFS notified MCWRA that flow criteria identified in the BA for steelhead migration were flawed, provided MCWRA with an analysis of the deficiencies of the information, and requested MCWRA work with NMFS to determine appropriate flows for steelhead migration. During a meeting with MCWRA and its consultants on July 24, 2003, NMFS proposed a field study to develop a flow/depth relationship specific to the action area in the Salinas River. NMFS provided *A Study Plan for Evaluating Passage Flows for Steelhead in the Salinas River* to MCWRA on August 7, 2003.

NMFS, MCWRA, and its consultants held further meetings through the end of 2003, to discuss the status of information requested by NMFS, evaluate the feasibility of completing the proposed flow study, and develop a timeline for initiating and completing section 7 consultation.

On January 13, 2004, NMFS received Water Resources and Information Management Engineering, Inc.'s (WRIME [MCWRA's consultant]) December 2003, *Hydrologic Analysis of Salinas River Flows in Response to NOAA Fisheries Requests for Further Information on the*

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Biological Assessment for the Salinas Valley Water Project. On March 4, 2004, another meeting was held with NMFS, MCWRA, and its consultants to discuss the hydrologic analysis report. It was agreed MCWRA would provide NMFS additional information regarding, among other issues, the statistical methodology to address the estimation error for unimpaired flows and a comparison of flow conditions among scenarios for 1949 to 1956 water years.

Between March 5-9, 2004, NMFS, with assistance from MCWRA and California Department of Fish and Game (CDFG) staff, conducted a single event flow study on the middle reach of the river above and below Soledad, based on the study plan from August 7, 2003.

On April 8, 2004, NMFS received the *Amendment to December 2003 Report Hydrologic Analysis of Salinas River Flows*, addressing NMFS' concerns from the March 4, 2004, meeting. In August, 2004, NMFS contracted with Natural Resources Consulting Engineers, Inc. (NRCE) to independently review WRIME's hydrologic analysis and estimates of unimpaired flows in the Salinas River. On October 29, 2004, NMFS, MCWRA, WRIME, and NRCE met to discuss how to determine passage flows and what other information was still needed to initiate consultation. MCWRA informed NMFS that preliminary engineering plans for both the fish screen and the fish ladder would not be completed for at least 3 to 4 months. At this meeting, MCWRA committed to meeting NMFS' fish ladder and fish screen criteria in its engineering plans in order for NMFS to initiate consultation. NMFS agreed to initiate consultation before passage flows were determined and a flow prescription developed; however, NMFS made clear that the biological opinion would not be able to be completed until this information was made available.

In a letter to NMFS dated November 30, 2004, MCWRA committed to meeting the standards outlined in the fish screening and fish ladder criteria for diversion facilities prepared by NMFS and CDFG. They also committed to modifying the slide gate structure at the Salinas River Lagoon to include a fish screen. NMFS initiated section 7 consultation for the SVWP with the Corps on December 9, 2004.

At a meeting on April 1, 2005, NMFS presented its *Salinas Valley Water Project Flow Proposal for the Biological Needs of Steelhead in the Salinas River* to MCWRA. From April through August, 2005, a technical working group made up of staff from NMFS and MCWRA, and its consultants, met on a regular basis to develop the final flow prescription. On September 21, 2005, NMFS received the *Draft Supplement to the Salinas Valley Water Project Biological Assessment* from MCWRA. On October 11, 2005, NMFS received the final *Supplement to the Biological Assessment for the Salinas Valley Water Project, Salinas River, California*, and the *Salinas Valley Water Project Flow Prescription for Steelhead Trout in the Salinas River* from MCWRA. After NMFS' review of the reports, MCWRA provided an *Errata to the Salinas Valley Water Project Flow Prescription for Steelhead Trout in the Salinas River* on November 8, 2005, December 19, 2005 and January 27, 2006. These errata provided corrections and clarifications resulting from NMFS' review.

The Salinas River Channel Maintenance biological opinion was issued to the Corps on July 23, 2003. The Corps 404 permit for this project allows landowners to perform channel maintenance in the Salinas River beginning on September 1 of each year. At that time, MCWRA currently shuts off flows to the river to allow maintenance in the dry river channel. The biological

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assessment for a Corps permit for the SVWP provides for flows in the Salinas River through October 31, except in very dry years. Included in the *Supplement to the Biological Assessment for the Salinas Valley Water Project, Salinas River, CA*, it was stated the Salinas River Channel Maintenance Project permit would not be modified. This results in these two permits potentially being in conflict with each other. On December 15, 2005, the Corps regulatory biologist contacted MCWRA's assistant general manager to determine which project would take precedence. In a phone conversation on December 19, 2005, the Corps regulatory biologist informed NMFS the SVWP, according to MCWRA, would take precedence over the Channel Maintenance Project.

