(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

State School Facility Program	$82,887,368
Developer Fees	$26,364,872
General Obligation Bond Funds	$10,346,000
State School Facility Program	$92,546,468
Developer Fees	$17,710,003

Table 26
Facility Cost and Facility Funding Comparison

Facility Plan	$193,450,000	$119,590,240	$74,251,760
Option #1 and Option #2	$229,350,000	$110,256,561	$119,093,439

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.

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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. This 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. Potter, 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 Aguilon, 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 1

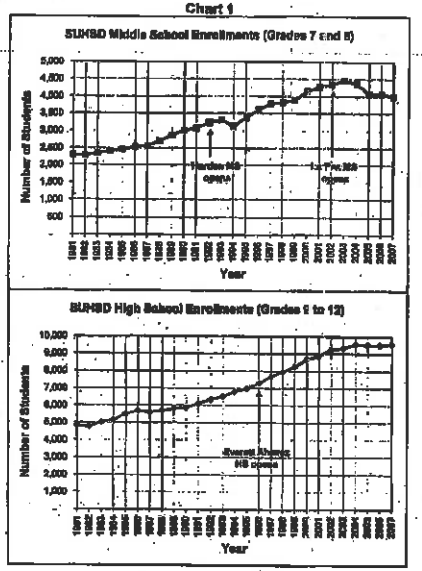

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Chart 2

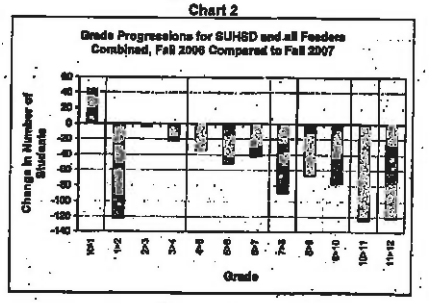

Chart 3 summarizes the grade progressions for each school level from 1981 to 2007. Grade progressions for the most recent pair of years (2006>2007) are shown in the farthest right column of each graph. We show percent changes in the number of students in each school level from one year to the next, beginning 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 2003 and 2005. 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.[3]

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.

[3] 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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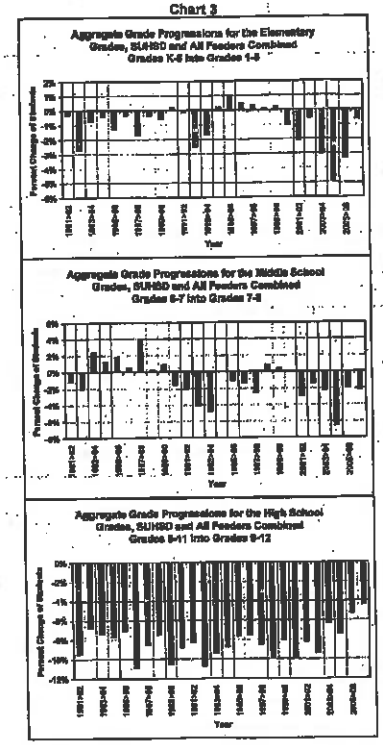
Chart 3



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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	2,565	259	0.10	635	0.25
Harden Ranch	2,561	not applicable		432	0.16
Williams Ranch	2,070	364	0.18	632	0.33
Total	7,229	623	0.13	1,829	0.25

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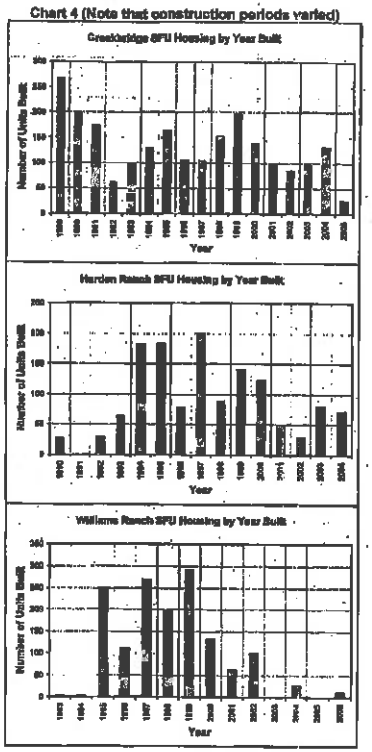
Chart 4 (Note that construction periods varied)



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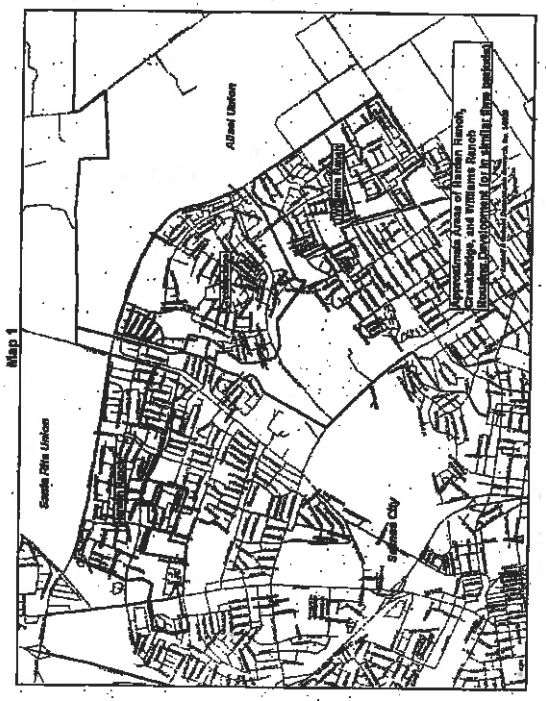

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Future Housing Developments

Under Construction

Now 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.

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[4] According to Mary Johnston, Sorrento (Monte Bella) Community Sales Manager, Standard Pacific Homes and Monica Paranda, Monte Bella Sales Manager.
[5] At one time, the number of units was stated to be 15,000 or more.
[6] Bill Sauerler, 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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Map 2

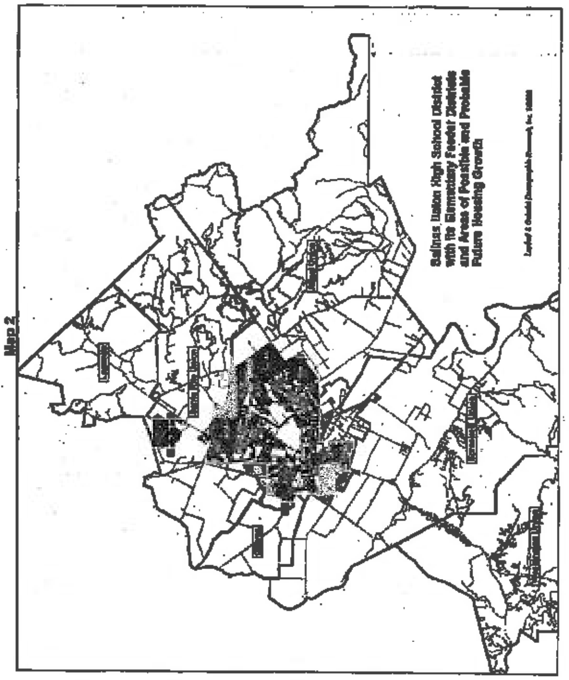

Table 2

Name of Development	Type	# Units	Feeder District	Timing	Notes
Monte Bella	SFU	853	Alisal	under construction; first occupancy 2006	368 occupied Oct 2007
Flor de Salinas	Condominiums	280	Salinas City	under construction; first occupancy 2006	109 occupied Oct 2007
Sprecklels	SFU	73	Spreckels	under construction; first occupancy late 2007	8 occupied Oct 2007
Tynan Village	Apts	171	Salinas City	under construction; first occupancy late 2008	
[illegible] Street	MFU	100	Salinas City		
West Boronda	mixed	800	Salinas City	first units 2010, 10 years to complete	35%+ affordable
[illegible] at Rogge Rd	SFU and Apts	171	Santa Rita		100% affordable
Bollenbacher & Kalion	SFU	214	Washington		
Bollenbacher & Kalion	MFU	68	Washington		
Rancho San Juan/Butterfly Village	SFU	730	Santa Rita and Lagunita	under litigation	
Rancho San Juan/Butterfly Village	MFU	405	Santa Rita and Lagunita	under litigation	
Future Growth Areas					
East (FGA 11)	mixed	approx. 11,500	Alisal	first occupancy 2010 (or later)	
Central: Creekbridge II (FGA 10)	SFU		Alisal (most) and Santa Rita (small part)	first occupancy 2010 (or later)	
Central: Creekbridge II (FGA 10)	MFU (apts) > 500 units		Alisal (most) and Santa Rita (small part)	first occupancy 2010 (or later)	
West (FGA 9)	mixed?		Santa Rita (most); Alisal and Salinas City (small parts)	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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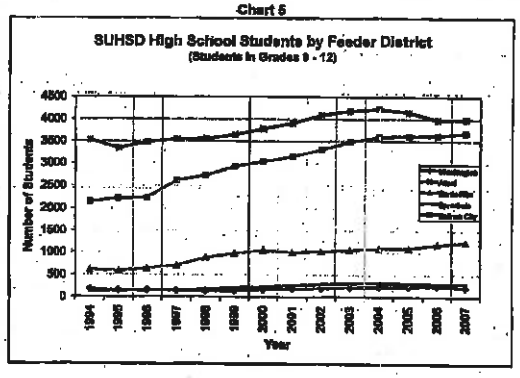
Chart 5



Salinas City School District

Chart 5 shows overall enrollments by school level for Salinas City School District (SCSD) students as well as SUHSD middle and high school students living in the 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

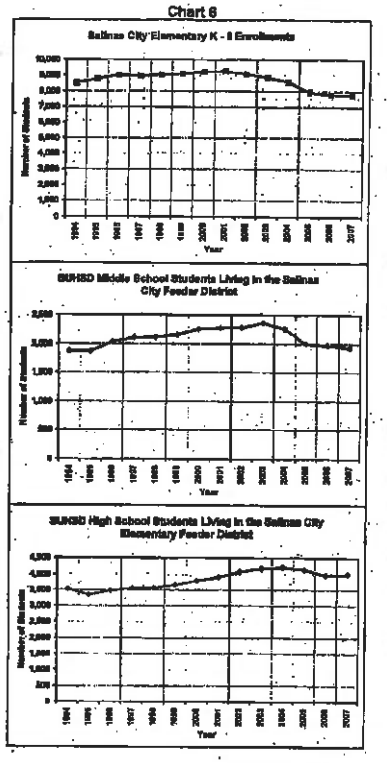

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Chart 7 shows the number of SUHSD high school students living within the portions of major developments that are in Salinas City District. Only a small area of Harden Ranch is in Salinas City, and enrollments from the new housing were stable. Virtually 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 7

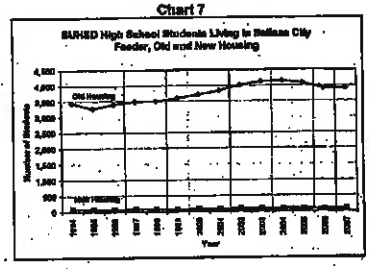

Chart 8 shows SCSD kindergarten enrollments, which peaked in 2000 and then declined. This large cohort is now in the seventh grade. Progressively smaller cohorts will follow, eventually reducing SUHSD enrollments from this area.

Chart 8

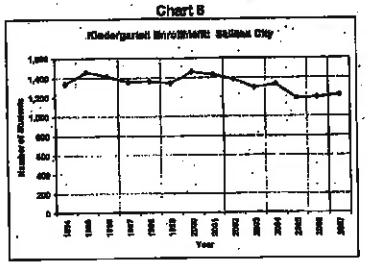

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Chart 9 shows the aggregated grade progressions for Salinas City School District. The number of kindergartners through fifth graders is compared with first through sixth graders the following year. This is a measure of the change in cohort sizes as 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 9

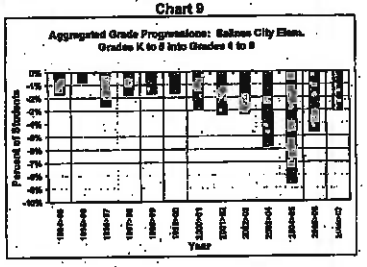

Chart 10 shows the sixth to seventh grade progression over time. This grade progression measure compares Salinas City's sixth grade class with the number of SUHSD seventh graders living in the Salinas City area the following year. In all but one year, the ratio was between 90 and 100 percent. An important 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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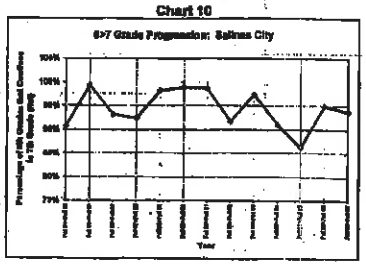
Chart 10



Forecast of SUHSD Students Living in SCSD

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.[9] 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.

[9] 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	959	958	956	940	899	917	959	961	961	961
8	929	932	921	919	903	892	880	922	944	944
9	1,023	951	964	973	971	955	914	932	974	996
10	954	972	930	933	922	920	904	883	891	923
11	1,022	992	920	878	881	870	868	852	811	829
12	910	967	847	865	823	836	815	813	797	756
7-8 Total	1,888	1,890	1,877	1859	1802	1779	1839	1903		
9-12 Total	3,909	3,822	3,661	3649	3597	3571	3501	3480	3483	3504

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	965	984	986	972	931	948	991	1,013	1,013	1,013
8	960	958	953	951	935	894	912	954	976	976
9	1,047	1,007	1,016	1,005	1,003	967	946	964	1,008	1,028
10	976	999	963	966	955	953	937	896	914	956
11	1,046	928	952	910	913	902	900	884	843	861
12	926	990	876	894	852	855	844	842	826	785
7-8 Total	1,926	1,942	1,941	1923	1866	1843	1903	1967	1989	1989
9-12 Total	3,997	3,924	3,807	3775	3723	3697	3627	3586	3589	3630

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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.