On July 28, 2006, NMFS issued a draft biological opinion to the Corps and MCWRA. On November 7, 2006, MCWRA provided written comments on the draft biological opinion; the Corps did not provide any comments. On February 6, 2007, NMFS met with MCWRA and their consultants (the Corps did not attend the meeting) to discuss the draft biological opinion and MCWRA's November 7, 2006, comments. This opinion incorporates MCWRA's written comments and those provided at the February 6, 2007, meeting.

A complete administrative record of this consultation is on file in the NMFS Santa Rosa Area Office.

III. DESCRIPTION OF THE PROPOSED ACTION

The Federal action under review in this ESA section 7 consultation is the proposal by the Corps to issue to MCWRA a Clean Water Act (CWA) section 404 permit authorizing the construction of a seasonal river diversion facility with a small dam and diversion structure to impound and distribute increased spring, summer, and early fall reservoir releases (aquifer conservation releases) to provide surface water deliveries for irrigation. Surface water for irrigation will help to offset current groundwater pumping in some areas of the coastal Basin, thereby reducing saltwater intrusion. The diversion facility and dam will be constructed 2008 or 2009 and are expected to take one year of construction to complete. In-channel work will occur during the summer (July 1 - October 31). Information included in the Description of the Proposed Action comes from EDAW 2001, ENTRIX and EDAW 2002, MCWRA 2005a, MCWRA 2005b, MCWRA 2005c, MCWRA 2005d, MCWRA 2006a, and MCWRA 2006b.

A. Background

Groundwater is the source for most of the urban and agricultural water needs in the Salinas River Valley Basin. An ongoing imbalance between the rate of groundwater withdrawal and recharge has resulted in overdraft conditions in the Basin that have allowed seawater from Monterey Bay to intrude inland approximately six miles in the 180-foot deep Aquifer and approximately two miles in the 400-foot deep Aquifer (MCWRA 2005). Since 1949, an average of 10,000 acre-feet (AF) of seawater per year has intruded into Basin aquifers and, by 1999, more than 24,000 acres of land were underlain by seawater intrusion. Previous to basin overdraft, the stratified coastal aquifers were supplied freshwater by the deeper, non-stratified upper valley's aquifer flows. Aquifers intruded with seawater are largely unusable for either agricultural or municipal

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purposes and many wells have been abandoned or destroyed. The Nacimiento Dam and San Antonio Dam, and its reservoirs, were constructed, in part, to address the overdraft issues. Nacimiento and San Antonio reservoirs began operations in 1957 and 1967, respectively. The two reservoirs, built and operated by MCWRA, provide a total of just over 700,000 AF of storage for subsequent aquifer conservation release, *i.e.*, release of stored water throughout the dry season to recharge the Basin aquifer through the bed of the Salinas River. To halt further groundwater degradation and prevent seawater from moving further inland, aquifer pumping and recharge rates must be brought into balance.

B. Components of the SVWP

As objectives for the SVWP, MCWRA proposes to: halt the increase in seawater intrusion and eventually reduce the amount of seawater in the basin's freshwater aquifers, provide adequate water supplies to meet current and future water needs (the year 2030 was used for the future planning horizon), and improve the hydrologic balance of the groundwater within the Basin. To those ends, MCWRA proposes a series of structural and program-based (operational) components (the SVWP). Implementation of the SVWP would provide water for surface water deliveries and additional aquifer replenishment (aquifer conservation releases) by reoperating the Nacimiento and San Antonio reservoirs and modifying the Nacimiento Dam spillway. Also, the SVWP would offset current groundwater pumping in some areas of the coastal Basin by installing a seasonal river diversion facility with a small dam and diversion structure to impound and distribute increased spring, summer, and early fall reservoir releases (reoperated aquifer conservation releases) to provide surface water deliveries for irrigation. The SVWP does not provide a new source of water for the Basin. Rather it will release less stored water in the fall and winter and release more stored water during the late spring and early fall – a period with historically low precipitation.

All of the activities proposed by MCWRA, if undertaken, may affect ESA-listed species or designated critical habitat. Some of the activities proposed by MCWRA will require a discretionary CWA section 404 permit from a Federal agency – the Corps. Therefore, the Corps is consulting with NMFS to insure that issuance and implementation of the Corps permit is not likely to jeopardize the continued existence of ESA-listed species or result in the destruction or adverse modification of designated critical habitat. MCWRA has proposed some actions which, although they do not require Federal permits, are interrelated or interdependent to the Corps permitted activities. Interrelated activities are activities that are part of a larger action and depend on the larger action for their justification. Interdependent activities are activities that have no independent utility apart from the action under consultation. Interdependent and interrelated activities are analyzed under section 7 of the ESA along with the Federal action. These Federal and nonfederal activities are described in the following subsections.

1. Corps Permitted Activities

MCWRA proposes to install a surface water diversion facility with a small dam and intake structure, fish bypass facilities, a pump station, and a pipeline connection to the Castroville Seawater Intrusion Project (CSIP) system, collectively called the Salinas River Diversion Facility (SRDF). The SRDF will be located at river mile 4.8. When the Salinas River lagoon is

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closed to the ocean and the lagoon is above approximately 2.0 feet (ft) water surface elevation, standing water will be present at the downstream side of the diversion dam of the SRDF. The SRDF will operate seasonally from April 1 through October 31, if enough surface water is available. As currently proposed, maximum rate of diversion will be 85 cubic feet per second (cfs). The diversion facility will be built to support future expansion to a diversion rate of 135 cfs. Future diversion rates above 85 cfs were not considered by NMFS in this opinion, because the flow prescription to minimize project impacts and benefit steelhead was jointly developed by MCWRA and NMFS based on an assumed maximum diversion rate of 85 cfs. With this assumption, the average diversion of the SRDF will be about 9,700 AF per year (AFY).

The proposed dam will be built with pneumatically controlled interlocking steel gates that will span the width of the Salinas River. The height of the spillway gate will be controlled by inflatable bladders. The foundation of the dam will be set at an elevation slightly below the existing river bed and will be constructed of reinforced concrete with vinyl coated sheet piles driven at the upstream and downstream ends. When in operation, the dam will maintain the upstream water surface elevation of the impoundment within an operating range of approximately 5.0 to 9.0 ft elevation. The total operational storage volume of the impoundment within this range is approximately 108 AF.

The SRDF will include a fish passage system, including intake screens and fish ladder, to provide upstream and downstream steelhead passage, and will be designed and maintained to comply with NMFS and CDFG criteria. For example, MCWRA will construct a trash rack to strain gross debris while allowing fish passage. Beginning April 1, the date when the dam is inflated, and continuing as long as the dam is inflated, the fish passage system will be functional; that is, it will facilitate efficient upstream passage of adult steelhead, as well as provide passive conditions for safely transporting returning adults and juvenile steelhead from the SRDF impoundment to the Salinas River lagoon. The fish ladder will be designed to function over the entire range of operating diversion dam headwater elevations and tailwater flows of 2 to 45 cfs. The entrance to the fish ladder will include orifices with manually operated slide gates, which can be manipulated to generate optimum fish attraction conditions at the entrance. The fishway will be constructed with an auxiliary water supply pipeline. The pipeline will supply water at the fish ladder entrance pool to maintain seasonally dependent bypass flow rates and sufficient attraction for upstream migrants. Bypass flows through the fish ladder will typically be 45 cfs for migration when the lagoon sandbar is open to the ocean, and 15 cfs for migration when the lagoon sandbar is closed and flow is routed to the Old Salinas River (OSR) channel. A minimum flow of 2 cfs will be maintained to the lagoon as long as SRDF irrigation diversions are occurring or aquifer conservation releases from Nacimiento and/or San Antonio reservoirs are being made to the Salinas River. See Description of the Proposed Action, Section III.B.2.c in this opinion, "Salinas Valley Water Project Flow Prescription for Steelhead Trout" for more information on flows to the lagoon.

Construction of the proposed instream surface diversion facility will take approximately 12 months. In-channel work will occur when there are no flows in the Salinas River or when flows are minimal and fish passage is not an issue, typically from the beginning of July to the end of

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Based on its current condition and the loss of spawning habitat in the Nacimiento and San Antonio rivers, the Arroyo Seco River is the most important remaining steelhead habitat in the Salinas River watershed. The largest un-dammed tributary with steelhead habitat in the Salinas River watershed, the Arroyo Seco River is also the closest Salinas River tributary to the Pacific Ocean with suitable spawning and rearing habitat. The relatively close proximity of the Arroyo Seco River to the ocean is likely the primary reason the anadromous form of *O. mykiss* persists in the Salinas River watershed. The Arroyo Seco River also contains the majority of spawning habitat in the basin and half of the rearing habitat (Table 10). Anthropogenic manipulation of water flow in the Salinas River watershed has made successful migration into and out of the upper tributaries more difficult than migration opportunities to and from the Arroyo Seco River.

Table 10. Number of stream miles of designated critical habitat PCEs within the range of several sub-populations of SCCC steelhead in the Salinas basin. These data show the relative importance of the Arroyo Seco River in supporting steelhead in the Salinas River.

Sub-Population	Spawning	Rearing	Migration
Arroyo Seco	68.5	68.5	84.6
San Antonio/ Nacimiento	20.6	20.6	20.6
Upper Salinas	21.1	40.2	48.1
Lower Salinas	2.4	9.0	149.1

The complete loss of spawning and rearing habitat due to dams and the inaccessibility to spawning and rearing areas in the upper portions of the watershed during most years has increased the relative importance of remaining high quality habitats for SCCC steelhead in the watershed. The infrequent nature of flow events sufficient for migration to the upper portions of the Salinas River watershed, coupled with the distance adults must travel to reach them and smolts must travel to reach the ocean, has made the long-term persistence of steelhead in the river's upper tributaries tenuous. The conservation of steelhead habitats in the Arroyo Seco River watershed is critical for the persistence of this species in the Salinas River.