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Chart 11

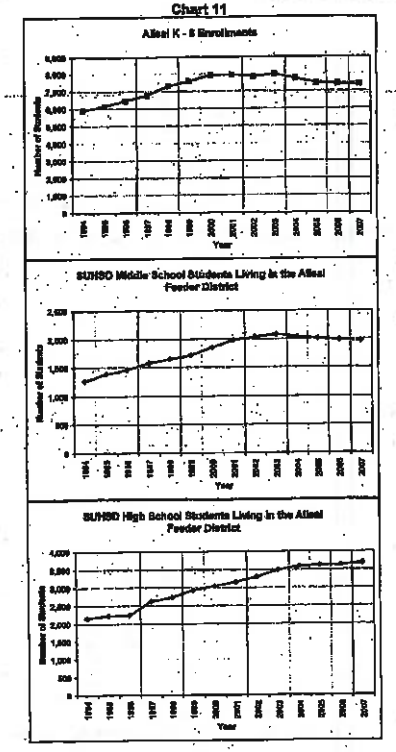

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Chart 12

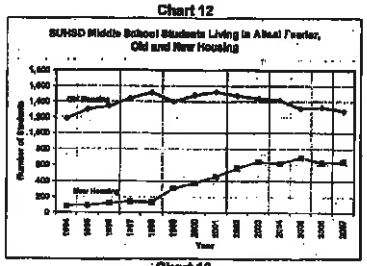

Chart 13

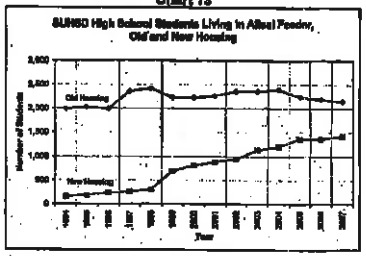

Chart 14 shows Alisal's kindergarten enrollments, which have been fairly stable. However, kindergarten enrollments have been higher than the historical norm for the last two years, which will eventually increase the number of SUHSD students from the Alisal area.

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Chart 14

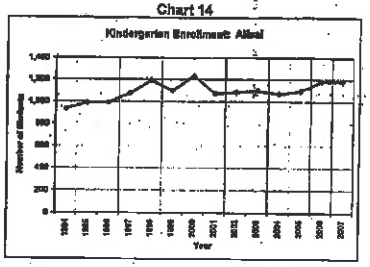

Chart 15 shows the aggregated grade progressions for Alisal Union School District. Students in kindergarten through fifth grades are compared with the number of first through sixth graders the following year. The ratios measure the change in cohort size as students progressed to the next grade. The grade 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.

Chart 15

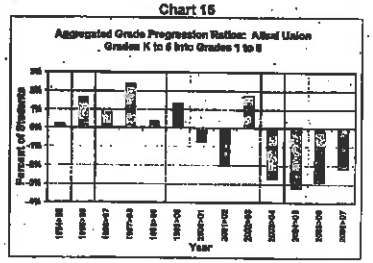

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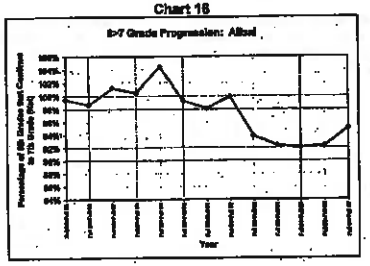
Chart 16 shows the sixth to seventh grade progression over time. This progression compares Alisal's sixth grade class one year with the number of seventh grade SUHSD residents of the Alisal area the following year. Once approximating 100 percent, the rate has been between 92 and 95 percent for a number of years. Perhaps the higher progression for the most recent pair of years results from students moving into Monte Bella homes.

Chart 16



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, SUSHD 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	607	614	618	613	620	672	685	683	685	685
8	623	611	606	672	667	674	638	619	615	619
9	554	570	599	618	616	614	631	679	626	606
10	554	551	527	515	472	476	471	476	530	533
11	462	469	496	482	450	407	411	406	413	465
12	462	426	425	432	396	388	343	347	342	349
7-8 Total	1,286	1,225	1,188	1185	1187	1246	1291	1283		
9-12 Total	2,142	2,045	2,008	1924	1830	1782	1748	1804	1850	1902

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	365	402	402	402	402	402	402	402	402
10	359	360	361	400	400	400	400	400	400	400
11	361	346	388	387	386	386	386	386	386	386
12	324	343	336	376	349	368	386	386	386	386
7-8 Total	637	676	676	676	676	676	676	676	676	676
9-12 Total	1,417	1,442	1,487	1587	1547	1556	1596	1586	1586	1586

Students from Monte Bella

GRADE	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
7	28	34	39	45	50	58	62	62	62	62
8	22	26	31	35	40	44	48	48	48	48
9	38	48	53	61	68	78	84	84	84	84
10	33	40	46	55	59	66	73	73	73	73
11	28	35	41	48	52	58	64	64	64	64
12	32	28	45	51	56	64	70	70	70	70
7-8 Total	50	60	70	80	90	100	110	110	110	110
9-12 Total	132	156	185	211	236	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	946	956	956	967	1,023	1,016	1,016	1,016
9	1,084	978	1,013	976	990	992	1,007	1,059	1,091	1,091
10	937	931	934	968	931	942	943	951	1,003	995
11	872	870	923	885	886	851	871	856	873	925
12	848	809	806	861	805	858	801	806	800	806
7-8 Total	1,967	1,961	1,932	1941	1953	2022	2077	2069	2069	2069
9-12 Total	3,691	3,648	3,676	3672	3624	3633	3622	3669	3767	3778

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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-5 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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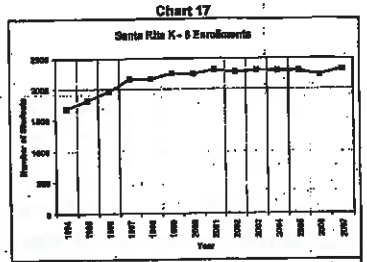
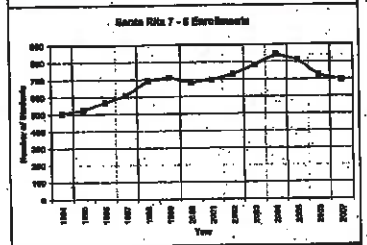
Chart 17





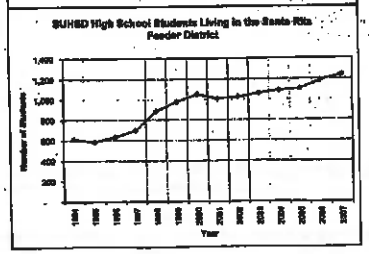


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Chart 18 shows the numbers of SUHSD middle and high school students living in major developments (Harden Ranch) and in older housing within this elementary feeder. Once we separate students living in the large developments, we see that since the late 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 Alisal) 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 18

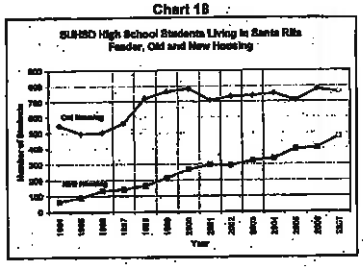

Chart 19 shows SRUSD kindergarten enrollments, which have been fairly stable since the late 1990s, despite the construction of Harden Ranch.

Chart 19

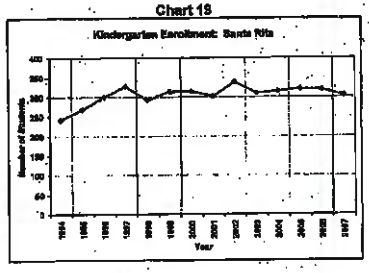

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Chart 20 shows the aggregated grade progressions for Santa Rita. Students in kindergarten through seventh grades are compared with students in first through eighth grades the following year. These ratios are a measure of the change in cohort size as 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 20

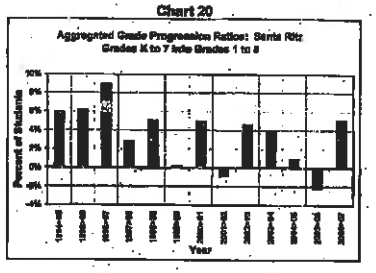

Chart 21 shows the eighth-to-ninth grade progression over time. This grade progression compares students in Santa Rita's eighth grade class with the following year's SUHSD ninth graders living in the Santa Rita feeder district. The rate of progression has been about 80 percent for the last five years. 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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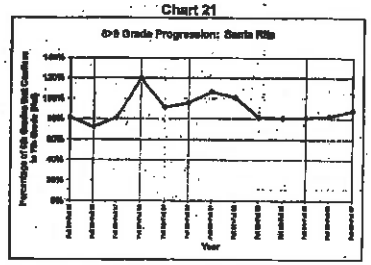
Chart 21



Components of Forecast of SUHSD Students Living in SR/SD
As with Alisal, the past and future housing growth compliments 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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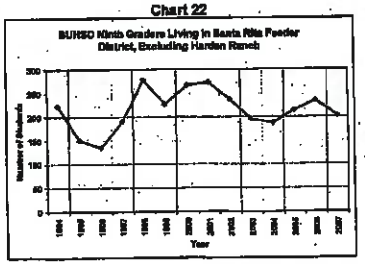
Medium forecast assumes that Harden Ranch enrollments will remain stable at 476 students.

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.

Chart 22



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.

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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	180	178	193	160	173	173	173	173	173	173
9-12 Total	785	779	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	105	106	105	106	106	105	106	106	106	106
12	124	124	124	124	124	124	124	124	124	124
9-12 Total	476	476	476	476	476	476	476	476	476	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		6	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	43	43	43	43	43	43	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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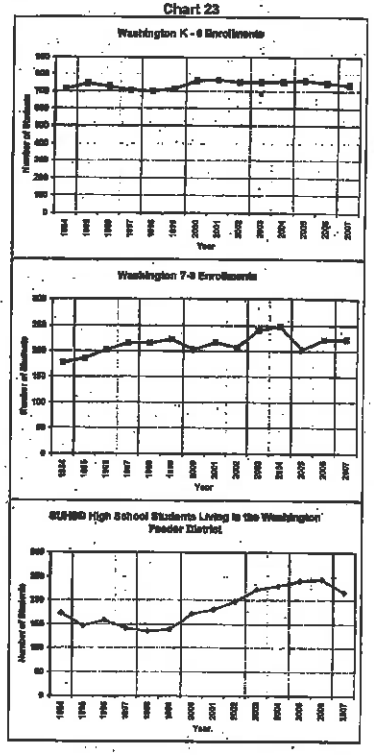
Chart 23



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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
Alisal	MFU	385	21	60	0.06	0.25
	SFU	1,255	169	371	0.13	0.29
	Total	1,630	190	431	0.12	0.26
Salinas City	MFU	13	3	5	0.23	0.62
	SFU	66	9	20	0.14	0.30
	Total	79	12	26	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.

L-15

Chart 24

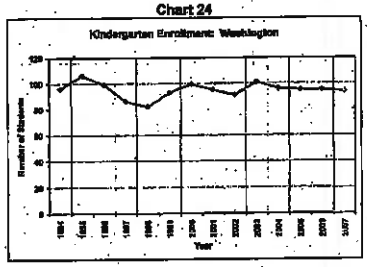
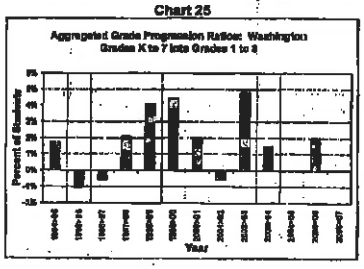


Chart 25 shows the aggregated grade progressions for Washington Union. Students in kindergarten through seventh grade are compared with students first through eighth grades the following year. These ratios measure the percentage change in cohort size as students progressed to the next grade. Grade progressions 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.

L-15

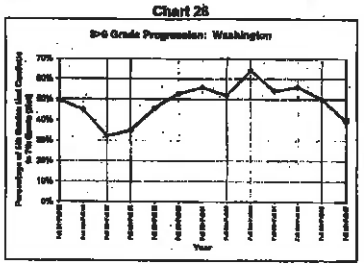
Chart 25



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.

Chart 26



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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	96									
1	95	99								
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	110	104	108	106	111	110	108	105	108	
9	41	58	50	53	52	54	53	51	51	52
10	55	40	54	49	51	51	52	51	50	49
11	59	53	39	53	47	48	49	51	50	48
12	91	62	48	36	47	43	45	45	46	45
9 to 12	296	211	191	189	196	197	199	199	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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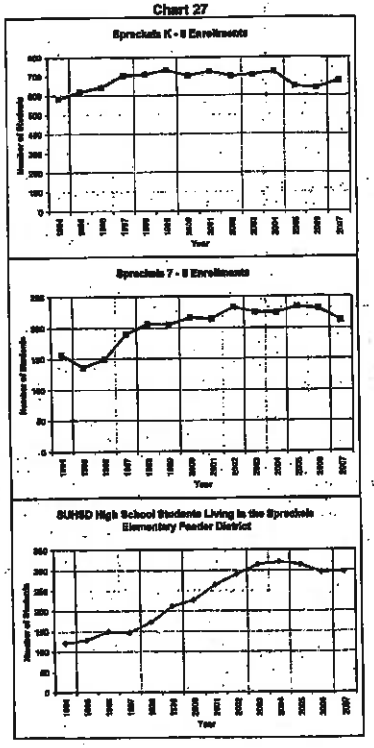
Chart 27



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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 28

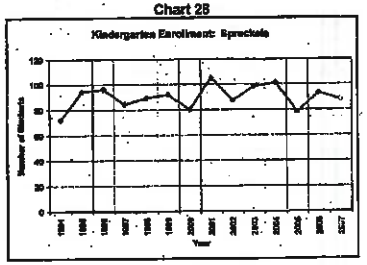

Chart 29 shows the aggregated grade progressions for Spreckels Union Elementary. The number of students in kindergarten through seventh grades is compared with the number of students in first through eighth grades the following year. These ratios measure the percentage change in cohort size as students 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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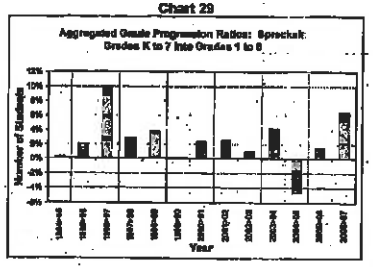
Chart 29



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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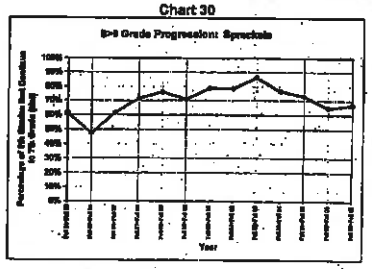
Chart 30



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	99									
1	85	106	95								
2	86	90	109	98							
3	93	107	93	113	100						
4	88	97	103	94	114	101					
5	88	92	99	110	96	117	103				
6	99	114	97	94	110	96	116	103			
7	113	101	116	99	96	113	99	120	110		
8	110	111	99	114	97	94	115	99	120	108	
9	75	79	75	70	80	68	80	82	83	85	76
10	71	76	75	75	67	77	65	83	78	81	83
11	66	66	69	69	69	61	70	60	80	72	55
12	64	79	63	65	66	64	57	66	56	64	67
9 to 12	295	297	285	279	281	271	289	271	256	273	282

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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	Forecast								
	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Salinas City	1,938	1,942	1,941	1,923	1,866	1,843	1,903	1,967	1,989	1,989
Alisal	1,967	1,961	1,932	1,941	1,953	2,022	2,077	2,089	2,068	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	Forecast								
	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Salinas City	3,997	3,924	3,807	3,775	3,723	3,697	3,627	3,588	3,599	3,630
Alisal	3,891	3,848	3,678	3,672	3,824	3,833	3,822	3,680	3,727	3,779
Santa Rita	1,241	1,274	1,293	1,278	1,286	1,288	1,286	1,286	1,286	1,286
Washington	218	211	191	186	186	197	199	196	197	195
Sprecklels	297	285	279	281	271	259	271	256	273	282
Graves	4	4	4	4	4	4	4	4	4	4
Laguna	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	9,456	9,364	9,302	9,216	9,188	9,119	9,123	9,197	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.

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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.[15]

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.

[15] 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	302	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	3026	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	787	60	207	267	71	101
2016	787	60	207	473	71	173
2017	787	60	207	680	71	244
2018	787	60	207	887	71	316
2019	787	60	207	1093	71	387
2020	787	60	207	1300	71	458
2021	787		192	1492	64	522
2022	787		192	1683	64	586
2023	787		192	1876	64	650
2024	787		192	2067	64	714
2025	787		192	2258	64	778
2026	787		192	2450	64	842
2027	787		192	2642	64	906
2028	787		192	2839	64	969
2029	787		192	3026	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 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

Middle School Enrollments	Actual	Optimistic Forecast
Non-FGA Areas	[illegible]	[illegible]
FGA and Buyouts	[illegible]	[illegible]
Total	[illegible]	[illegible]

High School Enrollments	Actual	Optimistic Forecast
Non-FGA Areas	[illegible]	[illegible]
FGA and Buyouts	[illegible]	[illegible]
Total	[illegible]	[illegible]

Middle School Enrollments	Actual	Medium Forecast
Non-FGA Areas	[illegible]	[illegible]
FGA and Buyouts	[illegible]	[illegible]
Total	[illegible]	[illegible]

High School Enrollments	Actual	Medium Forecast
Non-FGA Areas	[illegible]	[illegible]
FGA and Buyouts	[illegible]	[illegible]
Total	[illegible]	[illegible]

Middle School Enrollments	Actual	Pessimistic Forecast
Non-FGA Areas	[illegible]	[illegible]
FGA and Buyouts	[illegible]	[illegible]
Total	[illegible]	[illegible]

High School Enrollments	Actual	Pessimistic Forecast
Non-FGA Areas	[illegible]	[illegible]
FGA and Buyouts	[illegible]	[illegible]
Total	[illegible]	[illegible]

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TAMC

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. 1

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 2

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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. 2

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. 3
- 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).

Impacts TRAN-1B, 2B, 3B, & 4B
County & Regional Roadway Impacts

- Page 4.6-45 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 fund 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 4

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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. 4
- 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.

Impacts TRAN-1F, 2F, 3F, & 4F
Alternative Transportation

- Page 4.6-53 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. 5

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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. 5
- 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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required to utilize Monterey-Salinas Transit's *Designing for Transit* Guideline Manual as a resource for accommodating transit service at new development sites. 5

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. 6

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 polices 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." 7

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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October 23, 2008

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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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Community Development Principles

Attachment 1

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

Page 1

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Attachment 1

Community Development Principles

- ❖ **2.c** Design streets to accommodate all modes of transportation
  - **2.c.1** Incorporate sidewalks and bicycle lanes into new street construction
  - **2.c.2** Accommodate safe bicycle travel by providing on-street bicycle lanes and routes instead of separated bicycle paths
  - **2.c.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

Page 2

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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

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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

County of Monterey Resource Management
Agency, Planning Department

Comment Letters
Local Agencies

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Comment Letters
Organizations

O-1a

Ag Land Trust
P.O. Box 1731
Salinas, CA 93902
tel. 831.422.5868
fax. 831.758.6033

Monterey County
Planning and Building
Inspection Administration
OCT 28 2008
RECEIVED

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. 1

Respectfully,

Brian Rianda
Managing Director
Ag Land Trust

35

O-1b

Ag Land Trust
P.O. Box 1731
Salinas, CA 93902
tel. 831.422.5868
fax. 831.758.6033

RECEIVED
MONTEREY COUNTY
2009 JAN 30 PM 2:44
CLERK OF THE BOARD
DEPUTY

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. increase 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

Monterey County
Planning and Building
Inspection Administration
JAN 30 2008
RECEIVED

Mr. Terry Rivasplata
Jones and Stokes
2600 V. St
Sacramento Ca 95818

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

DEC 10 2007

RECEIVED

To: Monterey County Board of Supervisors
Mr. Charles McKee, County Counsel
Mr. Michael Novo, Director of Planning

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 DRB 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 mitigated traffic impacts, even if the developers are building affordable housing. The needs 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-5, 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 reformating 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

JAN 30 2008

RECEIVED

Mr. Michael Novo,
Monterey County Director of Planning

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 shinning 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.

10/15/07

O-1b

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.

O-1b

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 undertaken 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.

O-1b

(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.

O-1b

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.

O-1b

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
Law Bauman
Charles McKee

Exhibit 4

O-1b

Monterey County Agricultural and Historic Land Conservancy
P.O. Box 1731, Salinas, CA 93902

September 30, 2007

Monterey County
Planning and Building
Inspection Administration
JAN 30 2008
RECEIVED

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 Supe. 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.

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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. 8840591063 P 2

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Marc J. Del Piero
Attorney at Law

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Monterey County
Planning and Building
Inspection Administration

JAN 09 2008

RECEIVED

TO: Supervisor Louis Calcagno

FROM: Marc Del Piero

RE: Agricultural Land Preservation Policies in the 1982 General Plan

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

08/28/2007 18:09 FAX 8314438839 AgLand_Conservancy 001/001

To: Mike

From: Sherwood

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GOALS AND POLICIES
AGRICULTURE

GENERAL AGRICULTURE

GOAL AG-1

Retention, Renovation, 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 [illegible], or of [illegible] shall be prohibited.

by the Dept. of Conservation Farmland Mapping and Monitoring Program, including but not limited to prime, of statewide importance, unique, or local importance,

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.

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

g. Buffers are not meant to be permanent and will be terminated once the underlying reason for the buffer no longer exists. Delete

h. The Agricultural Advisory Committee shall review and recommend changes to established buffer zones. Delete

Same

AG-1.3 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

2006 Monterey County General Plan
January 3, 2007

Page AG-2

08/28/2007 18:05 FAX 8314438839 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 ~~one~~ means to identify important agricultural lands in the County.

The

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 and permanent 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.

2006 Monterey County General Plan
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-

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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, determinations of soil suitability for particular land uses shall be made according to the Soil Conservation Service's Soil Survey of Monterey County. or Dept. of Conservation mapping of Conservation Farmland Mapping and the California Dept. 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:

- Those portions of parcels with cross-slope of between zero and 19.9 percent shall be assigned 1 building site per each 1 acre.
- 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.
- 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 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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4 ***GOAL***

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

5 ***GOALS***

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

30 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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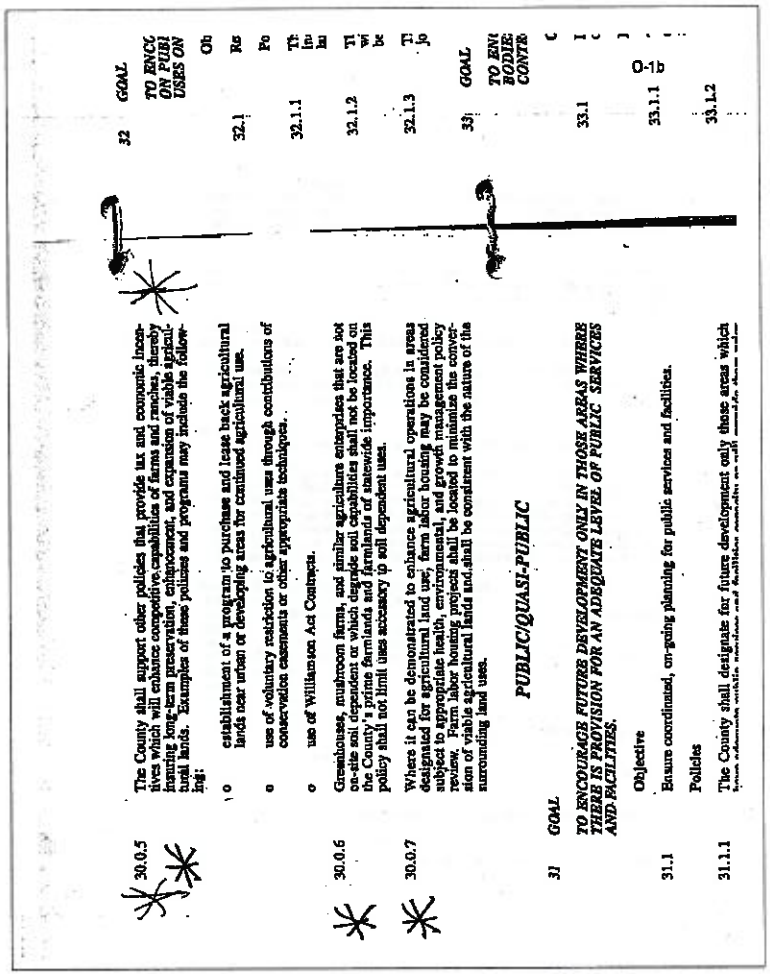

30.0.5 The County shall support other policies that provide tax and economic incentives which will enhance competitive capabilities of farms and ranches, thereby insuring long-term preservation, enhancement, and expansion of viable agricultural lands. Examples of these policies and programs may include the following:

- establishment of a program to purchase and lease back agricultural lands near urban or developing areas for continued agricultural use.
- use of voluntary restriction to agricultural uses through contributions of conservation easements or other appropriate techniques.
- use of Williamson Act Contracts.

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.

30.0.7 Where it can be demonstrated to enhance agricultural operations in areas designated for agricultural land use, farm labor housing may be considered subject to appropriate health, environmental, and growth management policy review. Farm labor housing projects shall be located to minimize the conversion of viable agricultural lands and shall be consistent with the nature of the surrounding land uses.

PUBLIC/QUASI-PUBLIC

31 GOAL

TO ENCOURAGE FUTURE DEVELOPMENT ONLY IN THOSE AREAS WHERE THERE IS PROVISION FOR AN ADEQUATE LEVEL OF PUBLIC SERVICES AND FACILITIES.

Objective

31.1 Ensure coordinated, on-going planning for public services and facilities.

Policies

31.1.1 The County shall designate for future development only those areas which

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OPEN SPACE

34 GOAL

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

Objective

34.1 Ensure that open space needs are met through operation of the planning process.

Policies

34.1.1 The County shall encourage clustering of all types of development, where appropriate, in order to allow for a portion of each project site to be dedicated as permanent open space.

34.1.2 The County shall allow on-site development density credit for developable lands placed in permanent open space as part of a development project approval. Use of on-site development density credit will be allowed only if environmental and health factors permit.

34.1.3 Wherever possible, open space lands provided as part of a development project should be integrated into an areawide open space network.

34.1.4 Open space areas should be used as a buffer between land uses of different types and/or intensities.

34.1.5 Open space areas shall be designated, wherever possible, on the perimeter of all development under taken by the County.

34.1.6 The County, in coordinated efforts with other public agencies, shall urge that all development projects undertaken by public agencies include an open space buffer area on the perimeter of the project site.

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.

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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:*

- *a establishment of a program to purchase and lease back agricultural lands near urban or developing areas for continued agricultural use.*
- *a use of voluntary restriction to agricultural uses through contributions of conservation easements or other appropriate techniques.*
- *a 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 easement to protect scenic corridor.*

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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 Relis 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.

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Exhibit 6

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MONTEREY COUNTY AGRICULTURAL AND HISTORICAL LAND CONSERVANCY
P.O. Box 1731, Salinas CA 93902

22 August 2006

Monterey County
Planning and Building
Inspection Administration
JAN 29 2007
RECEIVED

Cosme Padilla, Chair
Monterey County Planning Commission
240 Church Street
Salinas, California 93901

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

GPU4 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, foreboding 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

3-7

O-2

Alliance of Monterey Area Preservationists

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. 1

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. 2

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.

M. F. Dawson

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 831-646-9142 mike@dawsonmonterey.com

O-3 Page 1 of 2

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Calderon, Vanessa A. x6186

From: Mary Ann Mathews [mmathews2@comcast.net]
Sent: Monday, February 02, 2009 5:00 PM
To: ceqacomments
Cc: Carol Leneve; Rosemary Donion
Subject: GPU 5 Comments by CNPS

Monterey County
Planning and Building
Inspection Activities

FEB 02 2009

RECEIVED
Rec'd 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. 1

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." 2

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." 3

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. 4

We strongly support he policy encouraging the use of drought-tolerant native plants and urge that lawns be specifically mislabeled by using drought-tolerant native and native-compatible groundcovers. 5

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. 6

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 Wintey Corridor Plans when no standards have been developed to ensure the protection of sensitive plants, wildlife, and their habitats. The importance of preserving critical wildlife corridors should be clearly spelled out in this document. 7

02/02/2009

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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. Tree 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. 8

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 sites of the county. 9

The list of protected trees should also include the Monterey Pine Forest. The protected habitats list should include the Monterey Pine Forest. 10

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." 11

Please retain the wording in the 1982 GMPAF "In order to preserve scenic and rural character, ridgeline development shall not be allowed unless a special permit is first obtained." 12

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 Mathews, Conservation Chair
Monterey Bay Chapter, CNPS

02/02/2009

Oaks California Oak Foundation

Our mission is to protect and perpetuate native oak woodlands

O-4

October 22, 2008

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 (CO_2) and will continue to capture atmospheric CO_2 unless converted to non-forest use. (Oaks 2040) 1

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. 2

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) 3

1212 BROADWAY, SUITE 842 OAKLAND CA 94612 TEL 510 763 0282 FAX 510 208 4435 OAKSTAFF@CALIFORNIAOAKS.ORG WWW.CALIFORNIAOAKS.ORG

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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 bounty. 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) 3

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. 4

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 CO_2 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 CO_2 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 CO_2 emissions. GPU5 urban growth policies that lessen CO_2 impacts by conserving open space do nothing to mitigate CO2 emissions due to a land-use change that 5

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results in the loss of oak woodlands carbon storage capacity and CO_2 releases from the burning of oak firewood.