Based on watershed size, location, ecological context, and overall status of SCCC steelhead, the Salinas River has the potential (if it were to support a viable steelhead population) to prevent fragmentation in the distribution of SCCC steelhead, contribute to the genetic diversity of the species, and ameliorate the overall extinction risk of the DPS.

VI. EFFECTS OF THE PROPOSED ACTION

In this section, we analyze the direct and indirect effects of the proposed action, and the interdependent and interrelated actions, on threatened SCCC steelhead and its designated critical habitat. We approach the effects analysis by prioritizing effects, giving most attention to those having the greatest potential consequences to steelhead and their habitat. For the more substantial effects, we identify which PCE of critical habitat will likely be affected, and how the PCE will be affected given its baseline condition. For this project, the effects of flows on migration habitat received our highest priority. We quantified these effects using a flow model called the Salinas Valley Integrated Ground and Surface Model (SVIGSM) developed for MCWRA (WRIME 2003). Once this was done, we overlaid the effects on habitat on top of the biological requirements of steelhead and information about steelhead population abundance and

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distribution of individuals to determine the extent to which individuals are exposed to the changes in critical habitat and what their response is expected to be to such changes.

We have categorized effects into those related to instream flows and those concerned with construction and maintenance-related effects. Because flow-related effects are the most significant due to their long-term consequences, we identify which PCE of critical habitat will be affected, how the PCEs are likely to be affected given their baseline conditions, and how those changes affect the conservation value of critical habitat in the action area. In the Integration and Synthesis, we then address effects at the larger scale of sub-populations and critical habitat within the Salinas basin given baseline conditions. Finally, we judge the effect of population and critical habitat changes at the basin scale on the DPS scale for the species and critical habitat.

It is important to note that NMFS analyzed changes in stream flows based on the maximum proposed diversion rate at the SRDF of 85 cfs. The SRDF is designed to divert water at up to 135 cfs. Diversions above 85 cfs may require reinitiation of consultation if they would result in changes to the effects on SCCC steelhead analyzed and described below.

A. Flow-Related Effects

1. Adult Migration

To assess the flow related effects of the project on adult steelhead migration, it is important to first establish what flows are needed to facilitate that migration. This is not simply a matter of identifying the minimum flows at which steelhead are able to pass upstream. It is also necessary to consider how often and for what duration these passage flow events must be present to facilitate successful annual migrations of the species. For example, we know that adult steelhead historically migrated upstream during winter and early spring. However, even before agricultural development in the Salinas Valley and construction of the major dams, steelhead were probably not able to migrate during the lowest flows of winter. Indeed, during dry years, opportunities for upstream passage were probably of limited duration. Thus, at least three questions need to be answered to address the question of properly functioning conditions for adult migrations in the Salinas River. Firstly, what are the flows at which fish are able to successfully and efficiently move upstream? Secondly, how often do those "passage flows" need to be present to sustain a viable steelhead population? Lastly, it is important to know when those "passage flows" occur with respect to other hydrologic events in the watershed (e.g., what is the relationship of passage flows in the mainstem with rainfall-runoff events in key tributaries). For this analysis, we defined properly functioning condition of adult migration corridors primarily as stream flow supporting depths and velocities conducive to upstream passage in shallow riffles at a frequency and duration comparable to years prior to the construction of the dams when steelhead runs were substantial in the Salinas River.

As described in the environmental baseline (Section V.C.2), NMFS (2005c) examined the issue of adult passage flows and determined that at least 260 cfs and 150 cfs are needed to facilitate safe and efficient upstream passage of steelhead at Chualar and Spreckels, respectively. NMFS (2005c) recommended that in the absence of further site-specific information, 260 cfs should be

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Water for Monterey County

An Affordable and Sustainable Water Supply Solution

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A Sustainable Water Supply through Responsible Management

Since January 2007, the California Public Utilities Commission [Division of Ratepayer Advocates](#) (DRA) has been working with the University of California, Santa Cruz (UCSC) [Center for Integrated Water Research](#) (CIWR) to consider a regional approach to Monterey County's water needs. The regional area is:

- The California American Water Company service area, including Carmel, Del Rey Oaks, Monterey, Pacific Grove, Sand City, and Seaside, and the unincorporated areas of Pebble Beach, Carmel Valley, Monterey-Salinas Highway Corridor;
- The Marina Coast Water District (MCWD) service area, including Marina and the former Fort Ord;
- The City of Salinas; and
- Northern Monterey County rural and urban areas, including Castroville, Prunedale, Moss Landing, and Pajaro.