In determining CEQA significant effects to oak woodlands, both wildlife impacts and CO_2 emission impacts must be considered for mitigated negative declarations and environmental impact reports. These dual oak woodland impacts, plus Monterey County's disjunctive 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 CO_2 analysis and mitigation. 5

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. 6
- GPU5 fails to make a good faith effort to analyze substantial oak woodland CO_2 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.

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 Cobb

Janet S. Cobb, President
California Oak Foundation

attachment

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.

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O-5a

Carmel Valley Association
P.O. Box 157, Carmel Valley, California 93924
www.carmelvalleyassociation.org

October 22, 2008

Fernando Armenta, Chair
County of Monterey
168 W. Alisal Street, 1st Floor
Salinas, CA 93901

Missing Documents for GPU-5 DEIR Review

Dear Chair Armenta and Members of the Board of Supervisors,

Established in 1949 and with 800 dues-paying members, the Carmel Valley Association (CVA) is the oldest and largest residents association in Carmel Valley. CVA has been reviewing the Draft EIR for GPU-5. We have been diligent in our efforts, but have been unable to locate certain reference documents listed in the DEIR section 11 through the County-provided links and documents.

When we contacted The Open Monterey Project about this problem, we learned that they had, on October 17, 2008, advised the County of this problem. Even with this notification, we note that the referenced documents remain unavailable. 1

This letter is to advise you that, without the referenced documents, and whatever other documents are determined to be missing from the DEIR, CVA will not be able to complete its review of the DEIR in the remaining time allotted.

Accordingly, we urge you to immediately make these documents and all other required documents available, that you notify us of their availability, and that you provide us with at least the forty-five day minimum time required from the date of such availability and notice to review the DEIR, as required by the California Environmental Quality Act.

We thank you for your consideration of this request.

Sincerely,

Glenn E. Robinson
President Emeritus
Carmel Valley Association

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Monterey County
Planning and Building
Inspection Administration

FEB 02 2009

RECEIVED

Rec'd as CEQA Comments 2/1/09 11:10 pm

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

GENERAL COMMENTS ON 2007 GENERAL PLAN AND DEIR

Dear Mr. Holm:

The Carmel Valley Association (CVA) has reviewed GPU5, the DEIR and the proposed Carmel Valley Master Plan. Our comments follow:

At the outset, we note that GPU5 and the DEIR were not drafted to enable reviewers' easy access to comparable sections. Tracking the DEIR'S comments through multiple GPU5 sections became a frustrating and time consuming exercise. Considering also the initial forty-five (45) day review period, was it the intent of the County, or Jones and Stokes, or both, to not provide a readable DEIR and to not provide sufficient time for review, so that the documents flaws exposed would not be exposed? 1

For example, there are numerous occasions in which mitigation of a significant environmental impact is "accomplished" by referencing a law or ordinance *that does not exist, or by changing the definition of a word or phrase.* When no mitigating law or ordinance exists, why was ithis fact not highlighted in the DEIR? How can an absent, theoretical law or ordinance be used to mitigate substantial environmental impacts? 2

Are these theoretical laws and ordinances meant to come into being through passage of the General Plan? If so, is the County attempting to avoid the established legislation process by legislating through the General Plan? Is there established precedent that supports legislating through a general plan? If so, please reference the precedents, and explain how they apply to GPU5.

If, however, the Plan and its DEIR is based upon the claim that these laws and ordinances will come into being, please explain how a planning document can commit in advance the votes of Members of the Board of Supervisors? If GPU5 cannot dictate the future votes of Supervisors, explain how every mitigation, based upon nonexistent laws or ordinances, is valid.

When one compares the language used in the DEIR, it often does not conform to the language used in GPU5. Words like "shall" and "should," for example, sometimes were substituted one for another. Please explain the reasons for all such word substitutions between GPU5 and the DEIR, and how each such word change has impacted the DEIR. 3

The first goal of the CVMP is to "preserve the *rural* character of Carmel Valley." The DEIR, however, changed this definition, claiming that the 1986 CVMP was established to "preserve the *semi-rural* character" of Carmel Valley. Is it not deceptive and against the purpose of the DEIR not to inform the public that the planning goals and objectives for an entire area have 4

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been changed?

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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?

5

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.

6

COMMENTS ON IDIVIDUAL 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.

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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.

7

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.

8

Detailed discussion

Overall

1. 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:

9

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 8.5% 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). 9

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). 10

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 15064a1, 15064b, 15063a3, 15384e, 15151, and 15084c, 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. 11

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). 12

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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. 13

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. 14

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. 15

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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. 15

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 "the 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. 17

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 20

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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. 20

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. 21

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. 24

4.16.3.3

18. Please clarify the basis for the estimate that California is the "12th to 16th largest emitter of CO_2." Is that among all nations? Per unit of land area? Per capita? Does this refer to 25

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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 1/50th of the earth's anthropogenic (?) CO_2 emissions occur within California. Or is it really GHG emissions as measured in MMT of CO2E? 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 CO2E 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

4.16.4.1
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

4.16.4.2
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. 34

"Since" is the troublesome word; this refers to correlation, not necessarily to a cause. The data

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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 MMTCO2E" 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 MMTCO2E 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

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. 50

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. 58

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. 59

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). 60

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. 61

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 62

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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. 62

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. 63

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. 64

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. 65

56. Since the prospective removal of CO_2 sinks is not quantified in the DEIR (p. 4.16-22), and since an increase in CO_2 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 66

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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. 66

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? 67

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 on 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. 68

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. 69

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. 70

61. Additional consideration of specific defensive measures against the consequences of climate change (e.g., protection against potential increases in flooding and against potential 71

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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. 71

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. 72

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. 73

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."

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 – 74

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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. 74

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. 75

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. 76

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. 77

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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. 77
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."

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. 78

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. 78

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. 80

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). 81

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. 81

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. 82

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. 83

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 84

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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. 84

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. 85

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. 86

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 87

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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. 87

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. 88

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. 89

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. 90

I. The "No Project scenario" is the 1982 General Plan, which includes LOS C as the 91

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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. 92

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, he 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. 93

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 94

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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. 94

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. 95

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. 96

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. 97

O. 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. 98

P. 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 99

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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 100

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. 101

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 intersect strongly with 102

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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. 102

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. 103

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? 104

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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. 105

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. 106

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. 107

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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. 107

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. 108

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 B and 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. 109

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 110

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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. 110

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. 111

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. 112

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 113

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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. 113

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. 114

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. 115

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 116

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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. 116

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. 117

Table 1. Existing LOS for Carmel Valley Road using the DEIR's V/C Criteria. See accompanying text.

			2007 data		Table 4.6-21	
Segment	2007 ADT	DEIR appendix C D-10, E-37 level E cap.	V/C	LOS - using DEIR criteria	V/C	LOS - using DEIR criteria
1	3,431	11,680	0.2938	C		
2	4,024	11,680	0.3445	C		
3	8,628	11,680	0.7387	D	0.7450	D
4	10,816	11,680	0.9260	E-	0.9330	E
5a	11,844	11,680	1.0140	F	0.9460	E
5b	11,844	11,680	1.0140	F	1.0060	F
6	14,070	14,600	0.9637	E-	1.0100	F
7	15,797	11,680	1.3499	F	1.4340	F
8	20,186	14,600	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 found 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. 118

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. 119

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 o 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. 120

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 discrepencies between County evaluations and DEIR evaluations were not examined and resolved. Please provide an accurate, 121

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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 are12 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. 129

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. 130

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. 131

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. 131

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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. 132

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. 133

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. 134

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, 135

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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. 135

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. 136

Table 2. Comparison of LOS for Carmel Valley Road using different measures for LOS.

	Existing		2030 cumulative + project	
	2007 CVMP data	Table 4.6-21	Table 4.6-18	
segment	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 sets 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. 137

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 138

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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. 138

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. 139

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 140

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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. 140

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. 141

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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. 142

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. 143

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. 144

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 145

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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. 145

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. 146

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. 147

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. 148

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 149

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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. 161

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. 162

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. 163

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. 164

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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. 165

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. 166

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. 167

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. 168

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. 169

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. 170

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 171

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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. 171

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. 172

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 in 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. 173

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 techniques 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 174

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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. 174

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. 175

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? 176

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 unbuilt 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. 177

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. 178

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. 179

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 180

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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. 180

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. 181

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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. 182

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. 183

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. 184

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 185

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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. 185

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. 186

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 187

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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 187

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. 188

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. 189

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 190

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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. 190

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 obscuration, illogical argument, technical errors, omissions, failure to comply with CEQA provisions, etc. As an example, consider the text on page 4.6-97: 191

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 contributes 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 CVTP, 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 TRAN1-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. 191

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 192

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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.

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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.

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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

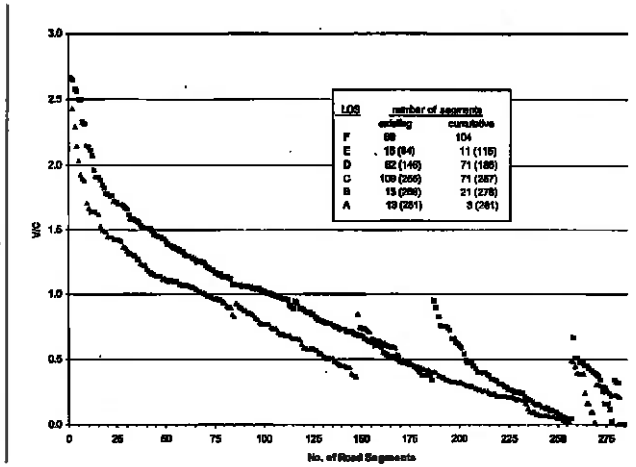

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Figure 1

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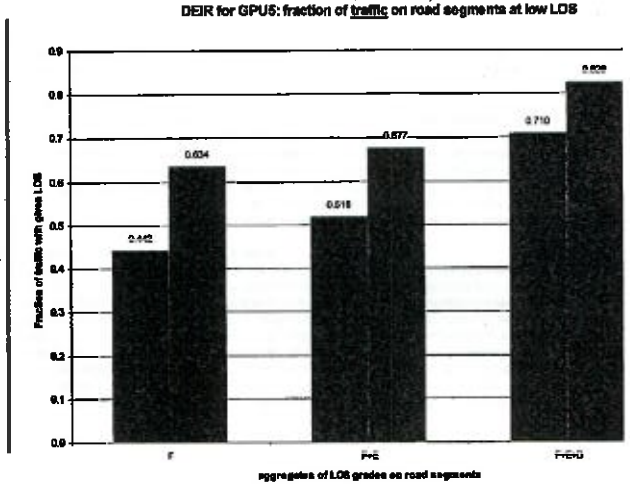

Figure 2

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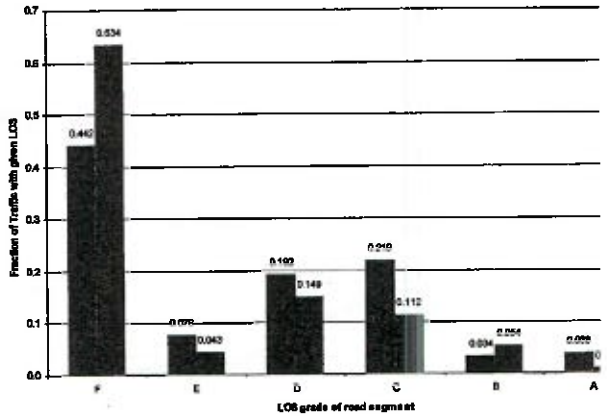

Figure 3

Comments on Section 4.3 (Water Resources)
Of the DEIR
For the 2007 General Plan Update (GPU-5)

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4.3 Water Resources (4.3-1)

The section begins, "This section of the EIR discusses water and its importance as a fundamental component of the environment, beginning with an overview of the current physical characteristics of Monterey County's surface- and groundwater systems. Water

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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. 194

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 195

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 195

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. 196

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. 197

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, ran-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?

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. 202

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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

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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. What is the real build out number in Carmel Valley, and exactly what constitutes it? Please be clear and specific. 206

- We find no adequate analysis of the impacts in Carmel Valley of all the cumulative development noted above, especially pertaining to traffic. Please do all necessary and appropriate research on these cumulative impacts, 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

- Four STAs are identified in Carmel Valley (Rancho Canada, Rancho San Carlos, Carmel Valley Ranch, and Condos/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. 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. 208

- How is the Rancho Canada STA consistent with the goals of GPU-5, especially with regard to flooding? 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

- On Exhibits 3.2 and 3.2a (Land Use Designations) there is a prominent block "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

- 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? 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? Why is it not limited to those parts (if any) of Rancho Canada Village that are above the flood plain? 211

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- 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

- 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

- Please explain why the Safeway complex at mid-valley appears as zoned "planned commercial" not "commercial". 214

- Exhibit 3.26 shows the AHO at mid-valley bisecting at least 15 parcels. How can an AHO apply to only part of a parcel? 214

- 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." Did your confusion over the important distinction between "semi-rural" and "rural" when it comes to Carmel Valley at all impact your analysis? If so, how? If the answer is "no" please provide satisfactory evidence. 215

- Where is the analysis for impacts in Carmel Valley? 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

PUBLIC SERVICES AND UTILITIES

- 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

- 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

- 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

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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. **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 1. We ask that you direct county staff to complete the table in Appendix 1. 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. 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. 7
   - 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

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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 sustained 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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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

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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.

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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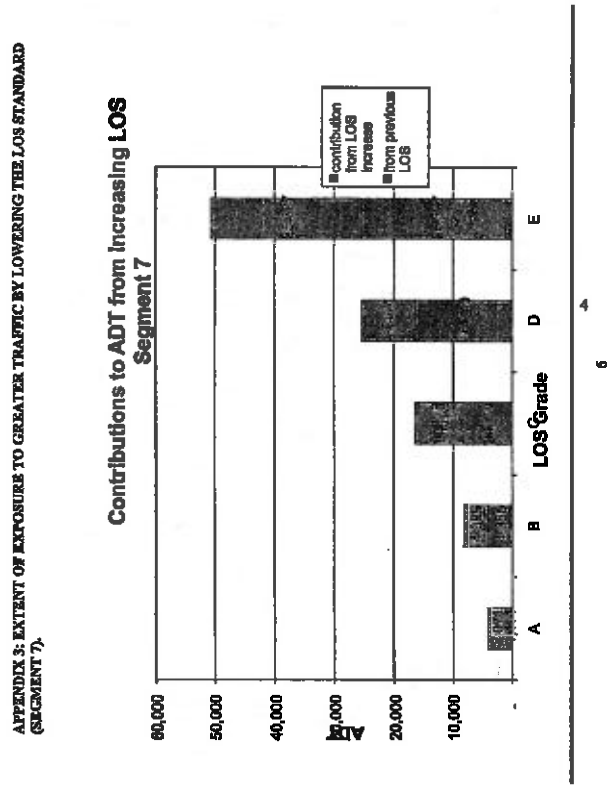
APPENDIX 3: EXTENT OF EXPOSURE TO GREATER TRAFFIC BY LOWERING THE LOS STANDARD (SEGMENT 7).