In cooperation with the DRA, UCSC/CIWR, the Monterey Regional Plan Work Group (Work Group), and the Water for Monterey County Coalition (WFMCC) developed a regional program — *Water for Monterey County* — that could provide up to 26,500 acre-feet of water per year.

Potential water production, as well as savings from conservation are shown in the following table:

Water for Monterey County Program Elements		
5,000 afy	Salinas River Diversions	<ul style="list-style-type: none"> • Winter diversions blended with recycled water • Delivered to expanded Castroville Seawater Intrusion Projects, allowing available groundwater to be pumped for urban use
9,000 afy	Recycled Water — Agriculture	<ul style="list-style-type: none"> • Stored in winter months • Distributed during peak summer months • Blended with summer diversions to meet demand

"The Water for Monterey County plan could potentially provide a good alternative in the search for a sustainable water solution for the Monterey Peninsula. The plan is intriguing, because it could be less costly, use less energy, help to reduce seawater intrusion, and doesn't rely on drawing in water from the Monterey Bay National Marine Sanctuary."
 — *Assemblymember John Leno, AD-27*

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13,000 afy	Desalination	<ul style="list-style-type: none"> • Uses intruded groundwater as basis of supply • Results in brine discharge that meets California ocean plan
0,000 afy	Salinas Basin Groundwater	<ul style="list-style-type: none"> • Additional wells to tap highest quality and lowest cost resource • Preserves reliability and sustainability
Up to 5,000 afy	Recycled Water — Urban	<ul style="list-style-type: none"> • Produced at MRWPCA Salinas Valley plant • Distributed to urban users • Advanced treatment for replenishment of Seaside Groundwater Basin
1,300 afy	Seaside Aquifer Storage	<ul style="list-style-type: none"> • Injecting treated Carmel River water into groundwater basin • In-lieu recharge to be studied
900 afy	Stormwater	<ul style="list-style-type: none"> • Local catchment cisterns • Percolation ponds
300 afy	Conservation	<ul style="list-style-type: none"> • Regional programs to decrease water needs • "Smart" irrigation controllers incentive programs • Drought-tolerant landscaping education • High efficiency and low-flow device rebates

A regional program would require significant electrical energy to meet daily operational needs. Therefore, an important element of such a program would be a sustainable energy supply. In addition to power from the Pacific Gas & Electric grid, the *Water for Monterey County* program also considers the following energy supply sources:

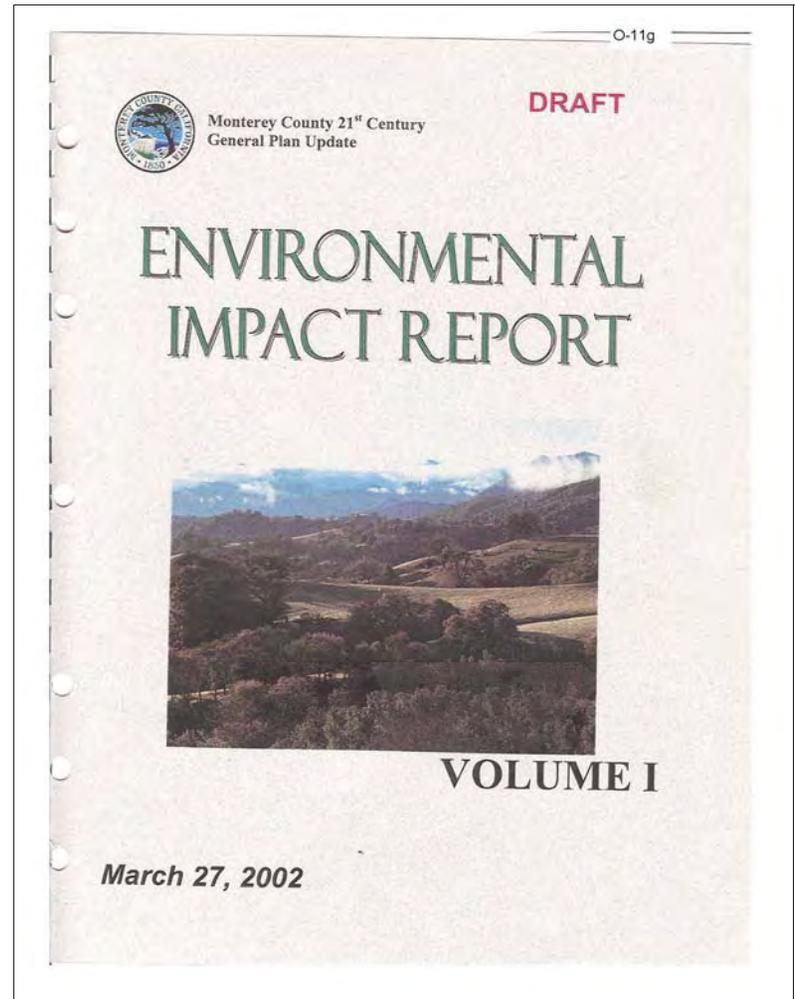
- Monterey Regional Waste Management District (MRWMD) Landfill-gas powered co-generation system (existing)
- Monterey County Water Resources Agency (MCWRA) hydroelectric power (existing)
- Biomass to energy power plant at MRWMD (proposed)
- Wind turbines located on the 220-acre parcel of Armstrong Ranch (proposed)
- Solar power (proposed)

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EXHIBIT 3

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Introduction

1.0 INTRODUCTION

1.1 THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

This document is a draft Environmental Impact Report (EIR) addressing adoption of a General Plan for the County of Monterey. The purpose of the EIR is to disclose potential environmental impacts that could result from implementation of the proposed General Plan. Preparation of the EIR and its availability for public review are required by the California Environmental Quality Act (CEQA).

The public, along with local, regional, state and federal agencies, are invited to review the EIR and to comment on its adequacy in identifying the potential environmental effects of the General Plan. Comments should be directed to the County of Monterey General Plan Update Office as identified below. Comments received during the mandatory 45-day review period will elicit a formal written response in a subsequent document (Response to Comments) which will also be available for public review. The Draft EIR, comments and responses will all be presented to the County Board of Supervisors for consideration as they review the proposed General Plan. Prior to approval of this or any version of the General Plan, the Board of Supervisors must certify that the EIR (complete with comments and responses) adequately addresses the General Plan's potential environmental impacts.

1.2 PURPOSE AND SCOPE OF EIR

Purpose of Environmental Impact Report

This Environmental Impact Report (EIR) assesses the environmental impacts of Monterey County's General Plan Update, a proposed update of the County's current General Plan adopted in 1982. The EIR has been prepared in accordance with the requirements of the California Environmental Quality Act (CEQA). The major purposes of the EIR are:

- ◆ To identify current environmental conditions within the County which may affect or be affected by growth projected for 2020;
- ◆ to disclose potential environmental impacts of the proposed General Plan;
- ◆ to inform the public and to foster public participation in the County's planning process;
- ◆ to inform County decision-makers as to potential effects of the proposed General Plan;
- ◆ to provide mitigation measures which could eliminate or reduce potentially significant environmental impacts; and
- ◆ to evaluate alternatives that might be environmentally superior to the General Plan as proposed.

Scoping Process

On May 10, 2001, the County (as Lead Agency) issued a Notice of Preparation of a Draft Environmental Impact Report in accordance with CEQA. A public scoping meeting was held on June 8, 2001 at the County Courthouse Building in Salinas, during which the proposed project was described and public comment was received on topics to be addressed in the EIR.

Monterey County Environmental Impact Report
Public Review Draft – March 27, 2002

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Introduction

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Land Use

5.2.8 PROPOSED WINERY CORRIDOR DESIGNATION

The proposed Land Use Element designates three "winery corridors" in the Salinas Valley. These are (1) Central/Arroyo Seco/River Road Corridor, (2) Metz Road and (3) Jolon Road (Exhibits 5.2-6 and 5.2-7). Two categories of wineries would be allowed in these corridors. "Full-scale" wineries are defined as those with an annual production capacity of between 50,000 and 2 million cases. "Artisan" wineries produce less than 50,000 cases. Up to 50 new wineries would be permitted in the designated corridors. Full-scale wineries would be on lots that meet the minimum parcel size of the underlying zoning district in which they are located. A maximum of 10 full-scale wineries is allowed in the corridors, with 5 allowed in the Central/Arroyo Seco/River Road Corridor, 2 on Metz Road and 3 within the Jolon Corridor.

Forty artisan wineries are allowed. Forty new lots of 5 acres or larger may be created to develop the smaller, artisan wineries. Up to 24 of these new lots are proposed in the Central/Arroyo Seco/River Road Corridor; 12 are proposed in the Jolon Road Corridor; and 12 would be allowed on Metz Road. Presumably, artisan wineries could be developed on larger lots as well.

All new wineries would be allowed a tasting room with a maximum size of 2,500 square feet (150 person capacity). Up to three new wineries would be allowed restaurants on-site, with no more than one in each corridor. A total of five delicatessens (up to three in the Central/Arroyo Seco/River Road Corridor and one in the two other corridors) would be allowed, along with three Bed & Breakfast facilities (See Table 5.2-6). The General Plan proposes to allow winery-related uses identified in Table 5.2-6 under a General Plan designation, with future review and approval procedures limited to an Administrative Permit (in the case of artisan wineries and stand-alone tasting rooms) and a Use Permit (for full-scale wineries, restaurants and delicatessens).