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AD HOC CARMEL VALLEY TRAFFIC COMMITTEE

January 30, 2009

Monterey County
Planning and Building
Inspection Administration

FEB 02 2009

RECEIVED

Mike Novo
County of Monterey
Salinas, CA
Via electronic mail: novom@co.monterey.ca.us

Rec'd e-mail 2/2/09 11:27 AM

Dear Mr. Novo,

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. 1

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 1. 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. 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 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). 3

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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., confirmation 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. 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. 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. 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. Please comment on each of these recommendations and explain their impacts if adopted in the General Plan. 7

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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.		

2

4

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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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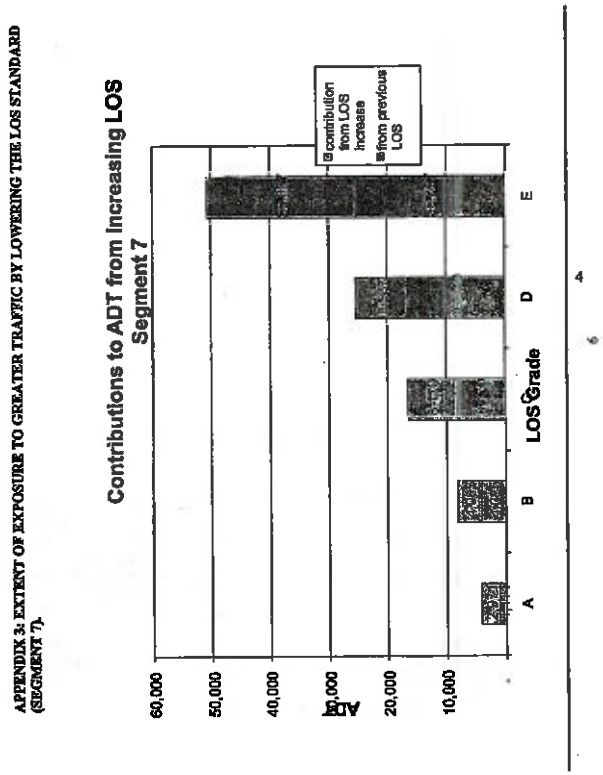

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CSMC
Citizens for a Sustainable Monterey County

Monterey County Planning and Building Inspection Administration
FEB 02 2009
RECEIVED
Rec'd as CEQA comments 2/1/09 5:42 pm

Ruth Smith
President
Citizens for a Sustainable Monterey County
PO Box 4060
Monterey, CA 93940

February 1, 2009

Carl Holm and Monterey County Board of Supervisors
County of Monterey
Planning Salinas Permit Center
[illegible] 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. 1

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 2000 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? 2

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 3

P.O. BOX 4060 MONTEREY, CA 93940
WWW.SustainableMontereyCounty.ORG

County of Monterey Resource Management Agency, Planning Department

Comment Letters
Organizations

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walkable 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. 3

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? 4

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? 5

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? 6

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: ceqacomments
Cc: Ruth Smith; Mark Folsom; Larry Telles; Robert Friechmuth; megan@montereygreenaction.com; Mark Folsom; George Wilcox; 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

Monterey County
Planning and Building
Inspection Administration
FEB 0 2 2009
RECEIVED
rec'd as CEQA
comments 2/1/09
5:42 pm

02/02/2009

Monterey County
Planning and Building
Inspection Administration
FEB 0 2 2009
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rec'd e-mail 2/2/09 4:36 pm

CPOA

Board
Property
Owners
Association

2/2/09
Carl P. Holm, AICP
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Via email to: holmcp@co.monterey.ca.us and ceqacomments@co.monterey.ca.us

Public comment by the Coast Property Owners Association on the Draft EIR for Monterey County's 2007 General Plan.

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.**

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] 4

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.)

- Caring for the Coast for over 45 years -

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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

[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.

4

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

conflicting provisions in general plans (see footnote 6, 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.

4

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.

5

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.

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]

5

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. 5

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.[10] 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. 6

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

[10] 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

kenyon yates

Sent Via Electronic Mail

October 24, 2008

Monterey County Board of Supervisors
Fernando Armenta, Chair
168 W. Alisal St., First Floor
Salinas CA 93901

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. 1

Thank you for your attention to this matter,

/s/ Jason R. Flanders
On Behalf of FANS

cc: Charles McKee, County Counsel, mckeeef@co.monterey.ca.us
Mike Novo, Planning Director, novom@co.monterey.ca.us

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February 2, 2009

Monterey County
Planning and Building
Inspection Administration

FEB 02 2009

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e-mail 2/2/09 11:53 a.m.

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Re: *Comments to Monterey County 2007 General Plan and Draft Environmental Impact Report*, SCH# 2007121001

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").

I. 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 . . . .

1

(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

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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.

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?

2

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 EIR states that development *consistent* with the General Plan would "substantially degrade[e] 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 EIR 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

3

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Carl Holm
2007 General Plan, DEIR
February 2, 2009
Page 3 of 22

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. 3

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.

Carl Holm
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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] 3

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: 4

- "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: 4

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.) 4

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 EIR 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. 5

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, Gallban 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? 5

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.]

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(*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 GPU5. 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 CISP [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. 6

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 Murrieta* (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: 6

> 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. 6

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; *Gentry, 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) 6

(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. 6

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. 7

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. 7

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.

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(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 usable 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:

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> In the Pajaro Valley, this impact is considered significant and unavoidable due to the lack of an established feasible comprehensive solution to address existing seawater 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. 8

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. 9

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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. 9

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. 9

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: 9

> 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 GPU5 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 GPU5 have less specific preservation requirements than the current ordinance, the guidelines authorized by the General Plan would supersede the existing ordinance. The GPU5 DEIR has failed to evaluate the environmental consequences of providing fewer protections for existing tree species protected by the current tree preservation ordinance. 8

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 4.9-35.) 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. 9

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. 10

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 GPU5 DEIR for public review and comment. 11

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 MCWRA 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 options 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 facilitate 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's 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: JUL 28 [illegible]

DRAFT

I. INTRODUCTION

Section 7 of the Endangered Species Act (ESA) of 1973, as amended, requires Federal agencies to insure that any action [illegible], funded, or carried out is not likely to jeopardize the continued existence of [illegible] endangered species or destroy or adversely modify critical habitat. The section 7 [illegible] 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 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 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.

[illegible] WL – [illegible]

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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 10, 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 ( )	
SUBMITTED BY: PHONE:	Manuel L. Quintela 755-4860	PREPARED BY: PHONE:	Manuel L. Quintela 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.

alinas River Diversion Facility Project

he following tasks have been identified as part of the SVWP Construction Implementation Plan for se Salinas River Diversion Facility project and are to be completed prior to distribution of onstruction bid documents:

1. Obtain permits: Federal Endangered Species Act Biological Opinion 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): 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.	$10.0
Proposition 50 Grant: Funding from Propositions 50 is projected to be available for use in the spring of 2008.	$9.8
Bonds: A bonding issue will be in place and the proceeds available for use by January-March of 2008 depending on cash flow requirements.	$16.9
Assessment revenue received during 24 months of construction	$2.7
Total Construction Funding	[illegible]

Estimated Costs During Construction:	
Salinas River Diversion Facility	$18.6
Spillway Modification	$11.1
Total Estimated Construction Costs	$29.7
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	$32.5

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.

County of Monterey Resource Management
Agency, Planning Department

Comment Letters
Organizations

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FINANCIAL IMPACT:	YES (X) [illegible] NO ( )
FUNDING SOURCE:	1. [illegible]
COMMITTEE REVIEW AND RECOMMENDATION:	1. [illegible]
ATTACHMENTS:	1. [illegible]
APPROVED:	General Manager Date

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ATTACHMENT "1" FEB 2 6 2003

Monterey County Farm Bureau
Mailing address: P. O. Box 1448, Salinas, California 93902, USA
Street address: 931 Blanco Circle, Salinas, California 93901, USA
Telephone 831/761-3109 - Email MoCoFB@pacbell.com - FAX 831/761-3107
Visit our website at www.MontereyCountyFarmBureau.org

February 18, 2003

Board of Directors
Monterey County Water Resources Agency
PO Box 930
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, specifically 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 extent of benefit they receive in relation to the 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 widespread 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 expect that, 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 (Alan) Haley(sic) said the project is only the first phase of a three-pronged plan to fix the region's water supply. Later projects would take 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 these 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 Pleyto
Bill Hammond

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Salinas Valley Water Project EIR/EIS

ATTACHMENT 4

beyond the AMBAG 2020 forecasts for either Fort Ord or Marina. This is because MCWRA has existing agreements with each of the U.S. Army (for Fort Ord) and the Marina Coast Water District (which serves Marina) providing for use of fixed amounts of water from the basin into the future, irrespective of growth within those areas. Nevertheless, to the degree that this water could facilitate growth, these communities are included in this analysis. Figure 3-1 on page 3-2 of this EIR/EIS depicts the locations of each of these communities.

Table 7-1
Population Growth Projections For Communities Within the Salinas Valley: 1995 - 2030

City/Community[1]	1995[2]	2020[3]	2030[4]	Percent Change 1997-2030 (average annual % change)
Salinas	119,643	170,059	194,407	63% (1.8%)
King City	9,479	25,389	29,024	206% (5.9%)
Gonzales	8,951	13,145	15,027	68% (1.9%)
Castroville[5]	5,700	6,200	7,088	24% (0.6%)
Soledad (does not include prisons)	9,988	14,595	16,659	85% (2.4%)
California State Prisons near Soledad	6,435	17,000	17,000	164% (4.7%)
Gonzales	5,972	12,562	14,361	140% (4%)
Fort Ord	6,235	37,370[6]	37,370[6]	600% (17%)[7]
Marina	17,528	24,913[8]	24,913[8]	42% (1.2%)
Total	188,949[9]	321,195[9]	355,859	88% (2.5%)

Source: AMBAG, 1997; MCWRA, 1998.

[1] Includes growth forecasted in the sphere of influence of each city.

[2] Source: AMBAG 1997 (estimated population)

[3] Source: AMBAG 1997 (forecasted population)

[4] Source: MCWRA staff calculations, 1998 (forecasted population), except for Fort Ord and Marina for 2030 (see 6 and 8 below).

[5] Census Tract 104

[6] Represents population based on the MCWRA's and United States Army's contract with Fort Ord to allow 6,600 AFY of water to be taken from the Salinas River Basin. Includes all residents, including 10,000 students at CSU Monterey Bay. Source: Fort Ord Reuse Plan (1997).

[7] The population on Fort Ord in 1990, prior to its closure as a military facility, was 28,301. The 37,370 population for 2030 represents an increase of 31% over the 1990 total.

[8] This represents the total growth that would be supported by the 4,400 AFY that MCWRA has contracted for Marina Coast Water District's use from the Salinas River Basin. Total population in Marina is forecasted by AMBAG to be 46,607 by the year 2020.

[9] Totals differ slightly (approximately 2%) from AMBAG projections for Zone 2/2A due to EIR estimates on water use factored for both Fort Ord and Marina.

Growth-Inducing Impacts of the Project

Draft EIR/EIS [redacted]

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2004 AMBAG POPULATION, HOUSING UNIT & EMPLOYMENT FORECASTS

ATTACHMENT 4a

TABLE 4

2004 AMBAG POPULATION, HOUSING UNIT & EMPLOYMENT FORECASTS
MONTEREY COUNTY

	CARMEL	DEL REY OAKS	GONZALES	GREENFIELD	KING CITY	MARINA	MONTEREY	PACIFIC GROVE	SALINAS	SAND CITY	SEASIDE	SOLEDAD	UNINCORP MO CO	TOTAL
EMPLOYMENT 2000	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
EMPLOYMENT 2005	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
EMPLOYMENT 2010	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
EMPLOYMENT 2015	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
EMPLOYMENT 2020	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
EMPLOYMENT 2025	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
EMPLOYMENT 2030	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
HOUSING UNITS 2000	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
HOUSING UNITS 2005	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
HOUSING UNITS 2010	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
HOUSING UNITS 2015	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
HOUSING UNITS 2020	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
HOUSING UNITS 2025	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
HOUSING UNITS 2030	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
POPULATION 2000	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
POPULATION 2005	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
POPULATION 2010	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
POPULATION 2015	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
POPULATION 2020	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
POPULATION 2025	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
POPULATION 2030	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

Adopted by the AMBAG Board of Directors on 4-14-04

2000 CENSUS
Boronda 1385
Prunedale 16432
Castroville 6449
Moss Landing 300
San Ardo 501
Total 25,062

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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://cbs5.com/[illegible]/local_story_[illegible].html
33 minutes and 35 seconds of unedited press delight, with all the details you've been waiting for…

The adjacent posted broadcast news clip also has an interview with Nick Frey, (Grapegrower'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 parts 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, terroir-obscuring 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

José [illegible]
Project Engineer
California Institute of Food and Agricultural Research
Department of Food Science and Technology
University of California
Davis, California, 95616

E.D. [illegible]
Senior Vice President
California League of Food Processors
[illegible] J Street, Suite 290
Sacramento, California, 958[illegible]

R. Paul Singh
Professor of Food Engineering
Department of Agricultural Engineering
University of California, Davis
Davis, California, 95616

ABSTRACT

[illegible] in California and [illegible] of [illegible] food processing plants has [illegible] 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 [illegible] plant sites. A total of 77 plants responded to the survey. Responses from product groups were, fruit and vegetables (32), wine and beverages (9), seafood (6), meat (3), dairy (2), and [illegible] (2).

The total water use by the responding industries was 72 billion gallons per year. The total cost was $ 18 million of which 23% was for fresh water supply and 77% was for wastewater disposal. There were [illegible] 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 $5000 per million gallons of water. At these costs, [illegible] 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 [illegible], [illegible], 7250, and 1320 gallons per ton of raw materials processed. The variation within each group 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 425 to 2800 gallons per ton of grapes and the median was 1000-1250. None of the wine [illegible] provided data on BOD or TSS in wastewater.

The peach industry also provided six responses. The specific water use ranged from 1800 to 3580 gallons per ton of peaches and the median was 2700-2800. The BOD was reported by only four plants and the values were 9, 38, 41 and 67 lb per ton of peaches. The TSS was reported by the same four plants and the values were 4, 10, 12, and 18 lb per ton of peaches.

The olive industry provided four responses with different 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 53 and 90 lb of BOD and 5 and 28 lb of TSS per ton of olives.