According to the proposed General Plan, the intent of the winery corridor designation is "to promote the processing and marketing capabilities of the industry and to more fully utilize the wine grape production already existing in the County" (LU-7.24). There is currently a shortfall in the capacity of local wineries to process wine grapes produced in the county. Consequently, 75-80% of the county's grape production is exported to be processed into wine or grape juice in other counties. According to the Monterey County Vintners and Growers Association, this represents a lost opportunity not only in potential revenue that would be gained if the value-added processing were performed locally, but the inability to process wines inhibits the development and promotion of Monterey County labels and local appellations in the highly competitive global wine market. A major cause cited by the Vintners and Growers Association for the shortage of local wineries is the length of processing time for proposed projects to be reviewed and approved in the County.

There are about 45,300 acres of planted vineyards in Monterey County. Approximately 45,000 acres are in the Salinas Valley with another 300 in Carmel Valley. The present acreage has the potential to produce approximately 226,500 tons of grapes per year. Although some acreage may go out of production in the coming years in response to market conditions, long-range projections by the industry suggest an increase of about 9,700 acres to a total of 55,000 over the next 5 to 10 years. This would generate a total potential yield of 275,000 tons of grapes, or 17,187,500 cases of wine (1 ton yields 62.5 cases). To process 100% of this projected

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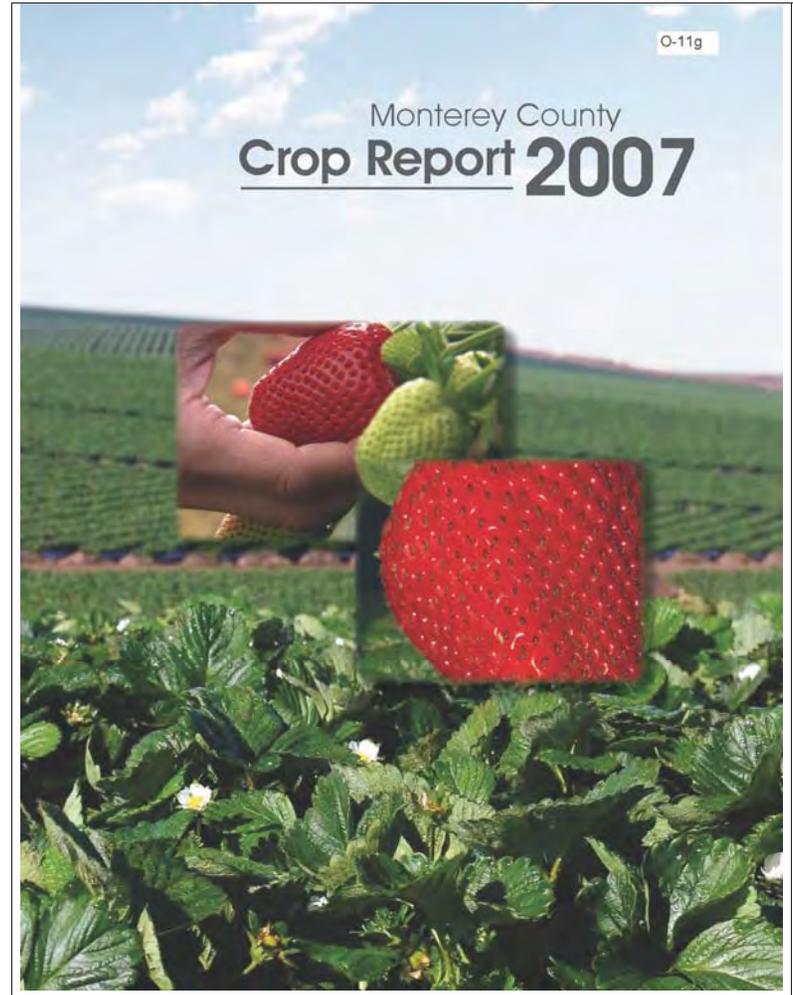
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Land Use

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EXHIBIT 4

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In Memoriam Estrella Guzman
5/10/1961 – 11/13/2007

This year's crop report is dedicated to Estrella Guzman. Estrella worked for the department for 17 1/2 years as an Agricultural Biologist and Deputy Agricultural Commissioner. She was a dedicated employee who took great pride in serving the local agricultural community. Her enthusiasm, tireless work ethic and compassion will be missed but not forgotten.

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Summary of Sustainable Agricultural Activities

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A.G. Kawamura, Secretary
California Department of Food & Agriculture

and
The Honorable Board of Supervisors of Monterey County

Fernando Armenta 1st District, Chairman
Louis Calcagno 2nd District
Simon Salinas 3rd District
Ira Mettes-McCulchon 4th District
Dave Potter 5th District

It is a pleasure to present the 2007 Monterey County Crop Report that is prepared pursuant to the provisions of Section 2279 of the California Food & Agriculture Code. This report reflects a production value of over \$3.8 billion for Monterey County, an increase of 9.5% over 2006. The increase is attributable to higher values for strawberries, head lettuce, grapes, broccoli, carrots, spinach, and a variety of other vegetable crops. However, decreases were noted in leaf lettuce, salad products, and a number of other crops. While the overall production value has again increased, it is important to note that the figures provided are gross values and do not represent or reflect net profit or loss experienced by individual growers, or by the industry as a whole. It does reflect the diversity and resilience of our agriculture industry.