Another 24 plants provided specific water use and effluent strength data on 21 different products ranging from apple sauce to zucchini. Table 1 is a complete listing of these data.

Water Supply Rates

There were 38 food plants that obtained fresh water from 29 water agencies. The rate structures 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, making comparison of charges somewhat difficult by their descriptions.

However, an approximate comparison done using the rate at the highest quantity step, is presented in Table 5 for 10 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	493.50
Hollister	784.00
King City	824.00
Oroville	1038.00
Los Angeles	1132.00
Santa Rosa	1570.00
Santa Cruz	1805.00
San Jose	1925.00

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ATTACHMENT 9

Rancho San Juan

As noted in the Existing Conditions section, the EID is within an area (the Eastside Area) of the Salinas basin that is subject to chronic water level declines due to overpumping (groundwater extractions in excess of recharge). While the SVWP is expected to reduce seawater intrusion in the Pressure Area, it is not anticipated that it will reduce the chronic groundwater level declines in the Eastside Area. While the seawater intrusion impact may be mitigated, continued depletion of water supply in the Eastside Area as a result of a net deficit in water use would remain a potentially significant impact.

The effect of development in Rancho San Juan will be to establish long-term conditions for overdraft and continued decline of water levels in the Eastside Area through urban uses. The Final Adopted Rancho San Juan Specific Plan provides for up to 1,147 dwelling units, approximately 1 acre of commercial development, a 202-acre golf course, 71 golf villas, 12 acres of park, and 141 acres of conservation open space. The Plan estimates that the projected development demands of 488 AFY will subsequently be met on-site by the facilities (two well connected to Cal-Water's system, two 400,000-gallon storage tanks, and reclaimed wastewater used for irrigation). However, this is based on projections for the Specific Plan area only. It does not include the expansion area and associated development proposed as part of the Rancho San Juan Community Area. Development of these areas would result in additional water demand. All of the area's current 365 acres of agricultural land that would be converted to commercial, residential, and public/quasi-public acreage (281 acres, 165 acres, and 129 acres, respectively). While this would allow some of future water use through land conversion, the net water budget would still likely be in deficit. Development of the proposed Expansion Area in less than urban densities, will not reduce the problem, since residential water consumption rates tend to increase with decreasing density, typically due to large area landscaping (the largest component of water consumption related to residential land use is for irrigation of landscaped areas), a potential impact that can be controlled with water-conservation and strict landscape irrigation restrictions.

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 result in impacts directly related to significance thresholds. It will substantially deplete groundwater supplies, resulting in a net deficit in aquifer volume and lowering of the local groundwater table, and create water demands that exceed water supply available for existing resources.

Urbanization of Rancho San Juan would necessitate facilities for conveyance, storage, and distribution to the Community Area. Construction of these new facilities may result in environmental impacts that cannot be evaluated until site-specific plans are reviewed in conjunction with the Community Plan.

Chualar

Chualar is situated in a portion of the Salinas Basin that receives sufficient groundwater recharge and is not subject to seawater intrusion. Past and current agricultural practices have resulted in water quality degradation of the shallow aquifers (primarily high nitrate); however, potable water supply is available from deeper in the aquifer system. According to Cal-Am's UWMP, Chualar is one of the company's six Highway 68 Corridor systems, which are managed independently of the larger basin systems and represent only 5 percent of the District's demand. Consequently, the area is not subject to the District's overall shortage conditions. The level of growth anticipated for the proposed Community Area will not incur significant water supply impacts.

Environmental Impacts - Public Services and Utilities 4.11-65

O-9b

Calderon, Vanessa A. x5196

From: Kimberly Smith [KSmith@kanyonyeatas.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) 608-5000
Facsimile: (916) 809-5001
ksmith@kanyonyeatas.com

02/02/2009

Message

Page 1 of 2
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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 (vp)
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

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Telephone: (916) 609-5000

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02/03/2009

Message

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ksmith@kenyonyeates.com

02/03/2009

Page 1 of 1

O-9b

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

County of Monterey Resource Management
Agency, Planning Department

Comment Letters
Organizations

O-10a

HOPE - Helping Our Peninsula's Environment
Box 1495, Carmel, CA 93921 Info7@1hope.org
831/ 624-6500 www.1hope.org

Monterey County Planning and Building Inspection Administration
RECEIVED
read as CEQA comments 2/2/09 4:05pm

Monterey County Supervisors
Monterey County Planning Commission
Monterey County General Plan Staff

February 2, 2009

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. 1

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. 2

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.

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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 Taking[1]

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.

2

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)

3

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

4

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.

4

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 !

5

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.

5

* 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..."

6

* 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. Biostudies 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. 6

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. 7

EIR: In the Open Space intro there is no mention of Monterey pine Radiata or Point Lobos even though it is widely refereed to as the "Jewell 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 1966 as an Endangered tree, ***BEFORE*** the species and its habitat became threatened by Pine Pitch Canker (Fusarium subglutanicis).

[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 Aguajito stables, and now this recent outrage near Carpenter street – just across the Highway from the Coastal Zone.

O-10a

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. 7

- 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?

7

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 BIO-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-3 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.

8

> 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.

8

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.

8

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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.

8

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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[5]

  "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 !?!

8

9

[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.

Founded in 1998, *M.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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"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.

9

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.

Founded in 1998, *M.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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Calderon, Vanessa A. x5186

From: David Dilworth [David8@1hope.org]
Sent: Monday, February 02, 2009 4:05 PM
To: ceqacomments
Subject: GP 09 CEQA Questions

GPLAN09.PDF (59 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

66

O-10b

HOPE - Helping Our Peninsula's Environment
Box 1495, Carmel, CA 939 info7@1hope.org
831/624-8500 www.1hope.org

Monterey County Planning and Building Inspection Department

FEB 17 2009

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Lee's w CEQA Comments 2/2/09 4:13pm

Planning Commission
Monterey County

February 2, 2009

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.

1

It would be hard to imagine what more we could do to bring this to your attention 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

O-10b

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's[1]) 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

1

O-10b

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 –

O-10b

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]

1

O-10b

831 / 624-6500 P.O. Box 1495, Carmel, CA 93921

Calderon, Vanessa A. x5185

From: David Dilworth [David6@1hope.org]
Sent: Monday, February 02, 2009 4:31 PM
To: cegacomments
Subject: HOPE: GP Noise Element Replacement

Because the GP does not have a required Noise Inventory we are providing you with a Replacement Noise Element.

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73

HOPE - Helping Our Peninsula's Environment
Box 1495, Carmel, CA 93921
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www.1hope.org

Monterey County Planning and Building Inspection Activities

FEB 02 2009

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Monterey County Supervisors
Monterey County Planning Commission
Monterey County General Plan Staff

Mail CEQA comments
February 2, 2009 2/2/09 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

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.

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Pesticide Safety Element for Monterey County General Plan

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[1]) 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;**

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   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 $3-10 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 *California'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

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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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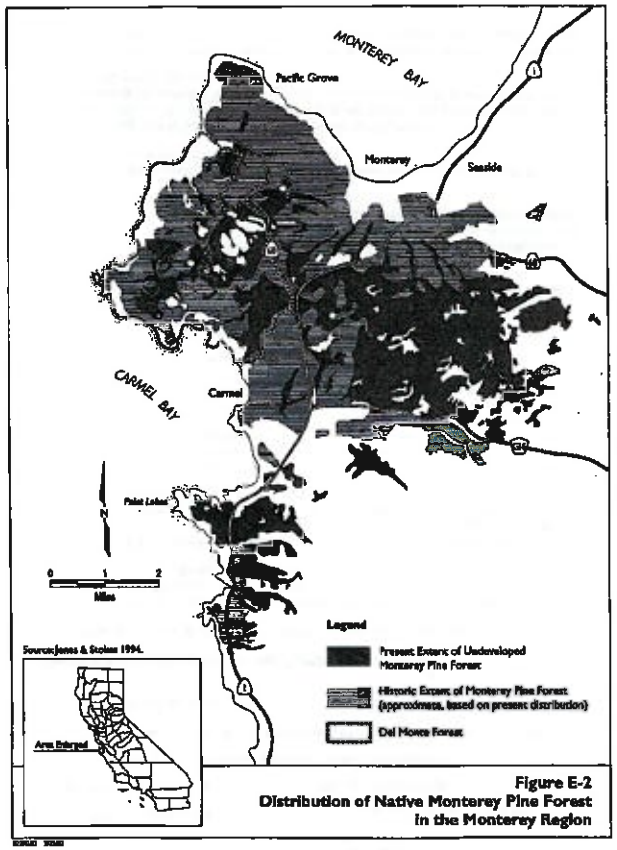

3

Figure E-2
Distribution of Native Monterey Pine Forest in the Monterey Region

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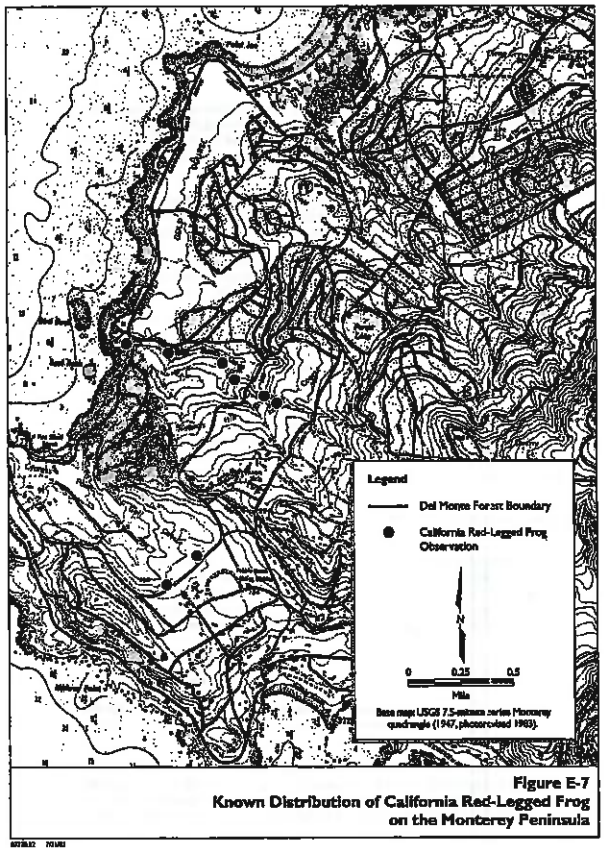

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Figure E-7
Known Distribution of California Red-Legged Frog on the Monterey Peninsula

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Model Light Pollution and Radiation Safety Element for Monterey County's General Plan

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 to 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**

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   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 / cm^2)

   g. Any amount of Microwave Radiation

   h. (Radiowave Radiation > 1 watt / cm^2)

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 / cm^2 about the potential harm to their health,

4

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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 these 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.

831 / 624-6500 P.O. Box 1495, Carmel, CA 93921

4

Calderon, Vanessa A. x5186

From: David Dilworth [David@1hope.org]
Sent: Monday, February 02, 2009 4:58 PM
To: ceqacomments
Subject: HOPE: GP Pesticide Safety and Light Pollution Elements

O-11a

LandWatch
monterey county
Post Office Box 1876
Salinas, CA 93902-1876
Salinas Phone: 831-422-9390
Monterey Phone: 831-375-3720
Website: www.landwatch.org
Email: landwatch@mclw.org
Fax: 831-422-9391

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. 1

Sincerely,

Amy L. White
Associate Director, LandWatch Monterey County

Monterey County
Planning and Building
Inspection Administration
SEP 16 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. 1

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.

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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. 1

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-11c

m|r|wolfe
a associates, p.c.
attorneys-at-law

September 18, 2008

Monterey County
Planning and Building
Inspection Administration

SEP 23 2008

RECEIVED
3:22 pm

Carl Holm
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. 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

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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, pc
attorneys-at-law

Monterey County
Planning and Building
Inspection Administration
SEP 25 2008
RECEIVED
Rec'd for on 9/25/08

September 23, 2008

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. 1

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

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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. 1

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

JHF:ms

cc: Amy L. White

O-11e

m|r|wolfe
& associates, p.c.
attorneys-at-law

September 30, 2008

Monterey County
Planning and Building
Inspection Administration
SEP 30 2008
RECEIVED
11:30 am.

Via facsimile and 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:

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. 1
   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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O-11e

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 3-2 if it is not the same as the assumptions by Traffic Analysis Zone used to prepare the Transportation analysis.

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).

1

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:ma

cc: Carl Holm
Amy L. White

m|r|wolfe
& associates, p.c.
attorneys-at-law

FACSIMILE TRANSMITTAL SHEET

TO: Carl Holm	FROM: Megan Semple
COMPANY: Monterey County Planning Department	DATE: September 30, 2008
FAX NUMBER: 831-757-9516	TOTAL NO. OF PAGES INCLUDING COVER: 3
PHONE NUMBER:	SENDER'S REFERENCE NUMBER: 254
RE: *Draft EIR, 2007 Monterey County General Plan (SCH#2007121001)*	YOUR REFERENCE NUMBER:

☐ URGENT X FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

THIS FAX IS INTENDED ONLY FOR THE RECIPIENTS LISTED ABOVE AND MAY CONTAIN PRIVILEGED AND/OR CONFIDENTIAL INFORMATION.
IF YOU HAVE RECEIVED IT IN ERROR, PLEASE DISCARD AND CONTACT THE SENDER AT THE ABOVE TELEPHONE NUMBER. THANK YOU.

O-11f

LandWatch
monterey county
Post Office Box 1876
Salinas, CA 93902-1876
Salinas Phone: 831-422-9390
Monterey Phone: 831-375-3752
Website: www.landwatch.org
Email: landwatch@mclw.org
Fax: 831-422-9391

November 11, 2008

~~Juan Sanchez~~ Aurelio Salazar, Chair
Monterey County Planning Commission
168 West Alisal Street
Salinas, CA 93902

SUBJECT: GPU5 and the DEIR

Dear Chairman ~~Sanchez~~ 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. 1

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 bans 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 w 2 he 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. 2

<u>The DEIR has not provided any meaningful analysis of the environmental effects of altering the existing rules to permit this kind of development.</u> For example, in its evaluation of potential erosion and sedimentation effects, <u>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.</u> Instead of analysis, the DEIR simply

O-11f

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. 5

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 GPU5 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. 7

2

O-11f

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. 7

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

3

O-11g

m|r|wolfe

January 30, 2009

Via Overnight Delivery

Carl Holm
County of Monterey – Planning Department
RMA-Planning Salinas Permit Center
168 W. Alisal St., 2nd Floor
Salinas, CA 93901

Re: 2007 Monterey County General Plan DEIR
PLN070525, SCH2007121001

Dear Mr. Holm:

On behalf of LandWatch Monterey County we offer the following comments on the draft EIR for the 2007 Monterey County General Plan ("2007 General Plan"). We have reviewed the 2007 General Plan and its Draft EIR ("DEIR"), together with various documents and materials relating to the 2007 General Plan and its environmental analysis. TRA Environmental Sciences, Inc., assisted us in our review of biological resource issues. Autumn Wind Associates, Inc., assisted us in review of air quality issues. Comment letters from Autumn Wind Associates, Inc., and TRA Environmental Sciences, Inc., are enclosed as Exhibits 12 and 13. Also assisting us in preparing an analysis of mapping data and preparing various exhibits was The Nature Conservancy. Material prepared by The Nature Conservancy is attached to the comments by TRA Environmental Sciences, Inc.

1

Introduction & Overview

A General Plan is the constitution and blueprint for all future development in the County. *Lesher Communications Inc. v. City of Walnut Creek* (1990) 52 Cal. 3d 531; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553. An inadequate General Plan may void all subsequent land use approvals. A General Plan is invalid if it is not internally consistent, e.g., if the data, assumptions, and projections used in its various parts are not consistent. Gov. Code § 65300.5; *Sierra Club v. Board of Supervisors* (1981) 126 Cal.App. 3d 698. In particular, the circulation element must correlate with the land use element. Gov. Code § 65302(b); *Concerned Citizens of Calaveras County v. Board of Supervisors* (1985) 166 Cal.App. 3d 90.

O-11g

January 30, 2009
Page 2

The 2006 General Plan does not meet the consistency requirements because the transportation element does not support the permitted or even the projected land uses. For example, there is no feasible plan to provide adequate transportation infrastructure to support permitted development. The provisions for supplying potable water also fail to support land uses because there is no plan to provide adequate water supplies.

2

The 2006 General Plan is fundamentally incomplete. Literally dozens of its O-11g policies are nothing more than the intent to address critical problems through future development of standards, regulations, and programs. These policies are vaguely written and contain no substantive performance standards or any real constraints on the standards, regulations, and programs to be developed at some unspecified time in the future.

A General Plan must undergo environmental review under CEQA. Gov. Code § 65350. "CEQA's fundamental goal [is] fostering informed decision-making." *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 402. "An EIR is an 'environmental "alarm bell" whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.'" *Id.* at 392. "'[T]he requirement of a detailed statement helps insure the integrity of the process of decision by precluding stubborn problems or serious criticism from being swept under the rug.'" *Sutter Sensible Planning, Inc. v. Board of Supervisors* (1981) 122 Cal.App.3d 813, 820. It also ensures "the right of the public to be informed in such a way that it can intelligently weigh the environmental consequences of any contemplated action and have an appropriate voice in the formulation of any decision." *Environmental Planning and Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 354.

3

In order to fulfill these functions, the EIR must "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; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project." Pub. Resources Code § 21061. The analysis must be specific and detailed, and must also be supported by empirical or experimental data, scientific authorities or explanatory information, including comparative and quantitative evaluation. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692; *Whitman v. Board of Supervisors* (1979) 88 Cal.App.3d 397; *People v. County of Kern* (1974) 39 Cal.App.3d 830.

This EIR falls far short of satisfying these information disclosure requirements. As will be shown in these comments, and in those from our technical experts, the EIR is fatally flawed in its identification, disclosure, evaluation, and mitigation of impacts to traffic, air quality, water resources and potable water supply, biological resources, and agricultural land. The DEIR must therefore be substantially revised to cure these deficiencies, and must then be recirculated for additional public review and comment in accordance with the recirculation requirements of section 15088.5 of the CEQA Guidelines.

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Page 3

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. 4

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. 5

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. 6

BIOLOGICAL RESOURCE IMPACTS: Similarly, the DEIR fails to evaluate the impacts to biological resources from agricultural and residential development 7

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January 30, 2009
Page 4

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. 7

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.

O-11g

January 30, 2009
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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 uses 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. 12

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.

REFUSAL 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. 13

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. 13

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 is 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. 14

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 PENNINSULA 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 _____ 2007 Carmel Valley Traffic Improvement Program Supplemental Environmental Impact Report Available.) Thus, the public has no way to understand the bases 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. 14

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. 14

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: 14

- 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 may 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.

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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.

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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. 16

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: 16

> "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.*

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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.

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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. *Murrieta 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.

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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 Bernadino 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. 17

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. 18
- 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. 18
- 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. 18

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 19

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.

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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.

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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. 19

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. 19

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. 20

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 21

[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. 21

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.

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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-2.6) 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, road 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.

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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.

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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. 21

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

MINSTERIAL 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.

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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.

MINSTERIAL 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

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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.

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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.

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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. 22

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. 22

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) 23
- 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 Assure that the County's land use policies do not inappropriately limit or constrain "routine and ongoing agricultural activities"	• 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.	• 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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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.	• 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: 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: [illegible]	• The policy calls for a general exemption, but also states that certain activities will be excepted from that exemption. Does the County plan to identify the to-be-excepted "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 the

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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.	policy? What resource areas will be protected by these permitting requirements? What performance standards will have to be met? • 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 *any* 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.
AG-5.1 Programs that reduce soil erosion and increase soil productivity shall be supported	• 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.
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.	• 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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	• No performance criteria for "policies and programs" are specified. • No exemplary measures for "policies and programs" are identified.
OS-3.1 Best Management Practices (BMPs) to prevent and repair erosion damage shall be established and enforced.	• 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.
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.	• 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.
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.	• 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 *studies* 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 *address* 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.
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.	• 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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	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. ▪ No deadline for mapping this data is specified. ▪ No interim measures are specified pending completion of the mapping.
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: 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. A permit process will be established as follows: 1. 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-2.6) 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. 2. 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	• See comments in text above. • Reference to Policy PS-2.7 makes no sense, since that Policy refers to incentive programs to encouraging 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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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 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. 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. 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.	
OS-3.6 Except in Community Areas where Community Plans or Specific Plans are adopted (Policy LU-2.x), 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. a. Those portions of parcels with cross-slope of between zero and 19-percent shall be assigned one (1) building site per each one (1) acre. b. Those portions of parcels with a cross-slope of between 20 and 29-percent shall be assigned one (1) building site per each two (2) acres. c. Those portions of parcels with a cross-slope of 30-percent or greater shall be assigned zero building sites. d. 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	• Nothing in the EIR 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" measures 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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determination of the actual density that shall be allowed on a parcel. 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.	with a finding that erosion and sedimentation impacts will in fact be controlled. • 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?
OS-3.7 Voluntary preparation and implementation of a coordinated resources management plan shall be encouraged in watersheds of State designated impaired waterways.	• 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
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.	• Does not identify or mandate any program • "Cooperation" does not commit County to any specific efforts
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.	• 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.
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: a. include filing of a Timber Harvest Plan that provides for selective, sustained yield harvesting and reforestation, and erosion control; b. consider opportunities for concurrent and subsequent use of publicly owned timber land for public recreation; c. require approval by the California Department of	• 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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Forestry; e. complete environmental review by the County and other appropriate agencies; and f. comply with the resource protection goals and policies of this General Plan	
PS-2.5 Regulations shall be considered for water quality testing for new individual wells on a single lot of record to identify: a. Water quality testing parameters for a one-time required water quality test for individual wells at the time of well construction b. A process that allows the required one-time water quality test results to be available to future owners of the well c. Regulations pursuant to this policy shall not establish criteria that will prevent the use of the well in the development of the property d. Agricultural wells shall be exempt from the regulations.	• 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
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-3.5). Maps maintained as part of the GIS include: a. Impaired water bodies on the State Water Resources Control Board 303d list b. Important Groundwater Recharge Areas c. 100-year Flood Hazards d. Hard rock areas with constrained groundwater e. Areas of septic tank leachfield constraints.	• 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.
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	• 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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	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.	• 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 3.4) that could potentially impact the type or level of development allowed in these areas. The GIS Maps maintained as part of the GIS include: a. Active Regional Faults b. Relative Seismic Shaking Hazard c. Relative Landslide Susceptibility d. Reliance Earthquake Induced Liquefaction Susceptibility e. Steep Slope Constraints (see Policy PS 3.4) f. Coastal Erosion g. Moderate and High Known Hazards h. Highly Erodible Soils	• 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. • S-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 terms 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 liquefaction constraints, including A Geologic Resources Constraints and Hazards • There is no indication how information in the database would be used to restrict development. The EIR must explain how the policy would be implemented to regulate development. • No deadline for completing the database is provided and no interim measures are specified.
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.	• 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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	are provided. The public has no idea what permit requirements might be developed under this policy.
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.	• 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.	• 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.

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c. 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. f. Appropriate site-specific mitigation measures and mitigation monitoring to protect public health and safety, including deed restrictions, shall be required.	
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.	• 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.
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.	• 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.
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.	• The policy *sounds* 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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	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?
S-3.2 Best Management Practices to protect groundwater and surface water quality shall be incorporated into all development.	• 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
S-3.3 Drainage facilities to mitigate the post-development peak flow impact of new development shall be installed concurrent with new development.	• 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?
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.	• 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."
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.	• 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 in

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	provided.
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.	• 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.
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.	• The policy does not pertain to erosion or sedimentation.
Mitigation Measure BIO-2.1: Stream Setback Ordinance, DEIR p. 4.9-86 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	• 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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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. 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%.	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. • 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.*, Phillip 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 steams 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..
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.
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.
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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conditions are met: a. Residential uses are allowed only on parcels of 40 acres or more; b. A drainage management plan to mitigate run-off to adjoining farmlands must be prepared for the entire Special Treatment Area; c. One caretaker unit per 10 acres may be allowed; and 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. (see also Policies CSV-1.2 and CSV-1.4)	
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.	• It is not clear how this policy relates to erosion and sedimentation. Please explain.
CSV-5.2 Recreation and visitor-serving commercial uses shall only be allowed if it can be proven that: 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; 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. 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. d. the proposed development meets both water quality and quantity standards expressed in Title 22 of the California Code of Regulations and *Title 15.04* of the Monterey County Code as determined by the Director of Environmental Health; 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 f. the proposed development will not generate levels of runoff which will either cause erosion or adversely affect	• No standards are provided for levels of runoff which will either cause erosion or adversely affect surface water resources

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surface water resources, as determined by the Water Resources Agency.	
CSV-5.3 The Spence/Potter Road area, excluding the Special Treatment Area described in Policy CSV-1.4, 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: 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; b. Recommended changes to the Special Treatment Area boundaries or allowable uses within the Special Treatment Area, as necessary, to address the impacts identified; c. A drainage management plan to mitigate runoff to adjoining farmlands for the entire study area; d. Amendments to the General Plan, as necessary, and ordinance amendments to address revised landscaping and screening standards; and e. An implementation plan to fund and construct the identified infrastructure improvements. The studies and plans identified in this policy may be paid for by the County or interested property owners.	• No performance standards or exemplary measures are provided for the drainage management plan to mitigate runoff to adjoining farmlands for the entire study area
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. 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 retain 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	• 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

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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.	• 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.	• 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.	• 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.	• 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 (SlF) 2. Santa Lucia-Reliz Association, 30-75% slope (Sg) 3. Cieneba fine gravelly sandy loam, 30-70% slope (CoG) 4. San Andreas fine sandy loam, 30-75% slope (SoG) 5. Sheridan coarse sandy loam, 30-75% slope	• 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 (Js)	
CV-4.2 A comprehensive drainage maintenance program should be established by either sub-basins or valley-wide watershed zones.	• 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.	• 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.	• 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 (SWPPPs) required by the California State Water Resources Control Board.	• 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.	• 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.	• 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	• 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-4 The County shall require that development of lands having a prevailing slope above 25% include implementation of adequate erosion control measures.	• No performance standards or exemplary measures are identified for "adequate erosion control measures." • The DEIR must explain why development of slopes *under* 25% do not also require adequate erosion control plans.
Fort Ord Soils and Geology Program A-4.2 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.	• 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.	• 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.
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.	• 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.	• 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 *increase* the magnitude and duration of flows *more* 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? • 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-1.6 The County shall adopt and enforce a hazardous substance control ordinance that requires that hazardous substance control plans be prepared and implemented for construction activities involving the handling, storing, transport, or disposal of hazardous waste materials.	• Development of any substantive controls is deferred/not 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.
Fort Ord Hydrology and Water Quality Policy C-4 The County shall prevent siltation of waterways, to the extent feasible.	• 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.	• 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	• "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.	• 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.	• "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.	• 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.	• 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/Encinal Road – Parcel generally located south of Potter Road and North of Spence Road between Old Stage Road, Highway 101, plus parcels along the Encinal 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	• 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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h. One mobile home only may be allowed for a caretaker or security personnel and not for residential purposes. [illegible]	
GS-1.3 All vegetation on land exceeding 30 percent slope, particularly chaparral and broad leaf evergreen, should remain undisturbed to minimize erosion and retain important visual amenities.	• 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.	• 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.
NC-5.3 Cooperative soil conservation, water quality protection, and resource restoration programs within watershed basins shared with neighboring counties shall be pursued.	• 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 Cooperative soil conservation, water quality protection, and resource restoration programs within watershed basins shared with neighboring counties shall be pursued.	• 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.	• 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.	• No performance standards or exemplary measures are identified, so there is no basis to conclude what would constitute adequate

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	mitigation of downstream impacts. • How is this policy related, if at all, to policies purporting to control runoff volumes?
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.	• 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.
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.	• 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 IMAPCTS 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:

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> "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. [1] 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.

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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.: 151422SWR2003SR8711), 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.

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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

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[5] Available at [illegible]

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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 Antionio 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.

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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."

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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. 24

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. 24

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. 24

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. 25

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). 25

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 or 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 OMITS 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 than 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. 25

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. 25

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.[9] 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%"

[9] 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. 25

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 unsupportable the DEIR's conclusions that water supply, overdrafting, and saltwater intrusion impacts will be less than significant through 2030. 25

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 Gollnick, Chief Operating Officer of Scheid Vineyards, Inc. and 2004 President of the Monterey County Vintners and Growers Association, oral presentation to Office of Economic Development Commission Forum, October 25, 2005 and 2) West Yost Associates, 2005 Technical Memo No. 3, pages 9-10, Prepared for the Napa County 2050 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 [illegible]

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Use of 25-year trend data is unsupportable 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. 25

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 = 62,411acres (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 Lauritzen 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 25
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.

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." 26

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 Gollnick, Chief Operating Officer of [illegible] 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. 4, pages 9-16, Prepared for the Napa County 2050 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 4, available at
[illegible]

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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. 26

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. 27

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. 27

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: 28

> "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. 28

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 B ALANCE 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. 28

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 and157acre-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. 28

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. 28

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. 29

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 30

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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.