The largest increase achieved was in the value of our strawberry crop, which increased by 38% or \$165 million on increased acreage, good production, and higher prices. For the second time, strawberries have surpassed head lettuce to become the County's second largest crop. Fittingly, this year's crop report features the strawberry industry, and we want to recognize the California Strawberry Commission for their contributions to this report and for the service they provide their growers.

Head lettuce, for many years our number one crop, posted a 15% increase of \$65 million on good prices. Leaf lettuce, which took over the top spot in 2002, declined slightly but still held on to its lead. Spinach also gained 15% or \$17 million following its \$77 million decline in 2006 on concerns over food safety outbreaks in 2005. Salad products, which also declined in 2006 over the same concern, showed a further 6% decline, but this is mostly attributable to more accurate data for specific commodities. Wine grapes also showed a strong increase of \$34 million or 15% with more bearing acres, higher prices, and increased yield. This puts our grape crop close to the record value established in 2005. The freeze of January 2007 resulted in a 45% loss of \$426,000 for avocados, while citrus actually showed a slight increase, despite the freeze damage, due to higher prices in a tighter market.

This report is our yearly opportunity to recognize the growers, shippers, ranchers, and other businesses ancillary to agriculture, which is the largest part of Monterey County's economy. As such, we would like to extend our thanks to the industry for their continued effort to provide vital information that enables the compilation of the Monterey County Crop Report. While we continually strive to improve upon this information, without their assistance, this report would not be possible.

Special recognition for the production of this report goes to Richard Ordonez, Juanita Adame and all the staff who assisted in compiling this information and improving the quality of the report.

Respectfully submitted,

Eric Lantz
Agricultural Commissioner

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Acreege & Varietals

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Monterey County Premium Wine Grape Production

Year	Acreege	Tonnage	Total
2006	38,165	210,000	\$217,983,000
2005	38,179	269,000	\$254,615,000
2004	38,614	172,000	\$174,380,000
2003	34,287	151,344	\$160,219,000
2002	43,007	143,947	\$147,065,000
2001	44,986	104,082	\$207,945,000
2000	45,043	170,729	\$216,430,000
1999	41,415	119,143	\$157,926,000
1998	39,901	148,860	\$178,610,000
1997	36,114	167,488	\$203,412,356
1996	33,319	118,922	\$129,630,000
1995	30,483	82,320	\$79,309,000
1994	31,247	119,384	\$89,335,000
1993	31,998	134,407	\$101,973,000
1992	32,404	101,407	\$75,036,000

Total Acreege of White & Red Grapes by Variety

Variety	White Grape Varieties Harvested			
	Acres	Ave. Price / Ton	Total Tons	Total Value
Chardonnay	15,242	\$1,012	92,178	\$93,284,000
Chenin Blanc	699	\$392	3,236	\$1,269,000
Gewurztraminer	665	\$949	2,920	\$2,771,000
Marsanne	15	\$727	91	\$66,000
Muscat Orange	24	\$1,265	105	\$133,000
Other Whites	69	\$1,270	257	\$326,000

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Pinot Blanc	79	\$1,076	337	\$363,000
Pinot Grigio	952	\$1,142	5,177	\$5,912,000
Riesling	1,181	\$1,073	4,681	\$5,023,000
Roussanne	67	\$1,784	80	\$143,000
Sauvignon Blanc	979	\$919	5,727	\$5,263,000
Semillon	55	\$1,138	315	\$358,000
Viognier	151	\$1,328	405	\$538,000
Zinfandel, White	47	\$533	377	\$201,000

Red Grape Varieties Harvested

Cabernet Franc	992	\$972	5,350	\$5,200,000
Cabernet Sauvignon	4,342	\$990	24,140	\$23,899,000
Grenache	141	\$1,341	783	\$1,050,000
Malbec	129	\$985	885	\$872,000
Merlot	5,687	\$957	29,626	\$28,352,000
Other Reds	156	\$774	812	\$628,000
Petit Verdot	139	\$1,145	621	\$711,000
Petite Sirah	198	\$1,114	1,008	\$1,123,000
Pinot Noir	4,195	\$1,511	21,102	\$31,885,000
Sangiovese	121	\$1,070	514	\$550,000
Syrah/Shiraz	1,561	\$983	7,637	\$7,507,000
Zinfandel, Red	280	\$415	1,340	\$556,000

Information Compiled from the Monterey County Agricultural Commissioner Crop Reports (1992-2006)

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