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 excepted from discretionary review and CEQA, and 3) Routine and Ongoing Agricultural Activities that are expressly excepted from discretionary review and CEQA.

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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.

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.

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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.

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WATER FOR MONTERY 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.

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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.

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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

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.

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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]

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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/Images/180.pdf and http://www.mcwra.co.monterey.ca.us/SVWP/Images/400.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. 33

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. 34

Please address <u>each</u> of the comments in the table below separately, responding to each question or request for information.

<u>In addition to responding to each question or request for information</u>, 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 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 (CIFP). **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. **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. **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.	• 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.) • 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." • 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

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	explain why not. • 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.	• 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.	• 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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	▪ Please explain what action will be taken to achieve the goal of this policy if funding mechanisms are not established.
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.	▪ 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 *much* 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 *require* connection to public utilities if it makes any difference?
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.	▪ 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.
PS-2.5 Regulations shall be considered for water quality testing for new individual wells on a single lot of record to identify: a. Water quality testing parameters for a one-time required water quality test for individual wells at the time of well construction. b. A process that allows the required one-time water quality test results to be available to future owners of the well. c. Regulations pursuant to this policy shall not establish criteria that will prevent the use of the well in the development of the property.	▪ 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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d. Agricultural wells shall be exempt from the regulation.	"nitrate content" and the value "45 mg/L" are necessary to providing a performance standard. This policy does neither. ▪ 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 otherwise 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.
PS-2.6 A Hydrologic Resource 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 those areas (Policy PS-3.1). Maps maintained as part of the GIS include: a. Impaired water bodies on the State Water Resources Control Board 303d list. b. Important Groundwater Recharge Areas c. 100-year Flood Hazards d. Hard rock areas with constrained groundwater e. Areas of septic tank leachfield unsuitability	▪ This policy is apparently to be used to identify areas that would require discretionary permits under Policy PS-3.1, although this is not stated here. Please clarify. ▪ Policy S-1.2 calls for developing a Hydrologic Constraints and Hazards Database. It is not clear how the Hydrologic Resources Constraints and Hazards Database called for under Policy 2.6 differ, 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. ▪ Please explain the criteria that will be used to identify "Important Groundwater Recharge Areas." ▪ 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. ▪ 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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	supplies.
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.	• 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.
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	• 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.

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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. .	• 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.
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: a. Restrict coverage by impervious materials. b. Limit building or parking footprints. c. 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. d. Recognize detention/retention facilities on small sites may not be practical, or feasible, and may be difficult to maintain and manage.	• 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.
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	• "Long-term *sustainable* water supply" is not defined in GPUS or in the GPUS 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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	to development other than subdivisions.
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.	• 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.
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.	• 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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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.	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. • 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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	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?
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.	• 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 *all* 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 Fajaro 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?"
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	• Why is the policy limited to effects on existing *adjacent* 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.	• 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?
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.	• 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 southeast 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.
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.	• 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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	transfers of water from one basin to another? From any hydrogeologic sub-areas to another? • 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.	• 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.	• 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 *Vineyard Area Citizens* 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. *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (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 programs 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.	• 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	• 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 3.3? • Please explain why this policy is applied only

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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. 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.	to subdivisions. Why is it not made applicable to all development projects that will require a water supply, including development of lots of record, AWCP activities that are proposed to be exempted from discretionary permitting, and cultivation of previously uncultivated agricultural land?
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.	• 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.	• 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,	• 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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playfields, schools, golf courses, and other landscape areas to reduce potable water demand. d. Work with urban water providers to convert existing potable water customers to tertiary recycled water as infrastructure and water supply become available.	
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.	• 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
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.	▪ 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.
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: a. Service area. b. Demand for service. c. Wet weather storage. d. Recycling of treated wastewater. e. Existing groundwater conditions. f. Effect of recharge on existing groundwater. g. Technical, managerial and financial capability of the wastewater treatment provider.	▪ 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.
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	• The DEIR cites this policy as evidence that recharge will occur. However, because there

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developed as part of the implementation of this Plan. Criteria may include but are not limited to (consistent with Table PS-2): a. Minimum lot size b. Location of wells c. Soils testing d. Areas for backup and repair of leaching systems e. Existing groundwater conditions. f. Effect of recharge on existing groundwater. g. Consideration of alternatives systems (e.g. mound system, enhanced treatment systems)	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.
SAFETY ELEMENT	
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.	• 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. 34 • 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.
MITIGATION MEASURES	
Mitigation for 2030 findings: *"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	• 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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significance. **WR-1: Support a Regional Solution for the Monterey Peninsula in addition to the Coastal Water Project** The County will revise the draft 2007 General Plan to include the following new policy: 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 adoption of the General Plan and to implement the selected alternatives within five years after that time." DEIR, p. 4.3-130.	that development to consume. • 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 *other* 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 secured." 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. • *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 434 provides as follows: "If the	34

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	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 id.* at 444, 446. • 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 *Vineyard Area Citizens* 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.)	34
Mitigation for Buildout findings: **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	• 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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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. PS-3.18. The County will convene and coordinate a working group made up of the Salinas Valley cities, the MCWRA, 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. Mitigation Measure BIO-2.3: Add Considerations regarding Riparian Habitat and Stream Flows to Criteria for Long-Term Water Supply and Well Assessment Public Services Policies PS-3.3 and PS-3.4 establish the criteria for proof of a long-term water supply and for evaluation and approval of new wells. The following criteria shall be added to these policies: □ Policy PS-3.3.i—Effects on instream flows necessary to support riparian vegetation, wetlands, fish, and other aquatic life including migration potential for steelhead. □ Policy PS-3.4.g—Effects on instream flows necessary to support riparian vegetation, wetlands, fish, and other aquatic life including migration potential for steelhead.	• halt expansion based on 1995 water demand; expanded delivery system will be necessary to address continued saltwater intrusion under assumed 2030 conditions). • Regarding PS 3.17, please see comments regarding the sufficiency of the proposed expansion of the SVWP above. • Regarding PS 3.18, the DEIR admits that it has not identified adequate water supplies for development permitted under the 2007 General Plan through buildout. Since the County has not identified the water supply programs that might be adopted or the severity of their impacts, it has not weighed the actual environmental costs from the admitted significant unavoidable impacts. Without doing so, the County cannot adopt a statement of overriding considerations. • Regarding policies PS 3.3i and 3.4g, this "mitigation" amounts to nothing more than an admission that the DEIR has not evaluated effects on instream flows caused by water supply projects. In this regard, please see our comments regarding the DEIR's failure to acknowledge significant impacts on steelhead from the proposed expanded delivery system for the SVWP. The DEIR must be revised to provide information about impacts attributable to changes to flow regimes due to water supply projects. ▪ Furthermore, even if it were permissible to defer the analysis of impacts (and it is not), neither PS 3.3i and 3.4g contain any performance standards (the "criteria" are simply parameters without values that would, as written, permit *any* degree of adverse effects on instream flows as long as those effects were considered), so they do not meet CEQA's requirements for deferral of mitigation. • PS 3.3i and 3.4g are proposed as mitigation measures only to address significant effects after 2030 through buildout. Please explain why the DEIR does not propose PS 3.3i and 3.4g as necessary mitigation measures to address adverse effects prior to 2030.
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**

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	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**
NORTH COUNTY AREA PLAN	
NC-8.1 New developments shall be designed to maximize prime groundwater recharge capabilities and to minimize runoff from the property.	• There is no definition in GPU5 or its DEIR of "prime groundwater recharge capability." Please explain this phrase. • Surface recharge does not occur in most of north Monterey County, so a policy requiring maximizing recharge in North County can do nothing to improve or protect water supply. The DEIR points out on page 4.3-7, according to the California Department of Water Resources, "because of the impermeable nature of the clay aquitard above the 180-foot aquifer, surface recharge (including that from precipitation, agricultural return flows, and river flow) does not occur. Instead, recharge is from underflow originating from the Upper Valley and Forebay Subareas." ▪ This policy does not increase water supply or decrease water consumption over baseline conditions. Please estimate its effect on water supplies and water supply impacts.
NC-8.2 Water development projects that can offer a viable water supply to water-deficient areas in North County shall be a high priority.	▪ This policy lacks any enforceable mandate. • Please explain how it will be implemented, by whom, and with what resources. Please estimate its effect in securing water supplies and addressing water supply impacts.
GREATER SALINAS AREA PLAN	
GS-1.1 Special Treatment Area: Butterfly Village.- Approximately 671 acres located north of San Juan Grade Road and east of Harrison Road shall be designated as a "Special Treatment Area" to permit a planned development in substantial conformance with the Butterfly Village Land Use Plan (*Figure LU7*) including: a. Approximately 345 acres of neighborhood and community parks and open space uses such as hiking trails, recreation, public parking, storm water detention ponds and lakes for drainage control and water recharge as well as areas preserved for sensitive habitat. b. 71 hospitality units. c. A 20,000 square foot Community Health and Wellness Center that offers a variety of health, fitness and nutrition uses. d. Public facilities, including a fire station, sheriff substation, maintenance yard, independent	▪ The DEIR cites this policy as evidence that adequate infrastructure for potable water will be required. Without evaluating the development's proposed sources and uses of water in the context of a regional water balance analysis, merely citing this policy does not support the conclusion that water supply impacts from the overall development permitted by the 2007 General Plan will be avoided or minimized.

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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 form 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(f) 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)	34
C/S-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.	
C/S-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	
C/S-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.
C/S-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.
C/S-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.
C/S-5.2 Recreation and visitor-serving commercial	• There is no definition in GPU5 or its DEIR of

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uses shall only be allowed if it can be proven that: 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; 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. 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. d. the proposed development meets both water quality and quantity standards expressed in Title 22 of the California Code of Regulations and *Title 15.04* of the Monterey County Code as determined by the Director of Environmental Health; 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 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.	"prime groundwater recharge capability." Please explain this phrase. • 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?
CSV-5.3 The Spence/Potter Road area, including the Special Treatment Area described in *Policy CSV-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: a. A cumulative impact analysis of industrial build-out of the study area, including road capacity, highway access, drainage, and viewshed impacts	• 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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from Highway 101; b. Recommended changes to the Special Treatment Area boundaries or allowable uses within the Special Treatment Area, as necessary, to address the impacts identified; c. A drainage management plan to mitigate runoff to adjoining farmlands for the entire study area; d. Amendments to the General Plan, as necessary, and ordinance amendments to address revised landscaping and screening standards; and e. An implementation plan to fund and construct the identified infrastructure improvements. The studies and plans identified in this policy may be paid for by the County or interested property owners.	
CARMEL VALLEY MASTER PLAN	
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.	• The DEIR does not discuss the Carmel River Management Program. Please explain the program. • Please explain how this policy will be implemented in practice.
CV-5.2 Water projects designed to address future growth in the Carmel Valley may be supported.	• This policy has no enforceable mandate.
CV-5.3 Development shall incorporate designs with water reclamation, conservation, and new source production in order to: a. maintain the ecological and economic environment; b. maintain the rural character; and c. create additional water for the area where possible including, but not limited to, on-site stormwater retention and infiltration basins.	• 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.
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.	• 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.
CV-5.5 Parts of the Carmel Valley aquifer are susceptible to contamination from development in areas not served by public wastewater systems.	• This policy would not increase supplies or reduce demand compared to baseline conditions. Please estimate the effect this

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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.	policy has on water supplies and water supply impacts.
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.	• 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.
CACHAGUA AREA PLAN	
CACH-3.5 Mining or commercial timber, or other resource production operations that include methods to screen views, 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.	• 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.
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.	• 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.
SOUTH COUNTY AREA PLAN	
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.	• 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 *would* be allowed to diminish recharge capabilities. Please reconcile this with Policies PS 2.8, which appears to require that *all* 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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	increase runoff.
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.	• 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.
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.	• 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.
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.	• 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.
Hydrology and Water Quality Policy B-1: The County shall ensure additional water to critically deficient areas.	• Please identify the critically deficient areas and explain how this policy will be implemented.
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.	• 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.
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.	• Please estimate the effect of this policy on water supply and water supply impacts.
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.	• This policy does not apparently add any enforceable mandate since it does not commit the County to a definite course of action.
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.	• Please estimate the effect of this policy on water supply and water supply impacts.
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	• 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. 4.6-36)	Not specified, but may assume 2008 network	Specific major County and Regional Roadways	Significant and Unavoidable. 6 County segments 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.
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.

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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." 38

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).

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. 39

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. 39

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 40

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 be 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 LOSD 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.

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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."

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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 proposed[16] 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.

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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 Unified 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.

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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:

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- 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.

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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 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.

In view of the substantial magnitude of the administrative task of preparing adequate CIFPs (independent of the task of obtaining funding), and in view of the lack of clarity about the CIFP process itself, it is unreasonable for the DEIR to conclude that future development will proceed uninpeded by this administrative burden.

Thus, the DEIR should acknowledge that the administrative process to complete CIFPs 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 CIFP, 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.

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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 (CIFP)." Thus, a CIFP 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 CIFP's benefit area. This conclusion is reinforced by the reference to CIFPs 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 CIFPs 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 CIFP, 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 CIFP (e.g., before a CIFP is developed) *or* 2) the CIFP 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 CIFP makes improvement of the affected facility a top priority. If this is the case, the EIR must so state.

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If it is not the case, then the EIR should 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.

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 here 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.

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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 ½ 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 [illegible]. 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. 41

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 thee is no substantial evidence that cumulative impacts in "localized areas" will be less than significant. 41

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. 42

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. 43

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 44

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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. 44

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. 45

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. 46

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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. 46

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 AFFS 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. 46

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. 47

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 goug to LOS F). Despite this, no significant impact is identified and no mitigation is proposed. It appears that the DEIR text is simply incomplete. 48

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 CIFP 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 CIFP program will in fact mitigate cumulative impacts because the CIFP does not exist and cannot likely be funded 49

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 EIR 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 CIFP 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 CIFP 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 CIFP 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: 49

"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.

- 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. 49

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. 50

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 bee identified. Instead of assuming the existence of the roadway improvements that may or may not be adopted by the County and assuming the finding of TAMC and County improvements for which adequate finding 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.

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. 51

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. 52

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. 53

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 54

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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. 54

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 planed 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. 55

Even if the AMGAG 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. 56

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.

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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.

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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 suing 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 form 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.

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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 analysis), 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.

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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

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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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602,796 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. 58

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: 59

- 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. 59

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 conditions (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. 59

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. 60

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. 61

Autumn Wind also demonstrates that the qualitative analysis of regional DPM exposure is not adequate and that 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. 62

- 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. Farrow

JHF:jm
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

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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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EXHIBIT 2